

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs August 4, 2026

ROBIN BASS v. STATE OF TENNESSEE

Appeal from the Criminal Court for Shelby County
No. 13-04325 Chris Craft, Judge¹

No. W2025-01757-CCA-R3-PC

The Petitioner, Robin Bass, appeals the Shelby County Criminal Court's denial of post-conviction relief, claiming that he received the ineffective assistance of counsel at trial. Based upon our review, we affirm the judgment of the post-conviction court.

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

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which STEVEN W. SWORD and STACY L. STREET, JJ., joined.

Ernest J. Beasley (on appeal) and Claiborne H. Ferguson and Chloe P. Hawes (at hearing), Memphis, Tennessee, for the appellant, Robin Bass.

Jonathan Skrmetti, Attorney General and Reporter; Elizabeth Evan, Assistant Attorney General; Steven J. Mulroy, District Attorney General; and Leslie Byrd and Scot Bearup, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

FACTS

In October 2015, the Petitioner went to trial for first degree murder committed in the perpetration of or attempt to perpetrate robbery. *State v. Bass*, No. W2015-02484-CCA-R3-CD, 2017 WL 401371 (Tenn. Crim. App. Jan. 27, 2017), *perm. app. denied* (Tenn. May 22, 2017). According to the evidence at trial, Gus Crittle, the victim, worked as a maintenance man but also sold marijuana out of his apartment. *Id.* On the night of December 24, 2011, the victim's neighbor found the victim lying in the parking lot of the apartment complex in which they lived. *Id.* at *1. The victim had sustained a gunshot

¹ Judge Craft did not preside over the Petitioner's trial or sentencing hearing.

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wound to his chest, which caused massive internal bleeding, and a gunshot wound to his right hand. *Id.* at *3. A blood trail led from the victim to his upstairs apartment. *Id.* at *1. The police found bags of marijuana, a 9 mm shell casing, a .40 caliber shell casing, and a bullet strike inside the apartment. *Id.* at *1, 4. Forensic analysis of the shell casings showed they were fired from different guns but were not fired from a gun possessed by the victim. *Id.* at *6.

Calls from the Petitioner's telephone to the victim before the shooting led the police to suspect the Petitioner. *Id.* at *7. On January 11, 2012, the Petitioner turned himself in to police and waived his constitutional rights after being provided with *Miranda* warnings. *Id.* The Petitioner initially denied seeing the victim on Christmas Eve but ultimately told the police that he met the victim to buy marijuana. *Id.* at *7-8. However, the Petitioner did not admit to shooting the victim. *See id.* In April 2012, after the Petitioner was in custody and had been charged with killing the victim, Jason Legrone went to the police and gave a statement in which he implicated the Petitioner. *Id.* at *5. According to the statement, the Petitioner told Mr. Legrone that the Petitioner and two men telephoned "the dope man" and "went over to where the man lives." *Id.* at *6. The Petitioner told Mr. Legrone that they were planning to take the dope man's marijuana but that the two men shot the dope man. *Id.* The Petitioner claimed he was in the car at the time of the shooting. *Id.* Mr. Legrone testified at trial that he and the Petitioner were "very close friends." *Id.* at *5. Mr. Legrone said that he had a drug problem and claimed that he did not remember giving a statement to the police in April 2012. *Id.*

Willie De Jeanette Taylor, the victim's mother, testified that she dealt with the grief of losing her son by communicating with the Petitioner in jail "through letters[,] witnessing and ministering to [the Petitioner] for three years[.]" *Id.* at *3. She also visited him one time, near the one-year anniversary of the victim's death. *Id.* Ms. Taylor stated,

I'm not going to say he confessed to me but when I went in to see him[,] he was crying bitterly and he looked at me and he told me, he said for all that I am which may not mean a lot to you I want you to know that I did not murder your son.

Id. According to Ms. Taylor, the Petitioner explained that he and the victim got into an altercation, that they tussled over a gun, that the gun went off, and that the victim was shot in the hand. *Id.* The Petitioner told Ms. Taylor that the victim ran out of the apartment and down the steps and that the Petitioner did not kill the victim. *Id.* The Petitioner characterized his altercation with the victim as "a robbery gone bad," meaning the Petitioner was going to rob the victim. *Id.* On cross-examination, Ms. Taylor testified that the first time she mentioned the Petitioner's confession was the day before his trial began. *Id.* at *4.

The jury convicted the Petitioner of first degree felony murder as charged in the indictment, and the trial court sentenced him to life in confinement. *Id.* at *9. On direct appeal of his conviction, the Petitioner contended that the evidence was insufficient to support his conviction and that his confessions to Ms. Taylor and Mr. Legrone were uncorroborated. *Id.* at *9. This court found that the evidence was sufficient and that “substantial independent evidence” existed to show the confessions were trustworthy. *Id.* at *10.

After our supreme court denied the Petitioner’s application for permission to appeal, he filed a pro se “MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR POST-CONVICTION RELIEF,” claiming that (1) he was denied the effective assistance of counsel because trial and appellate counsel failed to challenge Ms. Taylor’s testimony as clergy-penitent privilege pursuant to Tennessee Code Annotated section 24-1-206 and (2) he was denied due process because the trial court, rather than the jury, imposed his life sentence and because the trial court failed to instruct the jury about parole considerations pursuant to Tennessee Code Annotated section 39-13-204(e)(2). The post-conviction court appointed counsel, who was then replaced by retained counsel. Retained counsel filed a petition for post-conviction relief, asserting that trial counsel was ineffective for failing to move for a continuance when trial counsel learned just one day before trial that Ms. Taylor was going to testify about the Petitioner’s confession. The Petitioner asserted that trial counsel did not have enough time to prepare to impeach Ms. Taylor without a continuance and that trial counsel would have known that evidence of Ms. Taylor’s inaccurate statement was relevant to his defense if trial counsel had investigated the facts and circumstances of his case.

On September 7, 2018, the State responded to the petition and requested an evidentiary hearing. On December 20, 2019, the Petitioner filed an amended petition in which he raised additional claims of ineffective assistance of trial counsel, including that counsel’s failure to cross-examine Ms. Taylor effectively was ineffective assistance pursuant to *Garrity v. State*, No. M2016-01463-CCA-R3-PC, 2018 WL 1691296 (Tenn. Crim. App. Apr. 4, 2018), *no perm. app. filed*, and that trial counsel failed to allow the Petitioner’s aunt to testify to impeach Ms. Taylor.

The post-conviction court held an evidentiary hearing on July 28, 2025. Relevant to this appeal, trial counsel testified for the Petitioner that Ms. Taylor was supposed to be the State’s “corpus witness.” The day before the parties were to begin presenting proof, though, trial counsel learned Ms. Taylor was going to testify as an adverse witness against the Petitioner. Ms. Taylor did not want the Petitioner to spend the rest of his life in prison, and she thought her testimony that he was not the “trigger man” would help him. Instead, her testimony about him shooting the victim harmed his defense. Trial counsel said he did not ask for a continuance when he learned Ms. Taylor was going to testify adversely

because the case had been continued previously. Trial counsel said that the trial court was “getting extremely antsy” and that the Petitioner did not want a continuance. Someone in Ms. Taylor’s family had told trial counsel that Ms. Taylor did not think the Petitioner had anything to do with the victim’s death. Trial counsel stated that the family member’s testimony could have been admissible if he had requested a continuance and that a continuance “probably would’ve been a good idea.” Trial counsel also did not investigate whether Ms. Taylor was an ordained minister or if her communications with the Petitioner were privileged.

On cross-examination, trial counsel testified that he had been practicing law for thirty-three years, that he practiced criminal law exclusively, and that he had participated in at least one hundred trials. Trial counsel discussed a continuance with the Petitioner, but the Petitioner wanted the trial to go forward. Trial counsel stated, “In retrospect, I don’t know what I would’ve done different[ly] if I had a continuance, but it could’ve been a help.”

Cheryl Banks, the Petitioner’s aunt, testified that Ms. Taylor met with the Petitioner in jail in 2012. Ms. Banks did not know Ms. Taylor before the Petitioner’s trial but spoke with Ms. Taylor one time at a wedding in September 2013. Ms. Banks stated that Ms. Taylor was “very complimentary of [the Petitioner’s] manners” and that Ms. Taylor said she “knew that [the Petitioner] didn’t do it.” At trial, trial counsel told Ms. Banks that Ms. Taylor was going to testify about the Petitioner’s confession. Ms. Banks informed trial counsel that she had spoken with Ms. Taylor and that she had thought Ms. Taylor was going to testify on the Petitioner’s behalf. The Petitioner had mailed to Ms. Banks all his correspondence with Ms. Taylor, and Ms. Banks had reviewed the correspondence. Ms. Banks said nothing in Ms. Taylor’s letters suggested a confession by the Petitioner and that Ms. Banks would have provided the letters to trial counsel if he had requested them.

On October 6, 2025, the post-conviction court entered a written order denying the petition for post-conviction relief. The post-conviction court found that trial counsel’s cross-examination of Ms. Taylor was not deficient. The post-conviction court stated that trial counsel “did an excellent job” in showing sympathy to Ms. Taylor for her loss of the victim, in showing that the first time Ms. Taylor mentioned the Petitioner’s confession was the day of trial, and in removing Ms. Taylor from the witness stand quickly in order to limit the jury’s seeing how much she appeared to care for the Petitioner. The post-conviction court also found that the Petitioner failed to show prejudice from trial counsel’s cross-examination of Ms. Taylor. The post-conviction court noted that Ms. Banks was the only witness who testified at the evidentiary hearing to contradict Ms. Taylor’s trial testimony about the Petitioner’s 2012 confession. The post-conviction court stated that it had reviewed Ms. Taylor’s trial testimony and that it was obvious to the court that Ms. Taylor did not think the Petitioner fired the gunshot that killed the victim. Thus, the post-

conviction court concluded that Ms. Taylor was being truthful when she told Ms. Banks in 2013 that the victim “didn’t do it.” The court concluded that “nothing would have been gained” from a continuance and accredited trial counsel’s testimony that the Petitioner did not want a continuance. The post-conviction court found that the Petitioner failed to show he received the ineffective assistance of trial counsel.

ANALYSIS

On appeal, the Petitioner claims that trial counsel was ineffective “due to being unable to impeach the [S]tate’s key witness.” Although he does not name the witness to whom he is referring, we assume he means Ms. Taylor. The State argues that we should dismiss the appeal because the Petitioner’s notice of appeal was untimely. Additionally, the State argues that the Petitioner has waived consideration of the issue due to an inadequate brief. The State notes the lack of factual support for any argument made or any citations to the record. In a footnote, the State notes that the argument section of the Petitioner’s brief is “almost verbatim the argument section” of two other petitioners’ briefs currently before this court: *Person v. State*, No. W2025-01756-CCA-R3-PC, which is on the same docket as the instant case, and *Taylor v. State*, No. W2025-01087-CCA-R3-PC, which was on the July Jackson docket.² In the alternative to dismissal or waiver, the State asserts that we should affirm the post-conviction court’s conclusion that the Petitioner did not receive the ineffective assistance of trial counsel. The Petitioner did not file a reply brief to address the State’s dismissal or waiver arguments. We agree with the State that the Petitioner’s issue of ineffective assistance of counsel is waived. We also agree that, irrespective of waiver, the post-conviction court did not abuse its discretion in denying the petition for post-conviction relief.

Post-conviction relief “shall be granted when the conviction or sentence is void or voidable because of the abridgment of any right guaranteed by the Constitution of Tennessee or the Constitution of the United States.” Tenn. Code Ann. § 40-30-103. The petitioner bears the burden of proving factual allegations by clear and convincing evidence. Tenn. Code Ann. § 40-30-110(f). When an evidentiary hearing is held in the post-conviction setting, the findings of fact made by the court are conclusive on appeal unless the evidence preponderates against them. *Wiley v. State*, 183 S.W.3d 317, 325 (Tenn. 2006). When reviewing factual issues, the appellate court will not reweigh the evidence and will instead defer to the post-conviction court’s findings as to the credibility of witnesses or the weight of their testimony. *Phillips v. State*, 647 S.W.3d 389, 400 (Tenn. 2022) (citations omitted). However, the post-conviction court’s conclusions of law and application of the law to the facts are reviewed under a purely de novo standard, with no presumption of correctness. *Fields v. State*, 40 S.W.3d 450, 458 (Tenn. 2001). The issue

² All three petitioners are represented by the same appellate counsel.

of ineffective assistance of counsel, which presents mixed questions of fact and law, is reviewed de novo, with a presumption of correctness given only to the post-conviction court's findings of fact. *Phillips*, 647 S.W.3d at 400 (citing *Dellinger v. State*, 279 S.W.3d 282, 294 (Tenn. 2009)).

To establish a claim of ineffective assistance of counsel, the petitioner has the burden to show both that trial counsel's performance was deficient and that counsel's deficient performance prejudiced the outcome of the proceeding. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); see *State v. Taylor*, 968 S.W.2d 900, 905 (Tenn. Crim. App. 1997) (noting that the same standard for determining ineffective assistance of counsel that is applied in federal cases also applies in Tennessee). The *Strickland* standard is a two-prong test:

First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

466 U.S. at 687.

The deficient performance prong of the test is satisfied by showing that "counsel's acts or omissions were so serious as to fall below an objective standard of reasonableness under prevailing professional norms." *Goad v. State*, 938 S.W.2d 363, 369 (Tenn. 1996) (citing *Strickland*, 466 U.S. at 688; *Baxter v. Rose*, 523 S.W.2d 930, 936 (Tenn. 1975)). The reviewing court must indulge a strong presumption that the conduct of counsel falls within the range of reasonable professional assistance, see *Strickland*, 466 U.S. at 690, and may not second-guess the tactical and strategic choices made by trial counsel unless those choices were uninformed because of inadequate preparation. See *Hellard v. State*, 629 S.W.2d 4, 9 (Tenn. 1982).

The prejudice prong of the test is satisfied by showing a reasonable probability, i.e., a "probability sufficient to undermine confidence in the outcome," that "but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland*, 466 U.S. at 694. Courts need not approach the *Strickland* test in a specific order or even "address both components of the inquiry if the defendant makes an insufficient showing on one." 466 U.S. at 697; see *Goad*, 938 S.W.2d at 370 (stating that "failure to prove either deficiency or prejudice provides a sufficient basis to deny relief on the ineffective assistance claim").

Initially, regarding the State's argument that we should dismiss the appeal, the Petitioner was required to file his notice of appeal within thirty days of the post-conviction court's entering its order denying relief. *See* Tenn. R. App. 4(c). The post-conviction court entered its order on October 6, 2025. Therefore, the Petitioner was required to file his notice of appeal no later than November 5, 2025. He filed his notice on November 6, 2025. However, the timely filing is not jurisdictional and may be waived in the interest of justice. Tenn. R. App. 4(a). Given that the Petitioner's notice of appeal was only one day late and the nature of the issue, we conclude that the timeliness requirement should be waived.

As to the State's argument that the Petitioner has waived consideration of the issue due to an inadequate brief, an appellant's brief must contain "[a] statement of facts, setting forth the facts relevant to the issues presented for review with appropriate references to the record." Tenn. R. App. P. 26(a)(6). Furthermore, the brief must contain an argument that 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 . . . relied on." Tenn. R. App. P. 27(a)(7)(A); *see also* Tenn. Ct. Crim. App. R. 10(b) (providing that "[i]ssues which are not supported by argument, citation to authorities, or appropriate references to the record will be treated as waived in this court").

The facts section of the Petitioner's brief does not contain any relevant facts from the Petitioner's trial or the post-conviction evidentiary hearing. The argument section does not contain any citations to the testimony at the evidentiary hearing, contains only conclusory statements as to deficiency, does not explain how the Petitioner was prejudiced by any deficiency, and does not contain any legal analysis relevant to this case. Moreover, the argument section contains the following paragraph:

Appellant Robin Bass claims both in his petition and during his hearing for post-conviction relief that he did not receive effective assistance of counsel. Although the evidence against the appellant was strong, appellant argues that trial counsel[']s lack of communication with the appellant and the appellant's apparent lack of understanding concerning the case against him, were tantamount to ineffective assistance of counsel. Appellant argues that counsel did not object to the taking of DNA of the Appellant, which Appellant argues was key to his conviction. Appellant also contends that the cumulative error of counsel's representation of Mr. Bass was also outcome determinative.

The paragraph does not appear to be relevant to the Petitioner's case. The Petitioner never claimed in his post-conviction petitions or at the evidentiary hearing that trial counsel was ineffective for failing to communicate with him, that he did not understand his case due to trial counsel's lack of communication, or that trial counsel was ineffective for failing to challenge the collection of his DNA. In fact, no forensic evidence linked the Petitioner to the shooting, and his DNA was not an issue at trial.

Another panel of this court recently filed its opinion in *Taylor v. State*, No. W2025-01087-CCA-R3-PC, 2026 WL 2280855 (Tenn. Crim. App. August 7, 2026), *pet. reh'g granted* (Aug. 19, 2026), one of the cases cited by the State in its footnote. That panel considered a post-conviction appeal by appellate counsel that used almost the exact same brief as in the present case and determined that the petitioner's ineffective assistance of counsel claim was waived for failing to brief the issue adequately. *Taylor*, 2026 WL 2280855, at *2-3. In addition, we have compared the Petitioner's appellate brief with the appellate brief in *Person*, the second case cited in the State's footnote, and the State is correct in that the argument sections of the briefs are almost identical.³ In *Beal v. State*, No. W2024-01302-CCA-R3-PC, 2025 WL 1949792, at *3 (Tenn. Crim. App. July 16, 2025), *no perm. app. filed*, this court found that the petitioner's claims were waived due to this same post-conviction appellate counsel's inadequate briefing. As this court stated in that case, "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." *Beal*, 2025 WL 1949792, at *3 (quoting *Sneed v. Bd. of Prof'l Responsibility*, 301 S.W.3d 603, 615 (Tenn. 2010)). Accordingly, we conclude that the Petitioner's issue of ineffective assistance of trial counsel is waived.

Irrespective of waiver, we conclude that the Petitioner is not entitled to relief. The post-conviction court found that the Petitioner failed to show prejudice from trial counsel's failure to impeach Ms. Taylor's trial testimony about the Petitioner's confession and trial counsel's failure to request a continuance because the evidence showed that Ms. Taylor did not think the Petitioner fired the gunshot that killed the victim and, therefore, truthfully told Ms. Banks that the Petitioner did not kill the victim. Although Ms. Banks testified at the evidentiary hearing that the Petitioner's correspondence with Ms. Taylor contradicted Ms. Taylor's testimony about the confession, the Petitioner did not present the correspondence at the hearing. Therefore, the record does not preponderate against the finding of the post-conviction court.

³ We note that the petitioner in *Wilks v. State*, W2025-01504-R3-PC, also on the August Jackson docket and represented by present counsel, uses the same brief almost verbatim.

To the extent the Petitioner is claiming that trial counsel failed to communicate with him, which caused him not to understand his case, a petitioner “shall have the burden of proving the allegations of fact by clear and convincing evidence” at an evidentiary hearing. Tenn. Code Ann. § 40-30-110(f). To that end, a petitioner “shall appear and give testimony at the evidentiary hearing if the petition raises substantial questions of fact as to events in which the petitioner participated, unless the petitioner is incarcerated out of state.” *Id.* at § 40-30-110(a). The Petitioner did not testify at the evidentiary hearing. Therefore, aside from his bare allegations, he did not offer any proof of deficient performance or prejudice regarding trial counsel’s lack of communication. As a result, The Petitioner has failed to show that he received the ineffective assistance of counsel.

CONCLUSION

Based upon our review, we affirm the judgment of the post-conviction court.

s/ JOHN W. CAMPBELL _____
JOHN W. CAMPBELL, SR., JUDGE