

MEMORANDUM DECISION

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APPELLANT PRO SE

Jonte Twan Crawford
Michigan City, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Justin F. Roebel
Supervising Deputy Attorney
General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Jonte Twan Crawford,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 27, 2023

Court of Appeals Case No.
23A-PC-1044

Appeal from the Lake Superior
Court

The Honorable Salvador Vasquez,
Judge

The Honorable Kathleen A.
Sullivan, Magistrate

Trial Court Cause No.
45G01-2105-PC-11

Memorandum Decision by Judge Tavitas
Judges Pyle and Foley concur.

Tavitas, Judge.

Case Summary

- [1] Jonte Crawford was charged as an adult for offenses he committed when he was seventeen years old. Crawford pleaded guilty to murder, a felony, and robbery, a Class B felony, and the trial court sentenced Crawford to sixty-one years in the Department of Correction. Following a direct appeal, Crawford petitioned for post-conviction relief and argued that his trial counsel was ineffective for failing to request that Crawford be sentenced under the alternative juvenile sentencing statute. The post-conviction court (“PC Court”) concluded that Crawford’s trial counsel was not ineffective and denied relief. Crawford argues that the PC Court’s determination was clearly erroneous. We disagree and affirm.

Issue

- [2] Crawford raises one issue on appeal, which we restate as whether the PC Court clearly erred by denying Crawford’s ineffective assistance of trial counsel claim.

Facts

- [3] The underlying facts are set forth, in part, in Crawford’s direct appeal:

[O]n March 17, 2013, seventeen-year-old Crawford, with the assistance of another person, took headphones and a cellphone from Derrick Thompson by force while displaying a handgun. After robbing Thompson, Crawford and three other people encountered Charles Wood and Shaqwone Ham. Upon reaching Wood and Ham, one of the people with Crawford shot Wood in the head. After Wood was shot, Ham started to flee on foot.

Crawford then shot and killed Ham. Wood also died from his injuries.

The State charged Crawford [as an adult] with two counts of murder, one count of robbery as a Class B felony, and one count of conspiracy to commit criminal gang activity, a Class D felony. The State also sought a criminal gang sentencing enhancement. On May 15, 2014, Crawford and the State entered a plea agreement according to which Crawford entered pleas of guilty to one count of murder and one count of robbery. In exchange, the State dismissed the remaining count of murder, the conspiracy to commit criminal gang activity count, and the criminal gang sentencing enhancement. The parties were free to argue sentencing to the trial court but agreed to a maximum sentence of sixty-five total years. . . .

Crawford v. State, No. 45A03-1409-CR-315 (Ind. Ct. App. May 20, 2015) (mem.), *trans. denied*. Crawford was represented by Attorney Patrick Young during his guilty plea and at sentencing.

[4] Crawford’s sentencing hearing was held on July 31, 2014, when Crawford was eighteen years old. Crawford apologized to the victims and their families and claimed that the offenses were a “mistake.” Ex. Vol. I p. 32. Crawford also argued that his age of seventeen years at the time of the offense should be a mitigating factor in his sentence. The State argued that Crawford’s actions required “adult consequences.” *Id.* at 30.

[5] The trial court noted that Crawford’s future was “as bright as any future that I’ve seen in a 17-year old coming through a criminal court.” *Id.* at 35. The trial court, however, noted that Crawford robbed Thompson at gunpoint and then

shot Ham several times in the back as Ham fled. Accordingly, the trial court rejected Crawford's argument that the offenses were a mistake and stated that "there has to be an incredible punishment." *Id.*

[6] The trial court sentenced Crawford as an adult and ordered him to serve an advisory sentence of fifty-five years for murder and a minimum sentence of six years for robbery consecutively for a total sentence of sixty-one years.¹ The trial court stated, "I think it would be absolute error for me to give you anything less than that," and, "[a]ny further reduction or suspension of this sentence would depreciate the seriousness of the crime committed." *Id.* at 39.

[7] Crawford filed a direct appeal and argued only that his sixty-one year sentence was inappropriate. In an unpublished opinion, a panel of this Court rejected that argument. *See Crawford*, No. 45A03-1409-CR-315, slip op. at 5-6. The Court stated, in relevant part:

Crawford was seventeen when he committed his crimes and had no prior criminal history. However, at seventeen years of age, he was illegally carrying a gun that he used to rob a man at gunpoint and shoot another man as that man tried to run away from the scene of a confrontation. These actions do not reflect a young man of high character. And although our supreme court "has not been hesitant to reduce maximum sentences for juveniles convicted of murder," *Fuller v. State*, 9 N.E.3d 653, 658 (Ind.

¹ The trial court found Crawford's guilty plea to be a mitigating factor; however, the trial court afforded that factor reduced weight because Crawford received the benefit of the State dismissing the second murder charge and the criminal gang sentencing enhancement.

2014) (citation omitted) (citing examples), Crawford was not given the maximum sentence. Moreover, a defendant's youth can be a significant mitigating circumstance, but "this is a more powerful factor for a fourteen-year-old defendant than it is for one who is sixteen or seventeen." *Carter v. State*, 711 N.E.2d 835, 842 (Ind. 1999). "There are both relatively old offenders who seem clueless and relatively young ones who appear hardened and purposeful." *Monegan v. State*, 756 N.E.2d 499, 504 (Ind. 2001). Crawford's chronological age alone does not warrant a reduced sentence, especially not when considered in conjunction with the cold and calculated manner in which he committed his crimes.

Id.

[8] On May 19, 2021, Crawford petitioned for post-conviction relief. He argued that Attorney Young provided ineffective assistance of counsel by failing to request that Crawford be sentenced under the alternative juvenile sentencing statute, Indiana Code Section 31-30-4-2.²

[9] The PC Court held a hearing on Crawford's petition on August 23, 2022. Attorney Young testified that he could not recall if he was aware of the alternative juvenile sentencing statute at the time Crawford was sentenced. The trial court took the matter under advisement.

² Crawford subsequently amended his petition on two occasions; however, his ineffective assistance of counsel argument remained the same.

[10] On April 13, 2023, the PC Court issued findings of fact and conclusions of law. The PC Court concluded that Crawford failed to demonstrate ineffective assistance of counsel and stated the following:

9. For the reasons articulated by the Court of Appeals, it is extremely unlikely that the Court would have considered sentencing [Crawford] to a juvenile facility under [the alternative juvenile sentencing] statute. Therefore, [Crawford] has not proven that he was prejudiced by Mr. Young's failure to argue for alternative juvenile sentencing under I.C. 31-30-4-2. [Crawford] was not denied the effective assistance of counsel.

10. Further, the statute had taken effect by the time of [Crawford's] appeal. When the appellate court reviewed [Crawford's] sentence, they could have applied the statute had it been appropriate. The appellate court did not do so. Therefore, this is simply another request for the courts to again review [Crawford's] sentence (i.e. the same issue, differently designated). The issue is barred by *res judicata*.

11. Finally, [Crawford's] sentence was appealed, and the issue, as presented in this the post-conviction proceeding, was available to be raised on appeal, but appellate counsel did not do so. [Crawford] has not alleged appellate counsel [was] ineffective for failing to do so. Therefore, ultimately, the issue is waived.

* * * * *

Appellant's App. Vol. II p. 108. Crawford now appeals.

Discussion and Decision

- [11] Crawford argues that the PC Court clearly erred by denying his ineffective assistance of counsel claim. We are not persuaded.

I. Standard of Review

- [12] Post-conviction proceedings are civil proceedings in which a defendant may present limited collateral challenges to a conviction and sentence. *Gibson v. State*, 133 N.E.3d 673, 681 (Ind. 2019), *reh'g denied*, *cert. denied*, 141 S. Ct. 553 (2020); Ind. Post-Conviction Rule 1(1)(b). “The scope of potential relief is limited to issues unknown at trial or unavailable on direct appeal.” *Gibson*, 133 N.E.3d at 681. The petitioner bears the burden of establishing his claims by a preponderance of the evidence. *Id.*; P.-C.R. 1(5).
- [13] When, as here, the petitioner “appeals from a negative judgment denying post-conviction relief, he ‘must establish that the evidence, as a whole, unmistakably and unerringly points to a conclusion contrary to the post-conviction court’s decision.’” *Gibson*, 133 N.E.3d at 681 (quoting *Ben-Yisrayl v. State*, 738 N.E.2d 253, 258 (Ind. 2000)). When reviewing the PC court’s order denying relief, we will “not defer to the post-conviction court’s legal conclusions,” and the “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.” *Bobadilla v. State*, 117 N.E.3d 1272, 1279 (Ind. 2019). When a petitioner “fails to meet this rigorous standard of review, we will affirm the

post-conviction court's denial of relief." *Gibson*, 133 N.E.3d at 681 (internal quotation omitted).

[14] Crawford contends that the PC Court clearly erred by denying his ineffective assistance of trial counsel claim. To prevail on an ineffective assistance of trial counsel argument, Crawford must show that: (1) his trial counsel's performance fell short of prevailing professional norms; and (2) Crawford was prejudiced as a result thereof. *Gibson*, 133 N.E.3d at 682 (citing *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064 (1984)).

[15] A showing of deficient performance "requires proof that legal representation lacked 'an objective standard of reasonableness,' effectively depriving the defendant of his Sixth Amendment right to counsel." *Id.* (quoting *Overstreet v. State*, 877 N.E.2d 144, 152 (Ind. 2007)). We strongly presume that counsel exercised "reasonable professional judgment" and "rendered adequate legal assistance." *Id.* Meanwhile, "[t]o demonstrate prejudice, the defendant must show a reasonable probability that, but for counsel's errors, the proceedings below would have resulted in a different outcome." *Id.* "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694, 104 S. Ct. at 2068. Failure to satisfy either prong will cause the claim to fail. *Grinstead v. State*, 845 N.E.2d 1027, 1031 (Ind. 2006). Most ineffective assistance of counsel claims can be resolved by a prejudice inquiry alone. *Id.*

II. The PC Court did not clearly err

[16] We conclude that Crawford did not suffer prejudice regardless of Attorney Young’s alleged errors, and we do not decide whether Attorney Young’s performance was deficient. Juvenile courts generally have exclusive jurisdiction over individuals who are alleged to have committed an offense before reaching the age of eighteen. *See* Ind. Code § 31-30-1-1.

[17] At the time of Crawford’s offenses, however, Indiana’s “direct-file statute,” Indiana Code Section 31-30-1-4, provided that juvenile courts did “not have jurisdiction over an individual” when the State alleged that the individual committed one or more enumerated offense when the individual was at least sixteen years old. *See State v. Neukam*, 189 N.E.3d 152, 156 (Ind. 2022); *see also Harris v. State*, 165 N.E.3d 91, 95 (Ind. 2021) (“Under certain circumstances . . . a child may be tried as an adult in the criminal justice system. In those cases, the proceedings are no longer governed by the juvenile code.” (internal citation omitted)). The enumerated offenses include murder and robbery if the robbery “was committed while armed with a deadly weapon” or “the robbery results in bodily injury or serious bodily injury.”³ Ind. Code § 31-30-1-4(a)(6).

[18] Individuals subject to the direct-file statute may nonetheless avail themselves of Indiana’s alternative juvenile sentencing statute, Indiana Code Section 31-30-4-

³ The statute was amended between the time of Crawford’s offenses and his sentencing hearing; however, the pertinent language did not change.

2, which, at the time of Crawford's offenses, provided in relevant part as follows:

(a) Subject to subsection (c), if:

* * * * *

(2) an offender is:

(A) less than eighteen (18) years of age;

(B) charged with a felony over which a juvenile court does not have jurisdiction under IC 31-30-1-4; and

(C) convicted of committing the felony by a court with criminal jurisdiction or enters a plea of guilty to committing the felony with the court;

the court may, upon its own motion, a motion of the prosecuting attorney, or a motion of the offender's legal representative, impose a sentence upon the conviction of the offender under this chapter.

(b) If a court elects to impose a sentence upon conviction of an offender under subsection (a) and, before the offender is sentenced, the department of correction determines that there is space available for the offender in a juvenile facility of the division of youth services of the department, the sentencing court may:

(1) impose an appropriate criminal sentence on the offender under IC 35-50-2;

(2) suspend the criminal sentence imposed,
notwithstanding IC 35-50-2-2 and IC 35-50-2-2.1;

(3) order the offender to be placed into the custody of the
department of correction to be placed in the juvenile
facility of the division of youth services; and

(4) provide that the successful completion of the placement
of the offender in the juvenile facility is a condition of the
suspended criminal sentence.^[4]

* * * * *

[19] The purpose of the alternative juvenile sentencing statute is to “rehabilitate juvenile defendants and prevent them from becoming criminals as adults” *Harris*, 165 N.E.3d at 99. In determining whether to sentence an individual under this statute, the trial court considers: (1) “the severity of the act or whether it is part of a pattern of acts”; (2) “whether the child is ‘beyond rehabilitation under the juvenile justice system’”; (3) “and whether it is in the ‘best interests’ of the community that the child be tried as an adult.” *Id.* (quoting Ind. Code § 31-30-3-2 (2018)).

[20] Here, the trial court was well aware of the fact that Crawford committed the offenses to which he pleaded guilty when Crawford was seventeen years old. Indeed, the trial court remarked that Crawford had a “bright” future before he

⁴ This statute, too, was amended between the time of Crawford’s offenses and his sentencing hearing, and the pertinent language did not change.

committed the offenses. Ex. Vol. I p. 39. The trial court, however, indicated that the nature and circumstances of the offense outweighed any mitigation presented by Crawford's age and concluded that it would be "absolute error" to sentence Crawford to less than sixty-one years or to suspend any portion of his sentence. *Id.* The PC Court determined that Crawford was not prejudiced by Attorney Young's failure to request sentencing under the alternative juvenile sentencing statute.

[21] The PC Court did not clearly err in reaching this determination. Even if Attorney Young had requested the trial court to sentence Crawford under the alternative juvenile sentencing statute, the trial court was not required to do so, and nothing suggests that the trial court would have ordered a more lenient sentence had the statute been raised. Accordingly, Crawford fails to demonstrate that the outcome would have been any different but for Attorney Young's failure to request alternative juvenile sentencing.⁵

Conclusion

[22] The PC Court did not clearly err by concluding that Crawford was not prejudiced by his trial counsel's alleged errors. Accordingly, the PC Court did not clearly err by denying Crawford post-conviction relief, and we affirm.

⁵ Because we conclude that the PC Court did not clearly err by determining that Crawford was not prejudiced by Attorney Young's alleged errors, we do not decide whether Crawford's ineffective assistance of counsel argument was waived or res judicata.

[23] Affirmed.

Pyle, J., and Foley, J., concur.