MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Landis Reynolds,
Appellant-Petitioner,

v.

State of Indiana,
Appellee-Respondent.

October 1, 2021

Court of Appeals Case No. 20A-PC-2374

Appeal from the Howard Superior Court

The Honorable Douglas A. Tate, Special Judge

Trial Court Cause No. 34D01-0706-PC-410

Najam, Judge.

Statement of the Case

[1] Landis Reynolds appeals the post-conviction court's denial of his petition for post-conviction relief. Reynolds raises one issue for our review, namely, whether the post-conviction court erred when it concluded that he was not denied the effective assistance of counsel.

[2] We affirm.

Facts and Procedural History

[3] On the night of March 8, 2004, Reynolds was at the home of Brooke Hober. Hober received a phone call from Reynolds' girlfriend, Alte Raices, and Raices asked to speak with Reynolds. Raices then told Reynolds that Jerry Douglas, Reynold's mother's boyfriend, had "tried to rape her." Tr. Vol. 2 at 18.[1] At that point, Reynolds "got mad," "cocked back one of the guns he had," and "said that he was going to have to kill somebody." *Id*. Reynolds left Hober's house at approximately 11:30 p.m. and returned to the apartment he shared with Raices.

[4] Reynolds called his friend, Jonathon Heath, and asked Heath to come over. When Heath arrived at Reynolds' apartment, Reynolds informed Heath that Douglas had tried to rape Raices. Approximately fifteen minutes later,

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[1] We will refer to the transcript of the underlying proceedings as "Tr." and to the transcript of the post-conviction proceedings as "P.C. Tr." In addition, our pagination of the transcripts is based on the .pdf pagination.

Reynold's mother, Ruth Ann Reynolds, arrived at the apartment. The three individuals then left the apartment with a baseball bat and went to Wal-Mart to purchase masks. Ruth Ann purchased sock hats, and the three left Wal-Mart and began driving around looking for a "secluded area." *Id*. at 47. They found a house that was under construction, which they considered to be the "perfect" spot. *Id*. at 48. At that point, the three went to Ruth Ann's house and got a second baseball bat and a pair of scissors so they could "[c]ut holes in the mask[s]." *Id*. at 49. Ruth Ann then used a pay phone to call Douglas to ask Douglas to meet them at the house. The three drove back to the secluded house to wait for Douglas. During the drive back, Ruth Ann handed Reynolds a gun.

[5] Once the three arrived, Reynolds and Heath exited the car with the two baseball bats. They then walked to the empty house and waited by a dumpster for Douglas to arrive. When they saw Douglas, Reynolds and Heath put on the masks and moved to hide behind the dumpster. Once Douglas exited his car, Heath and Reynolds approached him and "started swinging" the baseball bats. *Id*. at 58. Heath "might have" hit Douglas "once," but Reynolds hit Douglas "repeatedly" in his head and chest. *Id*. at 59, 62. Reynolds kept hitting Douglas even after Douglas had fallen to the ground. At some point, Reynolds "picked [Douglas] up" by his shoulder and "shot him in the head." *Id*. at 62. The two ran back to Heath's car, and Reynolds told Ruth Ann that he had "shot" Douglas. *Id*. at 63. The three then drove back to Reynolds' apartment. Heath stayed for "[n]ot even a minute" and then left and threw the baseball bats and the masks in a dumpster. *Id*. at 64.

[6] At around 3:00 a.m. on March 9, Reynolds called Hober and asked her to say that he had been at her house "all night." *Id.* at 19. Then, at around 11:00 a.m., Reynolds again called Hober and asked her to say that the two had been together in Indianapolis for two days. Reynolds also told Hober that he had "killed Jerry Douglas" by beating him with a bat and then shooting him. *Id.* at 20. Reynolds further told Hober that he had given the gun to "[s]ome girl named Brandi[.]" *Id.* at 21. Later that morning, construction workers discovered Douglas, who had died as a result of his injuries, outside of the vacant home.

[7] During the ensuing investigation into Douglas' death, officers recovered the masks and baseball bats from the dumpster, fingerprints from Douglas' car, and a bullet from Douglas' body. Thereafter, Lieutenant David Galloway with the Kokomo Police Department ("KPD") interviewed Brandi Foster, and Foster provided Lieutenant Galloway with a handgun. Officers were able to determine that the firearm Foster had provided was the same firearm that had fired the bullet recovered from Douglas' body. Officers were also able to determine that DNA from one of the sock hats matched Reynolds, and DNA found on the other matched Heath. And a fingerprint from Douglas' car matched that of Reynolds. The State charged Reynolds with murder, a felony, and aggravated battery, as a Class B felony.

[8] The trial court then held a six-day jury trial. Prior to trial, Reynolds filed a motion for funds to hire an investigator. On the morning of the first day of trial, the court granted that motion in part and awarded Reynolds $500. Tr.

Vol. 1 at 102. During the trial, the State called Foster as a witness. Foster testified that Reynolds had showed her a gun on March 9, 2004, and that she again saw the gun when he gave it to her on "the day that [Reynolds] got arrested," which was March 10. Tr. Vol. 2 at 209. She then testified that Reynolds told her that he had "shot someone with it." *Id*. And she testified that she had turned that gun into the police.

[9] The State also called KPD Captain Michael Wheeler as a witness. During his testimony, the State moved to introduce as evidence phone records that Captain Wheeler had subpoenaed. After the court admitted those records, Captain Wheeler testified that he had encountered "difficulties" while attempting to obtain them. *Id*. at 248. Specifically, he testified:

> Cell phone records are difficult to obtain because . . . the companies that control their records change just about every other day. One company merges with another and it goes from one name to another and so on. Often times the information from one cell phone company's not passed through to another cell phone company. In obtaining the records themselves, since it's not a landline or a hardline or hard-wired telephone like in your home, information sometimes is not passed through. The cell telephone works through towers. Often times the calls don't go through nor does the information sometimes go through. So they're difficult, one, to get the right company and two, to get the records if they have them.

Id. at 249. Reynolds did not object to Captain Reynold's testimony. On cross-examination, Reynolds questioned Captain Wheeler about the lack of contact between Hober's and Raices' phones on March 9, 2004. Captain Wheeler

acknowledged that the phone records showed "no contact" between those phone numbers at the relevant time. *Id*. at 250.

[10] The State also called Heath as a witness, who testified that Reynolds had killed Douglas. On cross-examination, Reynolds elicited testimony that Heath had "blacked out" due to anger on the night of March 9, 2004. *Id*. at 109. Reynolds also elicited testimony from Heath that he had previously testified in a deposition that he "might have" hit Douglas during the time that he was "blacked out." *Id*. at 127. And the State called Raices as a witness, who testified that, on March 9, 2004, she told Reynolds that Douglas had tried to rape her. She also testified that either the next day or two days later, Reynolds told her that he had "beat[en]" Douglas with a bat and then "shot him in the head." Tr. Vol. 3 at 111.

[11] After both parties had rested, Reynolds made his closing argument. In particular, Reynolds argued that the phone records did not "support the State's case" and pointed out inconsistencies between the State's evidence and the phone records. *Id*. at 201. In addition, Reynolds argued to the jury that Heath's statements were contradictory and that he admitted to having "blacked out" during the offense. *Id*. at 230. Reynolds then asserted that Heath had killed Douglas. At the conclusion of the trial, the jury found Reynolds guilty as charged, and the court sentenced him to an aggregate sentence of fifty years in the Department of Correction. Reynolds appealed, and this Court affirmed his convictions. *Reynolds v. State*, No. 34A05-0508-CR-482, 849 N.E.2d 180 (Ind. Ct. App. June 9, 2006).

[12] On April 20, 2015, Reynolds, *pro se*, filed an amended petition for post-conviction relief. In that petition, Reynolds asserted that his trial counsel had rendered ineffective assistance of counsel by failing to: 1) rebut the State's fingerprint evidence; 2) impeach two witnesses; 3) "investigate evidence essential to the effective cross-examination" of Raices; 4) move to suppress evidence obtained following his arrest; and 5) object to the testimony of Captain Wheeler. Appellant's App. Vol. 2 at 40. Reynolds also asserted that his trial counsel's "cumulative errors and omissions" deprived him of a fair trial. *Id*. at 41.

[13] The court held a hearing on Reynolds' petition.[2] At the hearing, Reynolds questioned his trial counsel. His counsel testified that it was his position that the phone records "contradicted" some of the testimony by the State's witnesses. P.C. Tr. at 46. Reynolds' counsel further acknowledged that he did not present evidence to rebut the State's fingerprint evidence. And Reynolds' counsel testified that his defense theory was that several of the State's witnesses were "colluding" or lying and that Heath had killed Douglas. *Id*. at 85.

[14] Reynolds' counsel further testified that he had received a supplemental officer's report during discovery that stated that, on March 10, 2004, Timothy Spencer and Jonathan Clark were at Raices and Reynolds' apartment. In addition, he testified that he had received money for an investigator. However, Reynolds'

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[2] The hearing on Reynolds' petition occurred over three days from October 4, 2016, through October 11, 2017. Reynolds appeared *pro se* on the first day but was represented by counsel thereafter.

counsel stated that he did not have a "recollection" of having followed up with either Clark or Spencer. *Id*. at 97.

[15] Reynolds then called Clark as a witness. Clark testified that he was present at Raices and Reynolds' apartment on March 10, 2004, when "the police came for questioning[.]" *Id*. at 121. He additionally testified that the only people present at the apartment at that time were him, Spencer, and Raices. Reynolds also presented as evidence a deposition of Spencer, who similarly testified that he, Clark, and Raices were the only people present at Raices and Reynolds' apartment on March 10. Following the hearing, the post-conviction court entered findings and conclusions in which it denied Reynolds' petition for post-conviction relief. This appeal ensued.

Discussion and Decision

Standard of Review

[16] Reynolds appeals the post-conviction court's denial of his petition for post-conviction relief. Our standard of review in such appeals is clear:

> "The petitioner in a post-conviction proceeding bears the burden of establishing grounds for relief by a preponderance of the evidence." *Campbell v. State*, 19 N.E.3d 271, 273-74 (Ind. 2014). "When appealing the denial of post-conviction relief, the petitioner stands in the position of one appealing from a negative judgment." *Id*. at 274. In order to prevail on an appeal from the denial of post-conviction relief, a petitioner must show that the evidence leads unerringly and unmistakably to a conclusion opposite that reached by the post-conviction court. *Weatherford v. State,* 619 N.E.2d 915, 917 (Ind. 1993). Further, the post-

> conviction court in this case entered findings of fact and conclusions of law in accordance with Indiana Post-Conviction Rule 1(6). Although we do not defer to the post-conviction court's legal conclusions, "[a] post-conviction court's findings and judgment will be reversed only upon a showing of clear error—that which leaves us with a definite and firm conviction that a mistake has been made." *Ben-Yisrayl v. State*, 729 N.E.2d 102, 106 (Ind. 2000) (internal quotation omitted).
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> When evaluating an ineffective assistance of counsel claim, we apply the two-part test articulated in *Strickland v. Washington*, 466 U.S. 668 (1984). *See Helton v. State*, 907 N.E.2d 1020, 1023 (Ind. 2009). To satisfy the first prong, "the defendant must show deficient performance: representation that fell below an objective standard of reasonableness, committing errors so serious that the defendant did not have the 'counsel' guaranteed by the Sixth Amendment." *McCary v. State*, 761 N.E.2d 389, 392 (Ind. 2002) (citing *Strickland*, 466 U.S. at 687-88). To satisfy the second prong, "the defendant must show prejudice: a reasonable probability (i.e. a probability sufficient to undermine confidence in the outcome) that, but for counsel's errors, the result of the proceeding would have been different." *Id*. (citing *Strickland*, 466 U.S. at 694).

Humphrey v. State, 73 N.E.3d 677, 681-82 (Ind. 2017). Failure to satisfy either of the two prongs will cause the claim to fail. *French v. State*, 778 N.E.2d 816, 824 (Ind. 2002). Indeed, most ineffective assistance of counsel claims can be resolved by a prejudice inquiry alone. *Id*.

[17] Reynolds asserts that the post-conviction court erred when it denied his petition because he received ineffective assistance of trial counsel. Specifically, Reynolds alleges that his attorney was ineffective for failing to fully investigate

Spencer and Clark, for failing to adequately present a defense, and for failing to object to Captain Wheeler's testimony regarding the phone records. We address each contention in turn.

Failure to Investigate

[18] On appeal, Reynolds first asserts that his counsel rendered ineffective assistance when he failed to fully investigate Clark and Spencer as potential witnesses. However, before we reach the merits of Reynolds' claim, we must first address the State's contention that Reynolds has failed to preserve this issue for our review. In particular, the State contends that Reynolds did not assert this issue in his amended petition for post-conviction relief and, as such, it is waived.

[19] We acknowledge that Reynolds did not raise this specific issue in his amended petition. *See* Appellant's App. Vol. 2 at 40-42. However, he presented evidence to the post-conviction court to support his argument that his counsel was aware that Clark and Spencer were at Reynolds' apartment on March 10, 2004, the day following the offense. And, importantly, despite the fact that Reynolds did not specifically identify this issue in his petition, the post-conviction court considered it and entered findings and conclusions on the issue. *See* Appellant's App. Vol. 3 at 119, 122-23. We thus hold that Reynolds has preserved this issue for our review, and we turn to the merits of his argument on appeal.

[20] Reynolds contends that his counsel was ineffective for failing to investigate and interview Clark and Spencer. It is undisputed that effective representation requires adequate pretrial investigation and preparation. *Badelle v. State*, 754

N.E.2d 510, 538 (Ind. Ct. App. 2001). However, it is well-settled that we should resist judging an attorney's performance with the benefit of hindsight. *Id*. "When deciding a claim of ineffective assistance of counsel for failure to investigate, we apply a great deal of deference to counsel's judgments." *Boesch v. State*, 778 N.E.2d 1276, 1283 (Ind. 2002). With the benefit of hindsight, a defendant can always point to some rock left unturned to argue counsel should have investigated further. *Ritchie v. State*, 875 N.E.2d 706, 719 (Ind. 2007). The benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that it deprived the defendant of a fair trial. *Id*.

[21] According to Reynolds, during discovery, his counsel had received a supplemental police report that stated that Clark and Spencer were in Reynolds' apartment on the afternoon of March 10, which was the same time that Foster claimed that Reynolds had confessed and given her the gun while at his apartment. Reynolds asserts that, despite having obtained funds to hire an investigator, his counsel did not attempt to locate or interview either Clark or Spencer. And Reynolds maintains that, while it is undisputed that Foster provided the murder weapon to police, Clark and Spencer would have disputed Foster's testimony that she had received the firearm from Reynolds. In other words, Reynolds contends that Clark's and Spencer's testimonies would have "hamstrung the State's theory." Appellant's Br. at 14.

[22] However, we need not decide whether Reynolds' counsel was ineffective for failing to investigate Clark and Spencer because we hold that Reynolds has not

met his burden to demonstrate that there is a reasonable probability that the outcome of his trial would have been different. Again, according to Reynolds, had his counsel fully investigated Clark and Spencer, his counsel would have presented their testimony that they were alone at Reynolds' apartment on March 10, 2004. Reynolds supported that assertion by presenting as evidence at the post-conviction hearing Clark's testimony and Spencer's deposition in which both individuals testified that the only people present at Reynolds' apartment on March 10 were the two of them and Raices. Reynolds maintains that, had his counsel presented that testimony at his trial, it would have contradicted Foster's testimony that Reynolds had given her the gun on that same date.

[23] While Clark's and Spencer's testimonies may have disputed Foster's testimony that Reynolds had given her the gun on March 10, nothing about Clark's or Spencer's testimonies would have disputed the other evidence against Reynolds at trial. Indeed, the State presented ample other evidence to demonstrate that Reynolds had killed Douglas. In particular, Hober testified that she had received a phone call from Raices looking for Reynolds and that Raices had informed Reynolds that Douglas had "tried to rape her." Tr. Vol. 2 at 18. Hober then testified that, following that phone call, Reynolds said that "he was going to have to kill somebody." *Id*. Hober also testified that Reynolds had called her the next day and said that he "had killed Jerry Douglas" and asked

her to be his alibi. *Id*. at 20. And Hober testified that Reynolds had given the gun to "[s]ome girl Brandi[.]"[3] *Id*. at 21.

[24] In addition, Heath testified that he and Reynolds had waited for Douglas outside of an unoccupied house while wearing masks and holding baseball bats and that, once Douglas arrived, Reynolds hit Douglas in the head and chest with a baseball bat several times and ultimately "shot him in the head." *Id*. at 62. Heath also testified that, once they returned to the car, Reynolds told Ruth Ann that he had "shot" Douglas. *Id*. at 63. Further, the State presented Raices' testimony that, after the offense, Reynolds told her that he had beaten Douglas and shot him in the head. *See* Tr. Vol. 3 at 111. And the State presented evidence that Reynolds' DNA had been found on one of the sock hats that officers had recovered.

[25] Stated differently, even if Reynolds' counsel had presented Clark's and Spencer's testimonies to contradict Foster's statement that Reynolds had given her the gun on March 10, 2004, the remaining evidence demonstrates that Reynolds had a motive to kill Douglas, that Reynolds had confessed to Hober and asked her for an alibi, that Reynolds told Hober he had given the gun to Foster, and that Reynolds had confessed to Raices. Further, nothing about Clark's or Spencer's testimonies would have disputed Heath's testimony that he had witnessed Reynolds beat Douglas with a baseball bat, shoot him in the

[3] Reynolds makes no argument that Hober's testimony referred to anyone other than Brandi Foster.

head, and then confess to Ruth Ann. Based on the evidence against Reynolds, Reynolds has not met his burden to demonstrate a reasonable probability that the outcome of his trial would have been different had his counsel investigated Clark and Spencer, and we affirm the post-conviction court's conclusion on this issue.

Failure to Present Defense

[26] Reynolds next asserts that his counsel was ineffective for failing to adequately present a defense. Again, the State contends that Reynolds has waived this issue for our review for having failed to raise it in his petition for post-conviction relief. The State is correct that Reynolds did not specifically assert in his petition that his counsel had failed to adequately present his chosen defense. *See* Appellant's App. Vol. 2 at 40-42. However, at the post-conviction hearing, Reynolds questioned his trial counsel about his defense strategy. Reynolds then elicited testimony from his trial counsel that counsel did not call any witnesses to rebut the State's fingerprint evidence and that counsel did not investigate Spencer and Clark, which he contends was "essential" to his defense of abandonment. Appellant's Br. at 16. Thus, while Reynolds did not explicitly argue at the post-conviction hearing that his counsel was ineffective for failing

to present his defense of abandonment, we conclude that his argument was adequately presented to preserve it for our review.[4]

[27] On appeal, Reynolds asserts that his counsel was ineffective for failing to adequately present his chosen defense. "Counsel is given significant deference in choosing a strategy which, at the time and under the circumstances, he or she deems best." *Wrinkles v. State*, 749 N.E.2d 1179, 1191 (Ind. 2001). Further, in order to succeed on his claim, Reynolds must show that his chosen defense "would have been viable and helpful." *Perry v. State*, 904 N.E.2d 302, 310 (Ind. Ct. App. 2009).

[28] Here, Reynolds claims that his trial counsel failed to adequately present the defense of abandonment, which he contends was only his "only viable defense[.] Reply Br. at 11. Abandonment is a "defense that the person who engaged in the prohibited conduct voluntarily abandoned his effort to commit the underlying crime and voluntarily prevented its commission." Ind. Code § 35-41-3-10 (2021). Reynolds concedes that he was initially compliant in the crime. *See* Appellant's Br. at 15. However, Reynolds contends that his counsel failed to challenge the State's fingerprint evidence, which left the jury to believe that he was at the scene during the commission of the offense, or present

[4] We note that the post-conviction court did not issue findings and conclusions on this issue. The failure to enter specific findings of fact and conclusions of law is not reversible error. *Allen v. State*, 749 N.E.2d 1158, 1170 (Ind. 2001).

evidence to rebut Foster's testimony that Reynolds had confessed to her and provided her with the murder weapon.

[29] It is undisputed that Reynolds' counsel did not present evidence to challenge the State's evidence that Reynolds' fingerprint was found in Douglas' car. Nor did counsel investigate Clark and Foster. But we agree with the State that Reynolds has nonetheless failed to meet his burden to demonstrate that the defense of abandonment was "a viable one." Appellee's Br. at 18. As discussed above, the State presented evidence that Reynolds actively participated in the offense and was the person who had killed Douglas.

[30] Indeed, Heath provided his eye-witness account of the offense and testified that Reynolds had beaten Douglas, shot him in the head, and then confessed to Ruth Ann. Reynolds also separately confessed to having killed Douglas to both Hober and Raices. And Reynolds asked Hober to be his alibi and told Hober that he had given the gun to Foster. In addition, the State found Reynolds' DNA on one of the sock hats recovered from the dumpster. Based on the totality of the State's evidence, we cannot say that the defense of abandonment would have been helpful or viable.[5]

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[5] Reynolds contends that there is "currently a variance with respect to the application of the defense of abandonment under Indiana law." Appellant's Br. at 15. He contends that some case law requires a defendant to simply withdraw from the crime while other case law requires the defendant to both withdraw from the crime and take steps to prevent its completion. However, we need not resolve the alleged discrepancy because the evidence demonstrates that Reynolds neither withdrew from the commission of the offense nor took any steps to prevent its completion.

[31] Further, instead of the defense of abandonment, Reynolds' counsel testified at the post-conviction hearing that his chosen theory of defense was that the State's witnesses were "colluding" and lying and that Heath was actually the person who had killed Douglas. P.C. Tr. at 85. And Reynolds' counsel presented evidence to the jury in support of that defense. Indeed, Reynolds' counsel highlighted discrepancies within the State's evidence and elicited testimony from Heath that he had "blacked out" on the night of the offense and that he "might have hit" Douglas while blacked out. Tr. Vol. 2 at 109, 127. Then, in his closing argument, Reynolds' counsel argued to the jury that Heath had killed Douglas. Tr. Vol. 3 at 230. We will not second guess Reynolds' counsel's decision to choose as a defense strategy that someone else had committed the offense as opposed to Reynolds. Further, the fact that his chosen strategy was ultimately unsuccessful does not mean that counsel was constitutionally ineffective. *See Wilkes v. State*, 984 N.E.2d 1236, 1245 (Ind. 2013). Reynolds has not demonstrated that his counsel was ineffective for failing to present the defense of abandonment.

Failure to Object to Testimony

[32] Finally, Reynolds contends that his counsel was ineffective for failing to object to Captain Wheeler's testimony regarding the phone records. In order to prove ineffective assistance due to the failure to object, the petitioner must prove that an objection would have been sustained and that he was prejudiced thereby. *Middleton v. State*, 64 N.E.3d 895, 901 (Ind. Ct. App. 2016).

[33] Reynolds specifically contends that Captain Wheeler "did not possess the requisite training to testify concerning the transmission of cellular phone calls and the retention of those phone records" such that Captain Wheeler did not meet the requirements of Indiana Evidence Rule 701 to testify as a skilled lay witness. Appellant's Br. at 18. He further asserts that "the trial court would have been bound to sustain a proper objection to [Captain] Wheeler's lack of qualification as a skilled lay witness and to [the] admission of testimony contrary to established scientific and technical facts." *Id*. at 21. And Reynolds maintains that, without Captain Wheeler's "false testimony," the jury "would have been left to weigh the testimony of the State's witnesses versus the phone records on its merits." *Id*. at 22.

[34] However, again, we need not determine whether Reynolds' counsel should have objected because we conclude that Reynolds has not demonstrated that he was prejudiced by his counsel's lack of objection to Wheeler's testimony. First, the phone records were presented to the jury in their entirety, and Reynolds makes no argument that those records were improper or that his counsel should have otherwise objected to the admission of those records. As such, the jury was able to review the phone records on their merits.

[35] Second, Reynolds' counsel cross-examined several witnesses in order to highlight the discrepancies between their testimonies and the phone records. Specifically, after Hober testified that Reynolds had called her on the afternoon March 9, 2004, Reynolds' counsel directed Hober's attention to the phone records that showed that Reynolds "never called [her] in any phone call" that

she had mentioned during her testimony. Tr. Vol. 2 at 25. In addition, Reynolds' counsel cross-examined Captain Wheeler and elicited testimony from him that, contrary to prior witness testimony, there was "no contact" between Hober and Raices on March 9, 2004. *Id*. at 250. And, in his closing arguments, Reynolds' counsel argued to the jury that the phone records "do not support the State's case," and proceeded to point out inconsistencies between witness testimony and the phone records. Tr. Vol. 3 at 201.

[36] In other words, the jury was able to see the phone records as a whole, hear testimony and argument regarding inconsistencies between testimony and the records, and make its own conclusion. Based on that, along with the totality of the evidence against Reynolds, we cannot say that the result of the trial would have been different had Reynolds' counsel objected to Captain Wheeler's testimony. Reynolds' claim on this issue must fail.

Conclusion

[37] In sum, Reynolds has not shown that he was prejudiced by his counsel's failure to investigate Clark and Spencer. In addition, Reynolds has not shown that the defense of abandonment was a viable one, and Reynolds' counsel adequately presented as a defense that Heath had actually committed the crime. And Reynolds has not demonstrated that the outcome of his trial would have been different had his counsel objected to Captain Wheeler's testimony that cell phone records are unreliable. We therefore affirm the post-conviction court's denial of Reynolds' petition for post-conviction relief.

[38] Affirmed.

Riley, J., and Brown, J., concur.