

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs June 23, 2026

FILED

08/19/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DELVON JEVONTA WHITE

**Appeal from the Criminal Court for Hamilton County
No. 316793 Boyd M. Patterson, Judge**

No. E2025-00985-CCA-R3-CD

The Defendant, Delvon Jevonta White, was found to be in violation of his probation after participating in two assaults of individuals while in custody. The trial court revoked his probation in full and ordered the Defendant to serve the balance of his sentence in the custody of the Tennessee Department of Correction (TDOC). He argues on appeal that he received ineffective assistance of counsel during the probation revocation hearing. Because we conclude that a defendant does not have a constitutional right to counsel at a probation revocation hearing and that the Defendant failed to demonstrate that any due process right was violated, we affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right;
Judgment of the Criminal Court Affirmed**

STEVEN W. SWORD, J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and TIMOTHY L. EASTER, JJ., joined.

Hannah C. Stokes (on appeal) and Kaycee Roberts (at hearing), Chattanooga, Tennessee, for the appellant, Delvon Jevonta White.

Jonathan Skrmetti, Attorney General and Reporter; Park Huff, Assistant Attorney General; Coty Wamp, District Attorney General; and Nicole Evans, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. FACTUAL AND PROCEDURAL HISTORY

The Defendant, Delvon Jevonta White, pleaded guilty on February 22, 2024, to attempted possession of a Schedule II controlled substance and received an agreed eight-year sentence as a Range II, multiple offender, suspended to supervised probation. In October 2024, the trial court partially revoked the Defendant's probation after he committed a new assault and tested positive for a controlled substance. The court ordered him to serve eleven months and twenty-nine days' incarceration as a sanction for the violations.

A subsequent probation violation report was filed on January 27, 2025, alleging that in December 2024, the Defendant committed three new felony offenses: attempted first degree murder, aggravated kidnapping, and "criminal conspiracy". The Defendant then moved to reduce his bond to permit his entry into treatment at Buffalo Valley Treatment Center. The State filed a supplemental motion to revoke the Defendant's probation, alleging that he committed a second violent assault on April 23, 2025, while he was in custody.

On May 7, 2025, the trial court conducted an evidentiary hearing addressing both the violation allegations and the Defendant's bond motion. Defense counsel acknowledged that the Defendant would concede to having committed certain violations pertaining to his mental-health-related behavior and drug use but disputed that he had committed any violation predicated on the new criminal charges.

The State first presented testimony from Deputy Jeremy Long of the Hamilton County Sheriff's Office (HCSO). Deputy Long testified that on April 23, 2025, he observed the Defendant in a jail holding cell standing on a toilet and pulling upward on his "waist chain," which had been removed from around his waist and placed around another inmate's neck. It appeared that the Defendant was choking or "hanging" the other inmate. The Defendant stated that he was "just trying to help him."

HCSO Detective Matthew Hogan testified regarding two alleged assaults the Defendant committed while in custody. The first occurred on December 14, 2024; the second was the April 23, 2025 incident described by Deputy Long. Detective Hogan reviewed a security video recording of the December incident and stated that it depicted the Defendant participating with several inmates in an attack on another inmate who sustained stab wounds to his head and neck. Detective Hogan initially testified that the Defendant appeared to strike the victim with a weapon. He later clarified that the Defendant appeared to strike the victim with a closed fist, with "what appeared to be a weapon in his hand coming down on the victim." Defense counsel objected to Detective Hogan's testifying to what he observed on the video recording and argued that the best evidence rule required the State to introduce the recording into evidence. The trial court

overruled the best evidence objection but withheld ruling on whether the testimony was inadmissible hearsay.

On cross-examination, Detective Hogan described in detail what he observed on the security video recording. He stated that the Defendant and the victim appeared to be in a heated exchange. The victim attempted to leave the area when a large group of inmates grabbed him and struck him. Detective Hogan opined that, as the victim fell to the ground, the Defendant joined in the attack with what appeared to be a weapon in his hand. Detective Hogan stated that he could see “about an inch or so” of the weapon in the Defendant’s hand with “a point coming down.” Other inmates struck the victim with socks that appeared to have objects inside of them. No weapons or socks that were used in the attack were recovered.

Detective Hogan acknowledged that the video recording of the “very beginning” of the incident was no longer available. At the conclusion of Detective Hogan’s testimony, the trial court asked the parties if they intended to show the portion of the recording that was still available. The State indicated that it did not intend to show the recording. Defense counsel stated that she believed it would be helpful for the trial court to view the recording so the court could “judge whether Detective Hogan’s description and interpretation of the alleged weapon” were accurate. The trial court then asked Detective Hogan to play the video. After reviewing the recording, Detective Hogan acknowledged that he could not, in fact, see a weapon in the Defendant’s hand. Defense counsel asked, “You do not see a weapon in [the Defendant’s] hand?” Detective Hogan responded, “At this time it didn’t look like it appeared to be one, no, ma’am.” He agreed that he believed that the Defendant had a weapon based upon the motion the Defendant made with his hand but that he did not see a weapon in the recording.

The Defendant’s mother, Ronda Davis, testified that the Defendant suffered from mental health issues, including schizophrenia. She acknowledged that he had been discharged from mental health court, but she believed the Defendant needed treatment rather than incarceration. She requested that he be allowed to receive treatment at Buffalo Valley, where a bed awaited him.

At the conclusion of the hearing, the trial court ruled that Detective Hogan’s description of what he viewed on the security video recording was admissible testimony. The trial court credited Deputy Long’s testimony concerning the April assault. Regarding the December assault, the trial court stated that a weapon could not be seen in the Defendant’s hand during the video recording of the assault. However, the trial court concluded that the Defendant “participated” in a group assault. The trial court found the Defendant in violation of his probation and ordered the Defendant to serve the balance of his sentence in the TDOC. This appeal followed.

II. ANALYSIS

The Defendant raises a single issue on appeal: whether he received ineffective assistance of counsel at the probation revocation hearing when defense counsel requested that the trial court view a blurry and incomplete portion of the jail surveillance video. He contends that defense counsel's decision to play the video recording was deficient and that it prejudiced the outcome of the hearing. The State responds that the claim is waived because it was not raised in the trial court and, alternatively, that the Defendant did not have a constitutional right to counsel at the revocation hearing and has not demonstrated any violation of due process. The State further argues that counsel's decision to play the video recording was a reasonable strategic effort to challenge Detective Hogan's testimony. We will consider these issues in turn.

A. WAIVER

The State first argues that the Defendant waived his ineffective assistance claim by failing to object to defense counsel's performance during the revocation hearing. Tennessee Rule of Appellate Procedure 36(a) prohibits relief "to a party responsible for an error or who failed to take whatever action was reasonably available to prevent or nullify the harmful effect of an error." It is undisputed that the Defendant did not raise any concern about defense counsel's performance in the trial court.

However, this court has previously recognized that when ineffective assistance allegations are taken as true, the failure to raise such a claim cannot logically be attributed to the defendant himself, but instead to counsel's own performance. *Kendricks v. State*, 13 S.W.3d 401, 405 (Tenn. Crim. App. 1999). This court has, therefore, declined to apply waiver in the context of probation revocation hearings when a defendant's claim is that counsel's deficiencies prevented proper preservation of the issue. *State v. Eldridge*, No. M2004-01080-CCA-R3-CD, 2006 WL 359665, at *3 (Tenn. Crim. App. Feb. 16, 2006) (concluding that "while [an] underlying issue may be waived, we cannot conclude that allegations of ineffective assistance of counsel based on counsel's failure to raise such issues at the revocation hearing are waived"), *no perm. app. filed*. Accordingly, although the Defendant failed to raise the issue below, we conclude the ineffective assistance claim is not waived and proceed to consider the merits of the claim.

B. INEFFECTIVE ASSISTANCE OF COUNSEL

The Defendant argues that counsel rendered ineffective assistance by asking the trial court to view the available portion of the security video recording on Detective Hogan's computer. He cites only the general two-pronged standard for ineffective assistance of

counsel claims under *Strickland v. Washington* in his brief, but does not address the legal framework governing such claims in the probation revocation context.

Tennessee law affords a statutory right to counsel in a probation revocation hearing. Tenn. Code Ann. § 40-35-311(b) (“Whenever a person is arrested or summoned for the violation of probation and suspension of sentence, . . . the defendant must be present and is entitled to be represented by counsel[.]”). However, a defendant has no constitutional right to an attorney in such a proceeding. *See Gagnon v. Scarpelli*, 411 U.S. 778, 789-90 (1973); *Baxter v. Rose*, 523 S.W.2d 930, 936 (Tenn. 1975); *Young v. State*, 539 S.W.2d 850, 854 (Tenn. Crim. App. 1976)). As a result, a defendant alleging he or she received the ineffective assistance of counsel in a probation revocation hearing must show that counsel’s representation “was so defective that one of the defendant’s due process rights was violated.” *Eldridge*, 2006 WL 359665, at *3 (citing *State v. Kiser*, No. 01C01-0503-CC-00071, 1995 WL 715510, at *3 (Tenn. Crim. App. Dec. 6, 1995), *no perm. app. filed*).

The United States Supreme Court held in *Gagnon* that a defendant is entitled to “certain minimum requirements of due process” during a probation revocation hearing, including:

- (a) written notice of the claimed violations of (probation or) parole; (b) disclosure to the (probationer or) parolee of evidence against him; (c) opportunity to be heard in person and to present witnesses and documentary evidence; (d) the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); (e) a ‘neutral and detached’ hearing body such as a traditional parole board, members of which need not be judicial officers or lawyers; and (f) a written statement by the factfinders as to the evidence relied on and reasons for revoking (probation or) parole.

Gagnon, 411 U.S. at 786 (citing *Morrissey v. Brewer*, 408 U.S. 471, 489 (1972)); *see also Eldridge*, 2006 WL 359665 at *3.

The Defendant does not claim that he was denied any of these due process protections, nor does he present any analysis under the appropriate legal framework for his claim. In that respect, he risks waiver due to inadequate briefing. *See* Tenn. R. App. P. 27(a)(7)(A) (requiring an appellant to present a brief which sets forth “the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on”); Tenn. R. Ct. Crim. App. 10(b) (“Issues which are not supported by argument, citation to authorities, or appropriate references to the record will be treated as waived in this court.”); *Sneed v.*

Bd. of Prof'l Responsibility, 301 S.W.3d 603, 615 (Tenn. 2010) (“It is not the role of the courts, trial or appellate, to research or construct a litigant’s case or arguments for him or her, and where a party fails to develop an argument in support of his or her contention or merely constructs a skeletal argument, the issue is waived.”). Regardless, the record indicates that none of the Defendant’s due process protections were denied to him during his probation revocation hearing. The Defendant received written notice; the State’s evidence was disclosed to him; he had the opportunity to present testimony and cross-examine witnesses; and the trial court issued a ruling explaining its reasoning for revoking his probation in full.

The Defendant nevertheless contends that defense counsel’s acquiescence to Detective Hogan’s playing the video footage of the assault harmed his case because the footage was blurry and did not show the start of the confrontation. But Detective Hogan had already described the incident extensively. Defense counsel’s decision to show the trial court the portion that existed—especially after Detective Hogan agreed that the footage could be accessed and the trial court inquired whether either party wished to present it—was a reasonable strategic effort to challenge the State’s characterization of the assault. That strategy was successful: after reviewing the footage, Detective Hogan conceded that he could not, in fact, see a weapon, and admitted he based his belief on the motion of the Defendant’s arm rather than on visual confirmation. Nothing about defense counsel’s performance deprived the Defendant of the minimum due process requirements afforded during a revocation hearing. Therefore, the Defendant’s claim of ineffective assistance of counsel during the revocation hearing must fail. The Defendant is not entitled to relief.

III. CONCLUSION

Following our review of the record and based upon the foregoing analysis, we affirm the judgment of the trial court.

s/ *STEVEN W. SWORD*

STEVEN W. SWORD, JUDGE