

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs August 4, 2026

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Appellate Courts

ALONZO DWAYNE JOHNSON v. STATE OF TENNESSEE

Appeal from the Circuit Court for Dyer County
No. 23-CR-132A Mark L. Hayes, Judge

No. W2025-01782-CCA-R3-PC

The Petitioner appeals the denial of his petition for post-conviction relief from his Dyer County Circuit Court guilty-pleaded conviction of possession with intent to sell more than .5 grams of methamphetamine, arguing that he was deprived of the effective assistance of counsel and that his guilty plea was not knowingly and voluntarily entered. Discerning no error, we affirm.

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

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

Becky S. Dykes, Dyersburg, Tennessee, for the appellant, Alonzo Dwayne Johnson.

Jonathan Skrmetti, Attorney General and Reporter; G. Kirby May, Assistant Attorney General; Danny Goodman, Jr., District Attorney General; and Lance Webb, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

This appeal arises from the denial of the Petitioner's bid for post-conviction relief from his guilty-pleaded conviction of possession with intent to sell methamphetamine, which itself arose from the execution of a search warrant by members of the West Tennessee Drug Task Force at the residence shared by the Petitioner and his girlfriend, April Brabson, who was charged alongside the Petitioner.

Factual and Procedural Background

In June 2023, the Dyer County Grand Jury charged the Petitioner and Ms. Brabson with possession with intent to sell: (1) more than .5 grams of methamphetamine, (2) more than .5 grams of cocaine, (3) Suboxone, (4) heroin, (5) more than 1/2 ounce of marijuana, (6) Carisoprodol, (7) gabapentin, and (8) Xanax, *see* T.C.A. §§ 39-17-417, -434; possession of drug paraphernalia, *see id.* § 39-17-425; possession of a firearm after having been convicted of a felony drug offense, *see id.* § 39-17-1307; possession of a firearm after having been convicted of a felony crime of violence, *see id.*; and possession of a firearm during the commission of a dangerous felony, *see id.* § 39-17-1324.

I. Plea Proceedings

Pursuant to a plea agreement, the Petitioner, a Range III offender, *see* T.C.A. § 40-35-112(c), entered a best interest¹ plea of guilty to a single count of possession with intent to sell .5 grams of methamphetamine in exchange for a Range II sentence of 18 years' incarceration, *see id.* § 40-35-112(b), with an out-of-range release eligibility percentage of 85%,² and dismissal of the remaining charges in this and two other cases pending against him at the time. At the April 30, 2024 guilty plea submission hearing, the statement of facts as summarized by the State established that West Tennessee Drug Task Force agents executed a search warrant at a residence on Broadway Avenue in Dyersburg on April 3, 2023. The Petitioner, who “was the target of that search warrant,” was not at the residence when agents executed the warrant. “Ms. Brabson was at the residence [with] several other people.” Agents recovered “6.5 grams of heroin, 3 grams of crack cocaine, 110 grams of methamphetamine, 4 suboxone strips, 384 grams of marijuana, 43 gabapentin pills, 4 xanax, an AR 15 rifle[,] and a .357 caliber revolver.” Agents arrested Ms. Brabson, who “made a statement to officers that the items belonged to her.” The Petitioner then sent agents “a notarized letter” wherein he “claim[ed] that everything in the residence belonged to him.”

During the guilty plea colloquy, the forty-six-year-old Petitioner agreed that he had reviewed and understood the charges and the potential punishments that each carried, the State's proof against him, and the relative advantages and disadvantages of accepting the plea offer and forgoing his right to trial and that he had determined that it was in his best

¹ *See North Carolina v. Alford*, 400 U.S. 25, 37 (1970) (holding that “[a]n individual accused of crime may voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit his participation in the acts constituting the crime” if he “intelligently concludes that” a plea of guilty is in his best interests).

² Our supreme court has specifically approved of such agreed sentencing combinations. *See Hicks v. State*, 945 S.W.2d 706, 706 (Tenn. 1997) (holding that “a plea bargained Range II sentence is valid when coupled with Range I release eligibility” so long as the plea was “entered voluntarily and knowingly”).

interest to accept the offer and plead guilty. He said that his plea was voluntary and not the product of coercion, threat, or intoxication, saying, “I know what I’m doing.” He agreed that trial counsel had satisfactorily explained the terms of the agreement and that he was totally satisfied with trial counsel’s representation. Despite the Petitioner’s statement that he understood the agreement, the trial court reiterated that the agreement provided for an 85% release eligibility percentage and told the Petitioner that “the [c]ourt could not impose an 85 percent release eligibility on this particular charge” should the Petitioner be convicted following a trial. The Petitioner indicated that he understood that he was “voluntarily choosing to plead outside of [his] release eligibility.” The Petitioner specifically agreed that trial counsel had explained the terms of his out-of-range release eligibility percentage and that he had agreed to the 85% release eligibility percentage, saying, “It’s what I want to do.”

II. Post-Conviction Proceedings

On June 12, 2024, the Petitioner filed pro se a petition for post-conviction relief, claiming that State officials falsified documents related to the search warrant executed at his residence, that he was told he had entered a best interest guilty plea but that “18 years at 85% is not to my best interest,” and that he had improperly been sentenced out of range. Following the appointment of counsel, the Petitioner filed an amended petition for post-conviction relief, alleging that his counsel performed deficiently by failing to litigate any of the pretrial motions, by failing to meet with the Petitioner more than once, and by failing to adequately explain the terms of the plea agreement with him. In its response, the State contended that trial counsel successfully secured a plea offer that obviated the need to litigate pretrial motions, that jail records indicated that trial counsel met with the Petitioner at least three times, and that the Petitioner, who was an active participant in the plea negotiations, understood the terms of the plea agreement. The State noted that the agreement allowed the Petitioner to avoid a lengthy sentence, resolved all three of the Petitioner’s pending cases, and secured the dismissal of the charges against Ms. Brabson, which was one of the Petitioner’s goals.

At the evidentiary hearing, the Petitioner stated that he met with trial counsel one time and with trial counsel’s investigator one time and claimed that his attempts to call trial counsel from jail were “blocked.” He said that trial counsel “filed a bunch of motions” but did not litigate any of them. The Petitioner testified that he asked counsel to move to suppress the handwritten, notarized letter that he had sent to task force agents, the district attorney, trial counsel, Ms. Brabson’s counsel, and the trial court because he “was under the influence,” but trial counsel “never had nothing on it.”

The Petitioner testified he understood that the plea offer he accepted provided that “all the charges would be dismissed, um, except for the methamphetamine, . . . my co-defendant would be released, um, eighteen years at eighty-five percent, and . . . [trial

counsel] wrote in ‘My Best Interest.’” The Petitioner insisted, however, that the plea was not in his best interest because he “could have beat the case in trial” if trial counsel presented him with Ms. Brabson’s discovery materials. He admitted that trial counsel explained each charge and its potential sentence but claimed that he did not understand release eligibility percentages despite having previously completed three stints in prison because trial counsel did not “break it down to me.” The Petitioner said that he felt pressured to enter his plea but acknowledged that he did not ask trial counsel for more time to consider the plea offer.

During cross-examination, the Petitioner agreed that trial counsel told him that he would be a Range III offender for most of the charged offenses but said that he “didn’t care nothing about that” and “wanted to go to trial.” The Petitioner admitted that the “statement” he wanted to “suppress” was the letter he had written and copied out five times by hand, had notarized by someone at the jail, and mailed to the district attorney’s office, his counsel, and his co-defendant’s counsel. In the letter, which was exhibited to his testimony, the Petitioner wrote that he wanted to “take full responsibility of my charges” because the drugs, guns, and ammunition discovered during the execution of the search warrant belonged to him and because Ms. Brabson “gave no consent, nor had knowledge of any of the drugs, guns, or ammunition[] that I hid or put up about our home.” At the hearing, however, the Petitioner insisted that the statement was not true, that he wanted to recant, and that had the case gone to trial, the task force officers would have testified that Ms. Brabson was the target of their investigation.

The Petitioner maintained that there was “no way [he] would have got convicted” because he did not live in the house with Ms. Brabson at the time of the search. He said that he accepted the State’s offer because trial counsel told him that it was in his best interest to do so. He agreed that he understood that the agreement included a release eligibility percentage greater than that statutorily provided for the conviction offense and conceded that the trial court thoroughly explained this part of the agreement. He acknowledged that he told the court that he had voluntarily agreed to the release eligibility percentage.

The Petitioner recalled that he rejected the State’s original plea offer, which provided for a thirty-two-year sentence with an 85% release eligibility percentage. He also rejected a second offer that included a sentence of twenty years with an 85% release eligibility percentage. The Petitioner agreed that during plea negotiations in this case, he told the assistant district attorney that he would not agree to any offer that required him to plead guilty to “the violent charges,” i.e., the firearms charges.

Trial counsel, who was appointed to represent the Petitioner in criminal court in three separate cases when his previous counsel developed a conflict, testified that immediately following his appointment and before he met with the Petitioner, he filed

“blanket motions,” including a motion for discovery and a motion to suppress the Petitioner’s statements, which he said that he did as a matter of course in every case to which he was appointed. Trial counsel said that he met with the Petitioner “a couple of times” at the jail and that the Petitioner was “very interested” in the handwritten statement that he had sent out “because it was a significant portion” of the State’s evidence in this case. Trial counsel said that he did not amend his original generic motion to suppress the Petitioner’s statements because “there really wasn’t any legal basis to challenge” the handwritten statement. Trial counsel noted that the handwriting was “neat” and “legible” and that it was “very factual,” which suggested that the Petitioner was not, in fact, intoxicated when he wrote it. Trial counsel recalled that Ms. Brabson had previously taken responsibility for the contraband discovered during the execution of the search warrant and that she was the target of the search but said that the Petitioner’s statement would still have been admissible at any trial.

Trial counsel said that he was also worried about the Petitioner’s other pending cases and that his “main concern” was getting the Petitioner “to understand the gravity of his situation.” Trial counsel said that the Petitioner fixated on the handwritten statement when he faced Class B felony charges unrelated to those covered by the statement, each of which carried sentences of twenty to thirty years because the Petitioner was a Range III offender. Trial counsel said that he did not think the statement would have proved fatal to the case but that, in order to prevail, he “would have to throw everything on . . . Ms. Brabson.” The Petitioner would not agree with that strategy because his “main concern” was that Ms. Brabson “walk.” Trial counsel said that the Petitioner told him “[m]ultiple times” that he would “take the charges” to save Ms. Brabson.

Trial counsel recalled that the State originally extended a plea offer that required the Petitioner to plead guilty to “all the main charges” in exchange for a sentence of twenty-five years and to an unrelated firearms charge in exchange for a six-year sentence to be served consecutively, for a total effective sentence of thirty-one years. He recalled that the Petitioner faced an additional twenty to thirty years at 85% in a third unrelated case. Trial counsel said that he was able to negotiate an offer that included a twenty-year sentence to be served at 85% in exchange for his pleading guilty to the two felon-in-possession charges and that the Petitioner told trial counsel’s investigator that he was going to accept the offer. Trial counsel said that the eighteen-year offer resulted from continuing negotiations with the district attorney and Ms. Brabson’s counsel “to resolve . . . both of their charges in the 132A, as well as [the Petitioner’s] other two cases.” He recalled that the Petitioner did not want to plead guilty to the firearms charges, telling counsel, “With that charge, they’re going to throw me in there with the young bucks and I’m an old man; I don’t want . . . to have to deal with that.” Instead, the Petitioner “really wanted to plead to the meth charges.” Trial counsel said that the State insisted that the Petitioner serve at least 85% of the sentence, which led to the agreement for “a best interest plea outside of range.” The plea

agreement provided for a sentence under the Petitioner's actual range for the conviction offense.

Trial counsel testified that he explained to the Petitioner that entering a best interest plea meant that he was not admitting guilt but would still end up with a conviction. He said that the Petitioner was "[h]ighly involved" in plea negotiations. He recalled that the case was originally scheduled for a pretrial conference on the day that the Petitioner entered his plea but that the parties informed the court "that it was going to be for a plea" because the Petitioner had agreed to plead guilty to two firearms offenses in exchange for consecutive ten-year sentences to be served at 85%. When trial counsel met with the Petitioner prior to the hearing, "he immediately wanted to renegotiate." Trial counsel went back to the assistant district attorney, who agreed to consecutive nine-year sentences to be served at 85% for the firearms offenses. The Petitioner agreed to the sentence of eighteen years at 85% but expressed that he wanted to plead guilty to the methamphetamine possession charge rather than the gun charges, resulting in the agreement that the Petitioner accepted. He said that the Petitioner was adamant that he enter the plea that same day because "he wanted to get Ms. Brabson out."

Trial counsel agreed that the Petitioner told him that he was not living at the residence when the search warrant was executed and said that he told the Petitioner that going to trial, particularly with the Petitioner's handwritten admission of guilt, was "a very big risk." He told the Petitioner that he could "advance this defense" but could not "guarantee what a jury's going to do."

Trial counsel added that the Petitioner also faced lengthy sentences in the two unrelated cases and that "he wanted to get them all done." In case number 23-CR-151, the Dyer County Grand Jury charged the Petitioner with possession with intent to sell or deliver more than .5 grams of methamphetamine, possession of a firearm after having been convicted of a felony crime of violence, possession of a firearm during the commission of a dangerous felony, introduction of contraband (methamphetamine) into a penal facility, and possession of drug paraphernalia. In case number 23-CR-230, the Dyer County Grand Jury charged the Petitioner with possession of a firearm after having been convicted of a felony crime of violence. Trial counsel agreed that the Petitioner faced a minimum sentence of twenty-five to forty-two years to be served at 85% in this case; a sentence of twenty-five to forty-two years to be served at 85% in case number 23-CR-51; and a sentence of twenty to thirty years to be served at 85% in case number 23-CR-230. Because the Petitioner was on bond, the sentence in case number 23-CR-230 would have been aligned consecutively to any sentence he received in the other cases. Thus, by accepting the offer in this case, the Petitioner avoided a very lengthy sentence with the additional benefit of having Ms. Brabson's charges dismissed.

III. Post-Conviction Court's Ruling

At the conclusion of the hearing, the post-conviction court took the matter under advisement. In its later-filed written order denying relief, the post-conviction court noted that in addition to the charges in this case, the Petitioner faced five charges related to drug and firearms possession in case number 23-CR-151 and one count of unlawful firearms possession after having been convicted of a crime of violence in case number 23-CR-230. The court found, based on its file, that the Petitioner may have qualified as a Career Offender for the charged Class D felonies and would have qualified as a Range III offender for the charged Class B felonies. Ultimately, the post-conviction court concluded that trial counsel “rendered effective assistance at all stages of this case” by obtaining “a very favorable global resolution of multiple serious charges which could have otherwise netted the [P]etitioner forty or more years of incarceration” while also accomplishing the Petitioner’s “stated goal of obtaining the release of” Ms. Brabson. The court ruled that trial counsel did not perform deficiently.

a. Handwritten Statement

The post-conviction court deemed reasonable trial counsel’s assessment that any effort to have the Petitioner’s handwritten statement excluded would have been unsuccessful. The court specifically found that the handwritten “letter contains no indicia of being written by someone who was intoxicated or otherwise impaired,” noting that it was “neatly written . . . with better than average grammar and punctuation” and that the Petitioner had his signature “acknowledged before a notary public.” The post-conviction court determined that the letter was “voluntarily written” and not “written in response to any law enforcement” action. The court concluded that the Petitioner was not entitled to relief on this issue.

b. Meetings

The post-conviction court noted that although the Petitioner claimed that he met with counsel only once, trial counsel testified that he met with the Petitioner at least twice. The court found that regardless of the number of meetings, the Petitioner agreed that trial counsel had “answered all of his questions about the plea agreement and that there was no information he did not have that he thought he needed.” The post-conviction court determined that the Petitioner failed to demonstrate that trial counsel performed deficiently or that the outcome of the case “would have been different had he met with counsel multiple additional times.”

c. Voluntariness of Plea

The post-conviction court specifically accredited trial counsel’s testimony that the Petitioner understood the terms of the plea agreement and found that the Petitioner’s testimony on this issue was not credible. The post-conviction court found that the plea agreement allowed the Petitioner, who qualified as a Range III offender, to plead guilty to a Range II sentence with the same 85% release eligibility percentage that he would have faced if convicted of the firearms offenses at trial. The court noted that it fully explained “the increased release eligibility component of the plea” and that when it asked the Petitioner whether he “had any questions, his only response was whether his wife was going to be released as a result of his plea.” The court found that the Petitioner acknowledged at the guilty plea submission hearing that he had read and understood the terms of the plea agreement and stated, “It’s what I want to do.” The post-conviction court concluded that the Petitioner “fully understood” the terms of the agreement and that he voluntarily pleaded guilty.

Following the denial of post-conviction relief, the Petitioner filed a timely notice of appeal.

Analysis

On appeal, the Petitioner contends that the trial court erred by denying relief because he was deprived of the effective assistance of counsel and that as a result of counsel’s ineffective assistance, his guilty plea was not knowingly and voluntarily entered. We consider each claim in turn.

Post-conviction proceedings are not constitutionally required, *see Dotson v. State*, 673 S.W.3d 204, 216 (Tenn. 2023) (citing *Davis v. State*, 912 S.W.2d 689, 695 (Tenn. 1995)), but our legislature has provided a statutory framework for collateral attack “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,” T.C.A. § 40-30-103; *see also* T.C.A. §§ 40-30-101 to -123 (collectively the Post-Conviction Procedure Act). A petition for post-conviction relief must “include allegations of fact supporting each claim for relief” as well as “allegations of fact explaining why each ground for relief was not previously presented in any earlier proceeding.” T.C.A. § 40-30-104(e). To obtain relief, the Petitioner must prove “the allegations of fact by clear and convincing evidence” at the hearing on his or her petition. *Id.* § 40-30-110(f).

On appeal, our review is limited to those issues either “formally raised in the post-conviction petition or an amendment” or “argued at the evidentiary hearing and . . . decided by the post-conviction court without objection by the State.” *Lowe v. State*, 703 S.W.3d 319, 335 (Tenn. Crim. App. 2024) (quoting *Holland v. State*, 610 S.W.3d 450, 458 (Tenn. 2020) (stating that “issues that were not formally raised in the post-conviction petition”

will be considered only when “argued at the post-conviction hearing and decided by the post-conviction court without objection”). We review the “post-conviction court’s conclusions of law, decisions involving mixed questions of law and fact, and its application of law to its factual findings de novo without a presumption of correctness.” *Holland*, 610 S.W.3d at 455 (quoting *Whitehead v. State*, 402 S.W.3d 615, 621 (Tenn. 2013)); *see also Kendrick v. State*, 454 S.W.3d 450, 457 (Tenn. 2015)). The post-conviction court’s findings of fact, however, are presumed to be correct unless the evidence preponderates against them. *See Lowe*, 703 S.W.3d at 333 (citing *Fields v. State*, 40 S.W.3d 450, 458 (Tenn. 2001)); *see also Henley v. State*, 960 S.W.2d 572, 578-79 (Tenn. 1997); *Bates v. State*, 973 S.W.2d 615, 631 (Tenn. Crim. App. 1997). Under this standard, we will not reweigh the evidence, reconsider witness credibility, or reassess the factual issues resolved by the post-conviction court. *Lowe*, 703 S.W.3d at 333-34 (citing *Fields*, 40 S.W.3d at 456).

We first consider the Petitioner’s claim that he was deprived of the effective assistance of counsel and then turn to the impact, if any, that the alleged ineffective assistance had on the voluntariness of the Petitioner’s guilty plea.³

IV. Ineffective Assistance of Counsel

The Petitioner asserts that his trial counsel performed deficiently by failing to meet with him a sufficient number of times, failing to litigate a motion to suppress, and failing to adequately explain the terms of the plea offer. The State contends that the Petitioner failed to establish that the number of meetings he had with trial counsel resulted in counsel’s deficient performance, that trial counsel made a reasonable strategic decision to forego the suppression hearing, and that trial counsel adequately explained the plea offer to the Petitioner.

Both the state and federal constitutions guarantee the right to counsel, *see* U.S. Const. amend. VI (“In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defen[s]e.”); Tenn. Const. art. 1, § 9 (“That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel[.]”). These provisions “envision[] counsel’s playing a role that is critical to the ability of the adversarial system to produce just results,” and, accordingly, “the right to counsel is the right to the effective assistance of counsel.” *Strickland v. Washington*, 466 U.S. 668, 685-86 (1984) (quoting *McMann v. Richardson*, 397 U.S. 759, 771 n. 14 (1970)). To prevail on a claim that he or she has been denied the constitutional right to the effective assistance of counsel, the petitioner must establish “both that counsel’s performance was deficient and that counsel’s deficient performance prejudiced the defense.” *Kendrick*, 454 S.W.3d at 457 (first citing *Strickland*, 466 U.S. at 687; and then *Felts v. State*, 354 S.W.3d

³ For purposes of clarity and concision, we reverse the order of the claims.

266, 276 (Tenn. 2011)). Because the right to the effective assistance of counsel is constitutionally guaranteed, the denial of the effective assistance of counsel may be raised in a petition for post-conviction relief. *See Phillips v. State*, 647 S.W.3d 389, 401 (Tenn. 2022) (citing *Mobley v. State*, 397 S.W.3d 70, 79-80 (Tenn. 2013)).

To obtain relief on a claim of ineffective assistance of counsel, the petitioner must demonstrate that “the advice given, or the services rendered by the attorney, are [not] within the range of competence demanded of attorneys in criminal cases,” *see Baxter v. Rose*, 523 S.W.2d 930, 936 (Tenn. 1975), and “that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different,” *Strickland*, 466 U.S. at 694. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. This means that “the petitioner is required to prove the *fact* of counsel’s alleged error by clear and convincing evidence” and that the post-conviction court determines from the factual showing whether the alleged “error ‘fell below an objective standard of reasonableness’ and whether the error raised ‘a reasonable probability . . . that the result of the proceedings would have been different.’” *Phillips*, 647 S.W.3d at 401 (quoting *Dellinger v. State*, 279 S.W.3d 282, 294 (Tenn. 2009)) (emphasis in *Dellinger*). “A court need not address both requirements if the [petitioner’s] proof fails to support either prong.” *Howard v. State*, 604 S.W.3d 53, 57-58 (Tenn. 2020) (first citing *Strickland*, 466 U.S. at 687; and then *Goad v. State*, 938 S.W.2d 363, 370 (Tenn. 1996)).

Our analysis of counsel’s performance “begins with the strong presumption that counsel provided adequate assistance and used reasonable professional judgment to make all significant decisions.” *Kendrick*, 454 S.W.3d at 458 (citing *Strickland*, 466 U.S. at 689). “The petitioner bears the burden of overcoming this presumption.” *Id.* (citing *Strickland*, 466 U.S. at 697); *see also Goad*, 938 S.W.2d at 370. This court will not second-guess a reasonable trial strategy and will not grant relief on the basis of a sound, but unsuccessful, tactical decision made after adequate preparation. *See Adkins v. State*, 911 S.W.2d 334, 347 (Tenn. Crim. App. 1994); *Cooper v. State*, 847 S.W.2d 521, 528 (Tenn. Crim. App. 1992); *see also Strickland*, 466 U.S. at 691 (stating that “[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment”). We do not view the petitioner’s claim through the lens of hindsight but, instead, “evaluate the conduct from counsel’s perspective at the time.” *Phillips*, 647 S.W.3d at 407 (quoting *Strickland*, 466 U.S. at 689).

In the context of a guilty plea, the *Strickland* prejudice prong requires the Petitioner to show that “counsel’s constitutionally ineffective performance affected the outcome of the plea process” by establishing “a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” *Hill v. Lockhart*, 474 U.S. 52, 59 (1985); *see Hicks v. State*, 983 S.W.2d 240, 246 (Tenn. Crim. App. 1998).

“Appellate review of an ineffective assistance of counsel claim is a mixed question of law and fact,” and our review is de novo, granting a presumption of correctness to the post-conviction court’s findings of fact but not its conclusions of law. *Phillips*, 647 S.W.3d at 400 (first citing *Dellinger*, 279 S.W.3d at 294; and then Tenn. R. App. P. 13(d); and then *Fields*, 40 S.W.3d at 456, 458; and then *Mobley*, 397 S.W.3d at 80).

a. Meetings

As to the Petitioner’s claim that trial counsel performed deficiently by failing to meet with him an adequate number of times, we hold that the evidence does not preponderate against the post-conviction court’s finding that the Petitioner failed to establish that any further meetings with trial counsel would have resulted in a different outcome in this case. The record contains no evidence to suggest that, had he met with trial counsel more times, the Petitioner would not have pleaded guilty and would have insisted on going to trial. Accordingly, the Petitioner failed to prove deficiency or prejudice.

b. Failure to Litigate Motion to Suppress

As to the Petitioner’s claim that trial counsel performed deficiently by failing to litigate a motion to suppress the Petitioner’s statement, we note first that the record belies the Petitioner’s claim that he entered his plea on the day that the case was set for a hearing on the motion to suppress. Trial counsel’s accredited testimony established that he had filed a generic motion to suppress any statements in the case but had not specifically moved to suppress the handwritten letter at issue. Moreover, trial counsel’s accredited testimony established that the case was set for a pretrial conference and not a suppression hearing on the day of the plea and that, in any event, the parties had notified the court that it would be a plea proceeding. Most importantly, however, the record supports the post-conviction court’s finding that trial counsel correctly assessed that no legal grounds existed to suppress the statement. Our supreme court has recognized that

to establish a successful claim of ineffective assistance of counsel based on counsel’s failure to file a motion to suppress evidence on Fourth Amendment grounds, the Petitioner must prove: “(1) a suppression motion would have been meritorious; (2) counsel’s failure to file such motion was objectively unreasonable; and (3) but for counsel’s objectively unreasonable omission, there is a reasonable probability that the verdict would have been different absent the excludable evidence.”

Phillips, 647 S.W.3d at 404 (citations omitted). Here, the Petitioner failed to establish any of these factors. Moreover, the record is clear that the Petitioner wanted to “recant” rather

than “suppress” the handwritten letter, and no legal grounds existed to permit him to do that. The Petitioner is not entitled to relief on this issue.

V. Unknowing and Involuntary Plea

Having concluded that the evidence supports the post-conviction’s court’s determination that counsel did not perform deficiently, we now consider separately whether the record supports that court’s determination that the plea was knowingly and voluntarily entered. The Petitioner claims that the post-conviction court erred by denying relief because he did not understand that he agreed to an out-of-range sentence and that, as a result, his plea was not knowingly and voluntarily made. The State avers that the post-conviction court did not err by denying relief.

Because a guilty-pleading petitioner “waives several constitutional rights, including his privilege against compulsory self-incrimination, his right to trial by jury, and his right to confront his accusers,” principles of due process require that the waiver be “an intentional relinquishment or abandonment of a known right or privilege.” *Boykin v. Alabama*, 395 U.S. 238, 243 n.5 (1969) (citation and internal quotation marks omitted). A plea resulting from “[i]gnorance, incomprehension, coercion, terror, inducements, [or] subtle or blatant threats” is not voluntary. *Id.* at 242-43. A petitioner’s claim that his or her plea “was not voluntarily and knowingly entered[] implicates his due process rights and therefore falls squarely within the ambit of issues appropriately addressed in a post-conviction petition.” *State v. Wilson*, 31 S.W.3d 189, 194 (Tenn. 2000).

Like ineffective assistance of counsel, “[t]he validity of a guilty plea is a mixed question of law and fact” that this court reviews de novo, granting a presumption of correctness to the post-conviction court’s findings of fact “[u]nless the evidence preponderates against” them. *Lane v. State*, 316 S.W.3d 555, 562 (Tenn. 2010) (citing *Jaco v. State*, 120 S.W.3d 828, 830 (Tenn. 2003)).

Here, the record fully supports the post-conviction court’s determination that the Petitioner understood the terms of the State’s plea offer and that he voluntarily agreed to accept it. Trial counsel’s accredited testimony established that the Petitioner actively participated in plea negotiations and that, in fact, it was the Petitioner’s idea that he plead to a single count of methamphetamine possession in lieu of pleading guilty to two firearms offenses so that he could avoid being classified as a violent offender in prison. The Petitioner stated at the evidentiary hearing that he knew that he was pleading guilty to an out-of-range sentence with an out-of-range release eligibility percentage. The transcript of the guilty plea submission hearing establishes that the trial court meticulously explained the terms of the agreement and specifically asked the Petitioner if he wanted to accept an out-of-range sentence. The Petitioner said, “It’s what I want to do.” This testimony “constitute[s] a formidable barrier” to post-conviction relief because “[s]olemn

declarations in open court carry a strong presumption of verity.” *Blackledge v. Allison*, 431 U.S. 63, 74 (1977). The agreement not only allowed the Petitioner to avoid a lengthy Range III sentence in this case and two other pending cases but also accomplished the Petitioner’s stated goal of securing Ms. Brabson’s release. The Petitioner asserts that he would not have pleaded guilty had counsel not told him that the plea offer was in his best interest. Advising the Petitioner that accepting the offer that resolved all three pending cases against him for a guaranteed sentence of eighteen years at 85% rather than risking a much lengthier sentence should he be convicted at trial was not deficient performance. That the Petitioner acted in response to trial counsel’s advice does not render his plea involuntary or unknowing. The Petitioner cannot now be heard to complain that he received the benefit of the bargain that he made.

Because the record supports the post-conviction court’s finding of a knowing and voluntary waiver of rights, relief is not warranted.

Conclusion

Based upon the foregoing, we affirm the denial of post-conviction relief.

s/ *Stacy L. Street*

STACY L. STREET, JUDGE