

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs June 23, 2026

FILED

07/31/2026

Clerk of the
Appellate Courts

PAMELA CASTLE v. STATE OF TENNESSEE

Appeal from the Criminal Court for Shelby County
No. 21-01776 Jennifer Fitzgerald, Judge

No. W2025-01496-CCA-R3-PC

Petitioner, Pamela Castle, pled guilty to second degree murder and was sentenced to a term of twenty years imprisonment. Petitioner subsequently sought post-conviction relief on the basis of ineffective assistance of counsel. The post-conviction court denied relief after a hearing, and Petitioner appealed. She argues that the post-conviction court erred in dismissing her petition because her plea counsel (1) failed to provide her with a complete hard copy of discovery prior to advising her to enter a guilty plea, (2) overemphasized inculpatory testimony and failed to investigate exculpatory evidence, and (3) mischaracterized the evidence and gave improper legal advice. Upon review of the entire record, the briefs of the parties, and applicable law, we affirm the judgment of the post-conviction court.

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

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

Rosalind Brown, Memphis, Tennessee, for the appellant, Pamela Castle.

Jonathan Skrmetti, Attorney General and Reporter; Benjamin Ball, Senior Assistant Attorney General; Michael J. Hurst, Qualified Law Student; Steven J. Mulroy, District Attorney General; and Leslie Fouche, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

Petitioner was indicted for the first degree murder of her husband's girlfriend. On January 5, 2024, Petitioner pled guilty to the lesser included offense of second degree murder and was sentenced to a term of twenty years imprisonment at 100%.

At the guilty plea hearing, the State indicated that if the case had gone to trial, the proof would have shown that:

Saturday, February 13, 2021, officers responded to a shots-fired call The victim, . . . , had called police and advised that [Petitioner] was vandalizing her residence. However, the call was upgraded to a shots-fired call at approximately 7:03 hours. Upon arrival, officers found [the victim] unresponsive and suffering from gunshot wounds to her upper torso. Derek Castle, the victim's live-in boyfriend stated he and the victim were in an upstairs room when someone started beating on the door to their apartment. Derek Castle advised [the victim] went downstairs to see who was at the door when he heard his wife of 17 years, [Petitioner] (Indiscernible) the [victim], yelling at her. Derek Castle stated within minutes he heard the sound of glass breaking and approximately four shots fired. Derek Castle looked out of the broken downstairs window after hearing the gunshots and observed a white Hyundai Accent occupied by a lone female who appeared to be his wife [Petitioner] driving away from the scene. [The victim] did succumb to her injuries.

Petitioner filed a pro se petition for post-conviction relief, claiming her guilty plea was involuntary and she received ineffective assistance of counsel because her plea counsel "did not discuss the lack of evidence in this case," "did not attempt to obtain a better plea deal for Petitioner," and "did not advise Petitioner that hearsay from her husband was the only evidence being used against her." The post-conviction court appointed counsel, and counsel did not file an amended petition.

Post-Conviction Hearing

Petitioner testified at the post-conviction hearing. Petitioner confirmed the assertions she made in her petition. Petitioner stated she never received discovery and that her plea counsel never reviewed discovery with her. She expressed that while she was aware her husband was a witness, she did not know that the other two witnesses were the victim's relatives. She also claimed she did not know that her husband talked with the two other witnesses before speaking to the police. Additionally, Petitioner stated she had not seen the numerous police reports or her husband's statements to the police. Petitioner stated she was unaware that there were 185 pages of discovery in relation to her case. Throughout direct examination, Petitioner denied being aware of various discovery

materials. Petitioner expressed that she asked her plea counsel for the discovery and that her plea counsel stated she “didn’t want it in the jail,” and gave it to Petitioner’s aunt. Petitioner stated her aunt did not give her the discovery. Petitioner also continued to assert that, when plea counsel explained her potential sentence if she went to trial and lost, she felt “threatened” to accept a plea.

On cross-examination, Petitioner conceded that plea counsel informed her that her husband’s statements and her flight to Georgia would be strong evidence against her. Petitioner admitted that plea counsel discussed the “possibilities” of going to trial versus pleading guilty. She further conceded that plea counsel’s investigator had spoken to Petitioner’s husband and came to visit her in jail to ask her questions as well. While Petitioner admitted that plea counsel handed over discovery materials to her aunt, Petitioner continued to assert that she was not fully aware of the strengths and weaknesses of her case.

Elizbeth Miller, the daughter of Petitioner’s aunt, also testified. She recalled receiving a hard copy of the discovery materials.

Plea counsel testified she had multiple conversations with Petitioner. When asked about whether she provided Petitioner with a physical copy of her discovery, plea counsel said, “probably not.” She expounded and said generally, she discusses the option with her clients and usually advises against her clients keeping a physical copy at the jail because it can lead to “other people looking at [her clients’] documents” and creating problems. She stated that she gave Petitioner the option to have a physical copy. Plea counsel also stated she provided a physical copy to Petitioner’s family. Further, plea counsel confirmed she discussed all of the discovery with Petitioner and reviewed the strengths and weaknesses of Petitioner’s case with her.

On cross-examination, plea counsel confirmed multiple times that she reviewed discovery with Petitioner and was aware of what was in the discovery.

Following the hearing, the post-conviction court entered an order denying Petitioner’s requested post-conviction relief. In the order, the post-conviction court found that Petitioner’s guilty plea was not involuntary because what Petitioner claimed to be a “threat” was merely plea counsel informing her of her options and potential consequences of going to trial.

The post-conviction court also denied all of Petitioner’s ineffective assistance of counsel claims. As to Petitioner’s claim that plea counsel did not “discuss the lack of evidence” with her, particularly related to discovery, the post-conviction court found that plea counsel’s not providing Petitioner with a physical copy of discovery materials to have

with her in the jail was a strategic choice for Petitioner to avoid conflicts with others in the jail facility. The post-conviction court specifically credited plea counsel's testimony and found that plea counsel reviewed discovery with Petitioner numerous times.

As to Petitioner's claim that plea counsel "did not attempt to obtain a better plea deal for her," the post-conviction court found that plea counsel played a "significant role" in reducing Petitioner's possible sentence of life in prison, to an original thirty-year plea offer, to finally a twenty-year plea. The post-conviction court concluded that Petitioner failed to prove counsel's performance was deficient for failing to obtain a more favorable plea deal.

As to Petitioner's claim that plea counsel "did not advise Petitioner that hearsay from her husband was the only evidence being used against her," the post-conviction court first found that the husband's statement was not the only evidence against her, as evidenced by the discovery materials discussed at the hearing. Second, the post-conviction court found that plea counsel, in discussing Petitioner's husband's statement and Petitioner's flight to Georgia, was instructing Petitioner on her case's weaknesses, which is part of competent representation.

It is from this order that Petitioner filed a timely notice of appeal.

Analysis

On appeal, Petitioner argues that the post-conviction court erred in denying relief because (1) her plea counsel failed to provide her with a complete hard copy of discovery prior to advising her to enter a plea, and therefore her guilty plea was not knowing and voluntary, (2) her plea counsel overemphasized inculpatory testimony and failed to investigate exculpatory evidence, and (3) her plea counsel mischaracterized the evidence and gave improper legal advice. The State disagrees and asserts the post-conviction court properly determined that plea counsel provided effective assistance of counsel in discussing the discovery evidence with Petitioner. Additionally, the State contends Petitioner waived her second and third claims because she neither raised these claims in her petition for post-conviction relief nor argued them at the post-conviction hearing.

In order to prevail on a petition for post-conviction relief, a petitioner must prove all factual allegations by clear and convincing evidence. *Jaco v. State*, 120 S.W.3d 828, 830 (Tenn. 2003). Post-conviction relief cases often present mixed questions of law and fact. *See Fields v. State*, 40 S.W.3d 450, 458 (Tenn. 2001). As such, we review a post-conviction court's findings of fact under a de novo standard with a presumption that those findings are correct unless otherwise proven by a preponderance of the evidence. *Id.* (citing Tenn. R. App. P. 13(d); *Henley v. State*, 960 S.W.2d 572,578 (Tenn. 1997)). The post-

conviction court's conclusions of law and application of the law to factual findings are reviewed de novo with no presumption of correctness. *Kendrick v. State*, 454 S.W.3d 450, 457 (Tenn. 2015).

When reviewing the post-conviction court's findings of fact, this Court does not reweigh the evidence or "substitute [its] own inferences for those drawn by the [post-conviction] court." *Fields*, 40 S.W.3d at 456. Additionally, "questions concerning the credibility of the witnesses, the weight and value to be given their testimony, and the factual issues raised by the evidence are to be resolved by the [post-conviction court]." *Id.* (citing *Henley*, 960 S.W.2d at 579); see also *Kendrick*, 454 S.W.3d at 457.

Waiver

As a threshold matter, we consider whether Petitioner waived her second and third claims. A post-conviction petitioner generally waives a ground for relief when he or she does not include the ground in the petition. See T.C.A. § 40-30-110(c) ("Proof upon the petitioner's claim or claims for relief shall be limited to evidence of the allegations of fact in the petition."); Tenn. Sup. Ct. R. 28, § 8(D)(4) ("The hearing shall be limited to issues raised in the petition."). Our supreme court has clearly held appellate courts may consider a post-conviction issue only when such issue "(1) was formally raised in the post-conviction petition or an amendment; or (2) was argued at the evidentiary hearing *and* was decided by the post-conviction court without objection by the State." *Davis v. State*, No. M2023-00048-CCA-R3-PC, 2024 WL 446441, at *6 (Tenn. Crim. App. Feb. 6, 2024), *no perm. app. filed* (emphasis in original); see *State v. Bristol*, 564 S.W.3d 917, 927 n.4 (Tenn. 2022) ("The legislature has eliminated this discretion [to consider unrepresented or unpreserved issues] in post-conviction proceedings."); *Holland v. State*, 620 S.W.3d 450, 458 (Tenn. 2020).

In this case, the record does not demonstrate that Petitioner properly preserved her second or third claim for appellate review. Petitioner's pro se petition provided several short sentences as to these claims, and Petitioner's post-conviction counsel did not amend the petition to clarify the issues raised. Therefore, the second and third claims raised for review here were not formally raised in a post-conviction petition. Petitioner's second and third claims are ancillary points raised in the post-conviction hearing, but the post-conviction court did not address these issues in its order. Petitioner has thus waived her second and third claims.

Ineffective Assistance of Counsel

Petitioner argues she received ineffective assistance because plea counsel failed to provide a physical copy of the discovery materials to her, and therefore, her guilty plea was not knowing and voluntary.

The right to effective assistance of counsel is safeguarded by the constitutions of both the United States and the State of Tennessee. U.S. Const. amend. VI; Tenn. Const. art. I, § 9. When a petitioner seeks post-conviction relief on the basis of ineffective assistance of counsel, “the petitioner bears the burden of proving both that counsel’s performance was deficient and that the deficiency prejudiced the defense.” *Goad v. State*, 938 S.W.2d 363, 369 (Tenn. 1996) (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). To establish deficient performance, the petitioner must show that counsel’s performance was below “the range of competence demanded of attorneys in criminal cases.” *Baxter v. Rose*, 523 S.W.2d 930, 936 (Tenn. 1975). To establish prejudice, the petitioner must show that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. Further,

[b]ecause a petitioner must establish both prongs of the test, a failure to prove either deficiency or prejudice provides a sufficient basis to deny relief on the ineffective assistance claim. Indeed, a court need not address the components in any particular order or even address both if the [petitioner] makes an insufficient showing of one component.

Goad, 938 S.W.2d at 370 (citing *Strickland*, 466 U.S. at 697). Additionally, review of counsel’s performance “requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time.” *Strickland*, 466 U.S. at 689; *see also Henley v. State*, 960 S.W.2d 572, 579 (Tenn. 1997). We will not second-guess a reasonable trial strategy, and we will not grant relief based on a sound, yet ultimately unsuccessful, tactical decision. *Granderson v. State*, 197 S.W.3d 782, 790 (Tenn. Crim. App. 2006).

Regarding the second *Strickland* prong, trial counsel’s deficient performance in a guilty plea will be found to have prejudiced the defendant only if “there is a reasonable probability that, but for counsel’s errors, [the petitioner] would not have pleaded guilty and would have insisted on going to trial.” *Calvert v. State*, 342 S.W.3d 477, 486 (Tenn. 2011) (quoting *Hill v. Lockhart*, 474 U.S. 52, 59 (1985)). Further, once a defendant enters a guilty plea, the effectiveness of counsel is only relevant to the extent that it affects the voluntariness of the plea. *Hill*, 474 U.S. at 56 (1985).

In order for a guilty plea to be valid, it must be made “knowingly, voluntarily, and intelligently.” *Ward v. State*, 315 S.W.3d 461, 465 (Tenn. 2010) (citations omitted). “[A] plea is not ‘voluntary’ if it is the product of ‘[i]gnorance, incomprehension, coercion, terror, inducements, [or] subtle or blatant threats.’” *Blankenship v. State*, 858 S.W.2d 897, 904 (Tenn. 1993) (quoting *Boykin v. Alabama*, 395 U.S. 238, 242-43 (1969)). “[T]he standard of inquiry is whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *Ward*, 315 S.W.3d at 465 (citation and internal quotation marks omitted).

Here, Petitioner first argued to the post-conviction court that her plea was involuntary because she felt “threatened” by conversations with her plea counsel regarding the consequences of not pleading guilty. The post-conviction court was unconvinced and determined that plea counsel was not threatening Petitioner but was merely advising her. Petitioner now claims she did not have adequate information to make a knowing and voluntary decision. The record contradicts this claim.

Plea counsel testified to having numerous discussions with Petitioner about the realistic weight of the evidence, the maximum penalties she faced if she were found guilty at trial, and the plea negotiations she had with the State. Petitioner may have found the options before her, either to plead guilty and receive a sentence of twenty years or proceed with trial and a possible life sentence, unfavorable, but Petitioner had the requisite knowledge to choose between those options.

Next, Petitioner insists that her guilty plea was unknowing and involuntary and plea counsel violated Tennessee Rules of Professional Conduct Rule 1.4(b), which states that a lawyer “shall explain a matter to the extent reasonably necessary to permit the client to make informed decision regarding representations.” Petitioner asserts that failing to provide a physical copy of discovery amounts to a “selective discovery” which then improperly deprived Petitioner of an informed decision to plead guilty. This is incorrect. The comments to Rule 1.4(b) advise that “the guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client’s best interests.” Tenn. Sup. Ct. R. 8, RPC 1.4 cmt. [5]. As discussed at length, plea counsel took numerous steps to safeguard Petitioner’s best interests. There is simply no bright line rule which states that lawyers must always provide the client a physical copy of discovery materials.

Moreover, there simply was no “selective discovery.” As the post-conviction court concluded, plea counsel met with Petitioner on multiple occasions, reviewed all of the discovery with Petitioner, and gave Petitioner the opportunity to ask questions. Plea counsel also testified that while she normally gives every client an option to have a physical copy, she advises incarcerated clients against it. Petitioner was not deprived of a physical

copy but rather declined a physical copy on the advice of counsel, and a physical copy was provided to Petitioner's family. The record does not preponderate against the post-conviction court's determination that this was a strategic decision to which Petitioner consented and does not amount to a deficient performance that resulted in prejudice. Petitioner is not entitled to relief on this issue.

CONCLUSION

Based on the foregoing reasons, the judgment of the post-conviction court is affirmed.

S/Timothy L. Easter

TIMOTHY L. EASTER, JUDGE