

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs April 8, 2026

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JASON HENDERSON, JR. v. STATE OF TENNESSEE

Appeal from the Circuit Court for Madison County
No. C-25-180 Joseph T. Howell, Judge

No. W2025-01492-CCA-R3-PC

The Petitioner, Jason Henderson, Jr., appeals the Madison County Circuit Court’s denial of his petition for post-conviction relief, claiming that he received the ineffective assistance of trial counsel. 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 Circuit Court Affirmed

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER, P.J., and CAMILLE R. MCMULLEN, J., joined.

William J. Milam, Jackson, Tennessee, for the appellant, Jason Henderson, Jr.

Jonathan Skrmetti, Attorney General and Reporter; Elizabeth Evan, Assistant Attorney General; Jody S. Pickens, District Attorney General; and Shaun A. Brown, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTS

On June 10, 2024, the Defendant pled guilty in two cases to a total of seven counts: one count of aggravated burglary, a Class C felony; two counts of aggravated assault, a Class C felony; two counts of domestic assault, a Class A misdemeanor; and two counts of vandalism, a Class A misdemeanor. Pursuant to the plea agreement, the trial court imposed concurrent sentences of six-years for each felony conviction and eleven months, twenty-nine days for each misdemeanor conviction. The Defendant was to serve the effective six-year sentence as eleven months, twenty-nine days in jail and the remainder on supervised probation. At the guilty plea hearing, defense counsel stipulated that a factual basis existed for the guilty pleas, so the State did not recite a factual basis for the pleas on the record.

The Petitioner filed a timely pro se petition for post-conviction relief in which he alleged, in pertinent part, that he received the ineffective assistance of counsel because trial counsel failed to interview the victim or investigate the crime scene; failed to obtain and review video evidence; failed to develop a defense; failed to present more favorable plea offers from the State; failed to meet with him in person; gave him “inaccurate and misleading advice” about the potential consequences of his guilty pleas; and failed to explain that the State would have to prove him guilty beyond a reasonable doubt in order for a jury to find him guilty, which would have affected his decision to plead guilty. The State filed a written response and motion to dismiss, asserting that the post-conviction court was required to dismiss the petition because it was not in the proper form and failed to satisfy the requirements of Tennessee Code Annotated section 40-30-104(c), (d), (e), (f), and (g). The State also asserted that the Petitioner was not entitled to relief based on a claim of ineffective assistance of counsel. The post-conviction court appointed counsel, and counsel filed a notice stating that no amended petition would be filed.

The post-conviction court held an evidentiary hearing on August 25, 2025. Trial counsel testified for the Petitioner that trial counsel was licensed to practice law in 2008 and that most of his practice involved criminal law. He began working for the public defender’s office in 2021 and represented the Petitioner in two cases. Trial counsel stated that he filed “standard” discovery motions, that he reviewed discovery materials with the Petitioner, and that they discussed what would happen if the Petitioner went to trial and was convicted. Trial counsel said he told the Petitioner that the Petitioner “most likely” would be tried and sentenced separately for the two cases and that there was no guarantee the trial court would sentence him to probation. The State made a plea offer that allowed the Petitioner to be released from jail based on time already served, and the Petitioner wanted to accept the offer.

On cross-examination, trial counsel described the Petitioner as “a pretty affable fellow” and stated that he did not recall having any “serious issues” with the Petitioner. Trial counsel said that he met with the Petitioner and that they had a “thorough” discussion about the Petitioner’s options. The Petitioner wanted to resolve both cases at the same time and had accumulated a substantial amount of pretrial jail credit, so he was eligible to be released from confinement upon his guilty pleas. Trial counsel acknowledged that the Petitioner “understood everything that was going on” and said that the Petitioner “definitely understood what he was doing” when he pled guilty.

The Petitioner testified that the trial court appointed trial counsel to represent him and that he asked trial counsel several times to meet with him in jail because he had information he wanted to discuss with trial counsel. However, trial counsel never met with him in person and continued to talk with him “on the kiosk.” Post-conviction counsel asked the Petitioner, “So did he go over any information with you on the kiosk?” The

Petitioner answered, “No. He just -- he just basically was telling me to plead to this, that the district attorney had me. That was it.” The Petitioner told trial counsel about witnesses, but trial counsel did not contact them. The Petitioner said that trial counsel did not investigate his cases, that they did not discuss any defenses, and that trial counsel “failed to do anything.”

The Petitioner testified that the State initially offered him a ten-year sentence, then a six-year sentence. The Petitioner told trial counsel that he wanted to go to trial, but trial counsel would not prepare for trial. The Petitioner said he thought he had to accept the State’s offer so that he could be released from jail, obtain the evidence he needed for trial, and “come back on a [post-conviction].” The Petitioner thought that upon filing a post-conviction petition, he would receive a new trial with a new lawyer. Trial counsel told the Petitioner that the Petitioner was going to plead guilty to aggravated assault and criminal trespass. However, when the Petitioner arrived in court, he learned he was pleading guilty to aggravated assault and aggravated burglary. The Petitioner acknowledged that during the plea hearing, the trial court asked if he understood his pleas and sentences and if he understood how his pleas could affect him in the future.

On cross-examination, the Petitioner acknowledged that the trial court also asked if anyone was forcing him to plead guilty or was promising him anything to get him to plead guilty. The Petitioner acknowledged that he answered both questions in the negative. The Petitioner acknowledged that the trial court went over the plea agreement and proposed sentences with him and asked if he had any questions about his pleas; the Petitioner again told the trial court no. The Petitioner acknowledged that the trial court asked if he was satisfied with trial counsel’s representation and that he said yes. The Petitioner explained that he said yes because trial counsel “told me I can’t let my right hand know what my left hand is doing.” The Petitioner acknowledged that the trial court asked if he and trial counsel went over discovery and that he told the trial court yes. The Petitioner stated that although he said yes, he and the trial counsel “didn’t go over discovery like [they] needed to.” The Petitioner acknowledged that he was under oath when he answered the trial court’s questions at the plea hearing. He said that he answered the trial court’s questions truthfully but that he did not understand the “court system” at that time. The Petitioner acknowledged that he did not ask the trial court any questions during the plea hearing. He said he was “just trying to get out and file a [post-conviction].”

The State called trial counsel back to the stand, and trial counsel testified that he was in the courtroom for the Petitioner’s testimony. Trial counsel stated, “I have never told anybody that they could enter a plea . . . to file a [post-conviction] and to obtain evidence.” Trial counsel noted that plea forms “clearly” stated that defendants were waiving their right to appeal and their right to raise post-conviction claims. Trial counsel

said that he always read a plea form “verbatim” to a defendant and that he would not have given information to a defendant that contradicted the form.

The State introduced the transcript of the Petitioner’s guilty plea hearing into evidence, and the transcript shows as follows: At the outset of the hearing, the Petitioner acknowledged that he could read and write and that he signed his plea agreement form. The trial court asked if he had reviewed the form with trial counsel, and he said he needed to look at the form “one more time.” The trial court passed the form to the Petitioner and told him, “Take as much time as you need.” The trial court waited for the Petitioner to review the form and asked if he had had time to review it. The Petitioner said, “Yes, sir.” The trial court asked if the Petitioner understood what he was doing, and the Petitioner again answered, “Yes, sir.” The trial court advised the Petitioner of the constitutional rights he was giving up in exchange for his guilty pleas, including his right to a speedy trial, his right to confront and cross-examine witnesses, and his right to appeal his convictions and sentences if convicted. The trial court also advised the Petitioner that his convictions could be used to enhance any future convictions. The trial court asked if the Petitioner had been threatened, forced, or coerced to enter his guilty pleas or if he had been promised anything outside of his plea agreement, and the Petitioner said no. The trial court explained the offenses to which the Petitioner was pleading guilty, their potential punishments, and the sentences the Petitioner was receiving pursuant to the plea agreement. The trial court asked if the Petitioner understood, and the Petitioner said yes. Finally, the trial court advised the Petitioner that he was testifying under oath and asked if he had any questions, if he was satisfied with trial counsel’s representation, and if he had reviewed discovery materials and discussed possible defenses with trial counsel. The Petitioner answered each question appropriately, and the trial court accepted his guilty pleas.

At the conclusion of the evidentiary hearing, the post-conviction court said that it had reviewed the guilty plea hearing transcript and that the post-conviction court accredited trial counsel’s evidentiary hearing testimony over that of the Petitioner. The post-conviction court orally denied the petition for post-conviction relief. On August 29, 2025, the post-conviction court entered a written order also denying the petition.

ANALYSIS

The Petitioner contends that he received the ineffective assistance of counsel because trial counsel did not “fully” investigate his case; was not “fully” prepared to go to trial; did not discuss the strengths and weaknesses of his case; did not interview potential witnesses; and told him that he should plead guilty and file a petition for post-conviction relief in order to obtain certain evidence for trial, which resulted in his decision to plead guilty. The State argues that we should dismiss the appeal for lack of jurisdiction and, in the alternative, that the Petitioner has failed to establish ineffective assistance of counsel.

We agree with the State's latter argument and conclude that the post-conviction court properly denied the petition.

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, review of a post-conviction court's application of the law to the facts of the case is de novo, with no presumption of correctness. *Id.* (citing *Fields v. State*, 40 S.W.3d 450, 458 (Tenn. 2001); *Mobley v. State*, 397 S.W.3d 70, 80 (Tenn. 2013)). The issue 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. *Id.* 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) (first citing *Strickland*, 466 U.S. at 688; and then citing *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”). In the context of a guilty plea, the petitioner must show a reasonable probability that were it not for the deficiencies in counsel’s representation, he would not have pled guilty but would instead have insisted on proceeding to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985); *House v. State*, 44 S.W.3d 508, 516 (Tenn. 2001).

First, we must address the State’s argument that this court does not have jurisdiction over the Petitioner’s appeal. The State contends that we lack jurisdiction because the Petitioner did not verify his petition under oath as required by Tennessee Code Annotated section 40-30-104(e). Although the State initially raised this issue in its written response to the pro se petition, the Petitioner did not address the issue in the post-conviction court and does not address it on appeal.

“[T]he statutory requirement that the allegations be verified under oath . . . is to deter or to reduce intentionally false allegations primarily made by petitioners by exposing them to aggravated perjury charges pursuant to [Tennessee Code Annotated section] 39-16-703.” *Timberlake v. State*, No. W2008-00037-CCA-R3-PC, 2009 WL 302294, at *2 (Tenn. Crim. App. Feb. 5, 2009) (quoting *Sexton v. State*, 151 S.W.3d 525, 530 (Tenn. Crim. App.), *perm. app. denied* (Tenn. Nov. 8, 2004)), *no perm. app. filed*. “The phrase ‘verified under oath’ normally means that the documents have been ‘notarized by a notary public or acknowledged in the presence of an official.’” *Price v. State*, No. M2010-01633-CCA-R3-PC, 2011 WL 2671821, at *2 (Tenn. Crim. App. July 7, 2011) (quoting *Montague v. State*, No. E2000-01330-CCA-R3-PC, 2001 WL 1011464, at *1 (Tenn. Crim. App. Sept. 4, 2001, *perm. app. denied* (Tenn. July 18, 2018)), *no perm app. filed*.

Here, the Petitioner signed his petition for post-conviction relief below a statement that reads, “I hereby verify by oath under penalty of perjury that the foregoing is true and

correct to the best of my information, knowledge, and belief.” However, he did not do so in the presence of a notary. The post-conviction court did not address the State’s claim that the court lacked jurisdiction over the Petitioner’s petition. Instead, the post-conviction court held an evidentiary hearing in which the Petitioner gave sworn testimony regarding his petition, “thereby adopting and attesting to the veracity of the claims in the petition.” *Cole v. State*, No. W2025-01491-CCA-R3-PC, 2026 WL 411271, at *4 (Tenn. Crim. App. Feb. 12, 2026), *perm. app. filed* (Tenn. Mar. 3, 2026); *see Sexton v. State*, 151 S.W.3d 525, 530 (Tenn. Crim. App. 2004) (stating that although the petition was not verified under oath, it should be heard on the merits because the post-conviction court “took sworn testimony from the petitioner and her trial attorneys relative to the petitioner’s claims”). Therefore, we will address the appeal on the merits. *See Cole*, 2026 WL 411271, at *4.

The post-conviction court, which also accepted the Petitioner’s guilty pleas, stated at the conclusion of the evidentiary hearing that it had reviewed the guilty plea hearing transcript. The post-conviction court found that it explained the Petitioner’s pleas to him and that the court asked if the Petitioner knew what he was doing. The court found that the Petitioner never indicated that he was hesitant to plead guilty or that he did not understand his rights. The post-conviction court recalled that it allowed the Petitioner to review his plea form during the hearing and even told the Petitioner “to take as much time as he needed” to review the form. The post-conviction court stated that the Petitioner’s testimony at the evidentiary hearing contradicted his testimony at the plea hearing, where he stated that he was satisfied with trial counsel’s representation and that he and trial counsel reviewed discovery materials and possible defenses.

In addition to considering the guilty plea hearing transcript, the post-conviction court specifically accredited trial counsel’s testimony at the evidentiary hearing over that of the Petitioner. Trial counsel testified that he filed motions, reviewed discovery with the Petitioner, and discussed what would happen if a jury convicted the Petitioner at trial. Trial counsel said that he told the Petitioner there were no guarantees the Petitioner would be sentenced to probation if convicted and that the Petitioner wanted to accept the State’s offer in order to get out of jail. Trial counsel said that the Petitioner understood what he was doing by pleading guilty and that trial counsel never told the Petitioner to plead guilty so that the Petitioner could obtain evidence and file a post-conviction petition. The Petitioner himself testified that he pled guilty in order to “get out.” Although the Petitioner also said he pled guilty to obtain evidence because trial counsel did not investigate his case, the post-conviction court correctly noted that the Petitioner did not present any evidence at the evidentiary hearing to show what evidence was missed by trial counsel, or any potential witnesses that were not interviewed and could have been helpful to the defense. The post-conviction court concluded that the Petitioner failed to show he received the ineffective assistance of counsel, and the evidence does not preponderate against the court’s determination. Accordingly, the post-conviction court did not err in denying relief.

CONCLUSION

Upon review, we affirm the judgment of the post-conviction court.

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