MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Payton Thomas Jarrard,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 29, 2021

Court of Appeals Case No. 20A-PC-2403

Appeal from the Tippecanoe Superior Court

The Honorable Randy J. Williams, Judge

Trial Court Cause No. 79D01-1701-PC-3

Pyle, Judge.

Statement of the Case

[1] Payton Thomas Jarrard ("Jarrard") appeals the post-conviction court's denial of his petition for post-conviction relief. Jarrard argues that the post-conviction court erred by denying him post-conviction relief on his claim of ineffective assistance of trial counsel. Concluding that there was no error, we affirm the post-conviction court's judgment.

[2] We affirm.

Issue

Whether the post-conviction court erred by denying post-conviction relief to Jarrard.

Facts

[3] The relevant facts of the underlying offense, as found by this Court in Jarrard's direct appeal, are as follows:

> In August 2014, Jarrard was in a relationship with eleven-year-old T.C.'s mother. One night, T.C. was home with her two older brothers while her mother was gone. Although Jarrard lived elsewhere, he was at the home with T.C. and her brothers. After T.C. went to bed, she was awoken by Jarrard shaking her bed as he touched her "bottom area" on the front, in the area she used to urinate. Tr. p. 128. T.C. described feeling Jarrard touch inside her and it hurting. T.C. immediately reported the incident to her brother, who called their mother. Their mother told the children to go to a friend's house, and the incident was reported to the police.

Jarrard v. State, 79A02-1503-CR-159 (Ind. Ct. App. Nov. 10, 2015), *trans. denied*. T.C.'s Mother ("Mother") talked to the police, but T.C. did not. T.C. went to Hartford House for a forensic interview and told the interviewer what had happened to her. T.C. also went to Riley Hospital, where sexual assault nurse examiner Anna Gordon ("Nurse Gordon") examined her. T.C. had taken a shower before the examination. Nurse Gordon spoke only to Mother about the offense, and T.C. was not present when they spoke.

[4] In September 2014, the State charged Jarrard with Level 1 felony child molesting. Specifically, the State alleged that twenty-nine-year-old Jarrard had used his hand to engage in "other sexual conduct" with eleven-year-old T.C.[1] (DA App. 17).[2] The State also alleged that Jarrard was an habitual offender.

[5] The trial court held a two-day jury trial in January 2015. Public defenders Thomas O'Brien ("Trial Counsel O'Brien") and Matthew Harris ("Trial Counsel Harris") represented Jarrard at trial. Jarrard's theory of defense was that the State could not meet its burden of proof. Jarrard's counsels challenged the credibility of T.C.'s testimony by focusing on the fact that T.C. did not see Jarrard touch her and by attempting to portray T.C. as being confused about

[1] "'Other sexual conduct' means an act involving . . . the penetration of the sex organ or anus of a person by an object." IND. CODE § 35-31.5-2-221.5(2).

[2] We will refer to Jarrard's direct appeal Appendix and Transcript as "DA App." and "DA Tr."

what had happened. Counsels also relied on the fact that the limited DNA evidence did not specifically identify Jarrard.

[6] During trial, T.C. testified that she had been asleep and awoke to Jarrard on the side of her bed. She noticed that her pajama pants and underwear had been pulled down. She testified that Jarrard had touched her "bottom area" and explained that he had touched "[t]he front" of that area that she used "[t]o urinate." (DA Tr. 128-29). T.C. further testified that she had felt Jarrard touching her on the "inside" and that it "hurt." (DA Tr. 129). Additionally, T.C. testified that the pain she felt inside the area where she urinated was a greater level of pain than she had experienced when she had broken her arm.

[7] Mother testified that, after she had found out what Jarrard had done to T.C., she had contacted the police and talked to Child Protective Services. Mother also testified that she had taken T.C. to Hartford House for a forensic interview and to Riley Hospital for a medical examination. Additionally, Mother testified that T.C. had already taken a shower before she had her medical exam and that she had given T.C.'s pajama pants and underwear to an officer a few days after the offense.

[8] The State introduced DNA evidence that showed no conclusive results. The certificates of analysis from forensic DNA analyst Shawn Stur ("Forensic Analyst Stur") and forensic biologist Nicole Keeling ("Forensic Biologist Keeling") indicated that three swabs (vaginal/cervical swabs, external genital swabs, and anal swabs) taken from T.C during her medical exam had "failed to

demonstrate a sufficient quantity of male DNA" for "autosomal STR analysis" and for "further Y-STR DNA analysis." (DA Ex. at 20, 26). Forensic Analyst Stur also testified that the three swabs "[ha]d not give[n] . . . enough male DNA to continue with [an] analysis." (DA Tr. 193). Forensic Biologist Keeling testified that the anal swabs did not have male DNA and that vaginal/cervical swabs and external genital swabs had a "slight" amount of male DNA but not enough to perform a Y-STR analysis. (DA Tr. 207). Forensic Biologist Keeling also testified that the Y-STR DNA result from the swab from T.C.'s underwear showed the presence of a mixture of at least four males and that the swab from T.C.'s pajama pants showed the presence of a mixture of at least five males, resulting in no conclusions that could be drawn. The prosecutor set forth a hypothetical regarding a person living in a house with multiple brothers, as T.C. did, and asked whether it was surprising to have the presence of multiple male contributors on those items. Forensic Biologist Keeling testified that there was "the potential for multiple male contributors to be present on those samples" because she was looking at skins cells that could be on the surface. (DA Tr. 211).

[9] When Trial Counsel O'Brien cross-examined Forensic Analyst Stur and Forensic Biologist Keeling, counsel had them confirm that none of the DNA testing swabs had specifically identified Jarrard. Forensic Analyst Stur responded that she had not done any comparison testing, and Forensic Biologist Keeling responded that she had not identified him because the samples had not had enough male DNA to develop a Y-STR profile.

[10] Nurse Gordon testified during direct examination that the physical examination of T.C. could neither confirm nor deny whether any sexual abuse had occurred. On cross-examination of Nurse Gordon, Trial Counsel Harris attempted to question Nurse Gordon about a section of her medical report in which she had written down statements from her conversation with Mother. Specifically, Trial Counsel Harris sought to have Nurse Gordon testify about a statement from Mother regarding what she had said that T.C. had reported to Mother. The State objected based on hearsay and pointed out that Jarrard's counsel had had the opportunity but had not cross-examined Mother about her statement. Trial Counsel Harris indicated that he was asking the question for impeachment purposes. After noting that trial counsel could have cross-examined Mother about her statement or cross-examined T.C. about whether she had made such a statement to Mother, the trial court sustained the State's objection.

[11] At the conclusion of Nurse Gordon's testimony, a juror submitted a question, asking Nurse Gordon to relate what Mother had told her. The trial court declined to ask the question. Trial Counsel Harris then made an offer of proof as to the testimony that he sought from Nurse Gordon. Trial Counsel Harris stated that, according to the medical exam record, Mother had told Nurse Gordon that T.C. had "disclosed that [Jarrard] touched her but [had] n[o]t put anything inside[.]" (DA Tr. 243-44).

[12] During closing argument, the prosecutor discussed the meaning of "other sexual conduct" as including penetration of a sex organ and stated the following regarding penetration:

> Also, penetration, so, just so there's no confusion under the law in Indiana the penetration has to be every so slight. So external genitalia, penetration, that's considered penetration. Internal as in what [T.C.] described is likewise also penetration. But you don't need that extra step. The external touching is enough to read the definition of penetration.

(DA Tr. 274).

[13] The trial court instructed the jury on the definition of penetration as follows:

> Proof of the slightest penetration is sufficient to sustain a conviction for the crimes charged. Penetration does not require the vagina to be penetrated, only that the female sex organ including the external genitalia be penetrated.
>
> The female external genitalia is defined as "the vulva in the female." The vulva is defined as "the external genitalia of the female, comprised of the opening of the urethra and of the vagina."

(DA App. 92). The trial court also instructed the jury that statements made by counsel are not evidence. After deliberating, the jury found Jarrard guilty of the Level 1 felony child molesting charge, and Jarrard admitted to being an habitual offender.

[14] Jarrard filed a direct appeal and raised three arguments. Specifically, he argued that: (1) the trial court abused its discretion when it sustained the State's hearsay objection to Nurse Gordon's testimony about what was contained in the medical report; (2) the trial court abused its discretion when instructing the jury on the definition of penetration, arguing that "the instruction improperly

emphasized one particular evidentiary fact and that it improperly gave the jury a lesson in anatomy[;]" and (3) there was insufficient evidence to support his conviction because "T.C.'s testimony [ha]d not establish[ed] that he [had] used his finger to penetrate [her] sex organ." *Jarrard*, 79A02-1503-CR-159 at *2, 3.

[15] In November 2015, this Court issued a memorandum decision, affirming Jarrard's conviction. In regard to the hearsay objection, we held that the trial court had not abused its discretion by sustaining the objection. *Jarrard*, 79A02-1503-CR-159 *Id.* at *1. We explained that Indiana Evidence Rule 613 permits impeachment with a prior inconsistent statement when questioning a witness about that witness's statement. *Id.* Because Jarrard's counsel had tried to impeach T.C.'s testimony with a prior statement by Mother about what Mother had told Nurse Gordon that T.C. had said, we held that the trial court had properly sustained the objection and excluded the testimony. *Id.* As for the instruction issue, this Court held that Jarrard had waived the issue because he had made a different argument on appeal than he had argued at trial. *Id.* at *2. We held that, waiver notwithstanding, there was no error in the instruction. *Id.* Finally, our Court rejected Jarrard's challenge to the sufficiency of the evidence to support his child molesting conviction. *Id.* at *3. We explained that "[a]lthough T.C.'s testimony did not include a precise anatomical description, it was sufficient to allow the jury to infer that Jarrard [had] penetrated her vagina with his finger." *Id.*

[16] In January 2017, Jarrard filed a pro se petition for post-conviction relief, which was later amended by the Indiana Public Defender's office in February 2020.

In the amended petition, Jarrard alleged three grounds of ineffective assistance of trial counsel. Specifically, he alleged that trial counsel had rendered ineffective assistance by failing to: (1) properly impeach T.C. during her cross-examination with alleged prior inconsistent statements; (2) adequately cross-examine the DNA witnesses about the presence of male DNA on the swabs; and (3) object to the prosecutor's closing argument discussion of penetration.

[17] In June 2020, the post-conviction court held a hearing on Jarrard's post-conviction petition. During the hearing, Jarrard called Trial Counsel O'Brien, Trial Counsel Harris, and Mother as witnesses. As post-conviction exhibits, Jarrard introduced a deposition transcript from a February 2019 deposition of T.C. (Exhibit 3) and affidavits from Forensic Analyst Stur (Exhibit 2) and Forensic Biologist Keeling (Exhibit 2). He also introduced an affidavit from Nurse Gordon (Exhibit 1), along with T.C.'s medical records compiled by Nurse Gordon during T.C.'s forensic exam (Exhibit 1A).[3] Additionally, Jarrard introduced the appellate record from his direct appeal and a copy of our Court's memorandum decision from his direct appeal. The State presented separate affidavits from Forensic Analyst Stur and Forensic Biologist Keeling.

[18] During the post-conviction hearing, Trial Counsel O'Brien and Trial Counsel Harris testified regarding their trial strategy. They acknowledged that T.C.'s

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[3] Jarrard e-filed Exhibits 1, 1A, 2, and 3 with the post-conviction court prior to the post-conviction hearing, but these Exhibits were not included in the Exhibit Volume sent from the post-conviction court reporter to this Court. However, these e-filed Exhibits are contained in the post-conviction court cause in Odyssey. As a result, we take judicial notice of those Exhibits pursuant to Indiana Evidence Rule 201(5).

trial testimony had been a "damag[ing]" and "extraordinarily dam[n]ing." (Tr. Vol. 2 at 36, 72). Trial Counsel O'Brien explained that T.C.'s trial testimony indicated that Jarrard had "touched, fondled the inside of her vagina" and not that there had been penetration with a sex organ or an object other than a finger. (Tr. Vol. 2 at 63). When post-conviction counsel asked counsel about Mother's statements regarding penetration that she had made to Nurse Gordon and a police officer, Trial Counsel O'Brien testified that he was aware of Mother's statements. Counsel explained that he had chosen not to use them because Mother had not indicated that Jarrard had done nothing at all to T.C. Trial Counsel Harris testified that he had not wanted to cross examine T.C. about Mother's statements because the prosecution could have introduced T.C.'s Hartford House interview, which was consistent with her trial testimony. Trial Counsel Harris further testified that "every time [T.C.] spoke [at trial] it was damaging to [the defense's] case." (Tr. Vol. 2 at 51).

[19] In December 2020, the post-conviction court issued an order denying Jarrard's petition for post-conviction relief on his three claims of ineffective assistance of trial counsel. Jarrard now appeals.

Decision

[20] Jarrard contends that the post-conviction court erred by denying him post-conviction relief on his claims of ineffective assistance of trial counsel.

[21] Our standard of review in post-conviction proceedings is well settled.

> We observe that post-conviction proceedings do not grant a petitioner a "super-appeal" but are limited to those issues available under the Indiana Post-Conviction Rules. Post-conviction proceedings are civil in nature, and petitioners bear the burden of proving their grounds for relief by a preponderance of the evidence. Ind. Post-Conviction Rule 1(5). A petitioner who appeals the denial of PCR faces a rigorous standard of review, as the reviewing court may consider only the evidence and the reasonable inferences supporting the judgment of the post-conviction court. The appellate court must accept the post-conviction court's findings of fact and may reverse only if the findings are clearly erroneous. If a PCR petitioner was denied relief, he or she must show that the evidence as a whole leads unerringly and unmistakably to an opposite conclusion than that reached by the post-conviction court.

Shepherd v. State, 924 N.E.2d 1274, 1280 (Ind. Ct. App. 2010) (cleaned up), *trans. denied.* Additionally, "[w]e will not reweigh the evidence or judge the credibility of the witnesses; we examine only the probative evidence and reasonable inferences that support the decision of the post-conviction court." *Stephenson v. State*, 864 N.E.2d 1022, 1028 (Ind. 2007), *reh'g denied*, *cert. denied*. Moreover, we note that, here, the judge who presided over Jarrard's original trial is also the judge who presided over the post-conviction proceedings, and therefore the post-conviction court's findings and judgment are entitled to greater than usual deference. *See State v. Dye*, 784 N.E.2d 469, 476 (Ind. 2003) (noting that because the judge presided at both the original trial and post-conviction hearing, the judge was in "an exceptional position" to assess weight and credibility of factual evidence and whether defendant was deprived of a fair trial).

[22] A claim of ineffective assistance of counsel requires a showing that: (1) counsel's performance was deficient by falling below an objective standard of reasonableness based on prevailing professional norms; and (2) counsel's performance prejudiced the defendant such that "'there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.'" *Davidson v. State*, 763 N.E.2d 441, 444 (Ind. 2002) (quoting *Strickland v. Washington*, 466 U.S. 668, 687 (1984), *reh'g denied*), *reh'g denied*, *cert. denied*. "A reasonable probability arises when there is a 'probability sufficient to undermine confidence in the outcome.'" *Grinstead v. State*, 845 N.E.2d 1027, 1031 (Ind. 2006) (quoting *Strickland*, 466 U.S. at 694). "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.* Therefore, if we can dismiss an ineffective assistance claim on the prejudice prong, we need not address whether counsel's performance was deficient. *Henley v. State*, 881 N.E.2d 639, 645 (Ind. 2008).

[23] Jarrard's ineffective assistance of counsel claims can be condensed into two categories: (1) failure to adequately cross-examine witnesses; and (2) failure to object. As for the failure to adequately cross-examine witnesses, Jarrard asserts that his trial counsel failed to: (a) properly impeach T.C. during her cross-examination with her alleged prior inconsistent statements; and (b) adequately cross-examine the DNA witnesses about the presence of male DNA on the swabs. In regard to the failure to object claim, Jarrard argues that his trial

counsel rendered ineffective assistance by failing to object to the prosecutor's closing argument. We will address each argument in turn.

1. Cross-Examination of Witnesses

[24] We first address Jarrard's argument that his trial counsel rendered ineffective assistance of trial counsel by failing to adequately cross-examine T.C. and the DNA witnesses. "It is well settled that the nature and extent of cross-examination is a matter of strategy delegated to trial counsel." *Waldon v. State*, 684 N.E.2d 206, 208-09 (Ind. Ct. App. 1997), *trans. denied*.

[25] In regard to Jarrard's argument challenging trial counsel's cross examination of T.C., Jarrard contends that Trial Counsel Harris failed to properly impeach T.C. during her cross-examination with alleged prior inconsistent statements. Our supreme court has held that "the method of impeaching witnesses is a tactical decision and a matter of trial strategy that does not amount to ineffective assistance." *Kubsch v. State*, 934 N.E.2d 1138, 1150 (Ind. 2010), *reh'g denied*.

[26] Jarrard asserts that his trial counsel "provided ineffective representation because they failed to show the jury that T.C. [had] made prior statements that were inconsistent with her trial testimony regarding penetration." (Jarrard's Br. 20). Jarrard's argument is based on his assertion that Mother had told Nurse Gordon and a police officer that T.C. had told Mother that Jarrard had touched her but had not put anything inside of her. In other words, Jarrard argues that trial counsel should have impeached T.C. with her mother's statements.

However, as we explained in Jarrard's direct appeal, Indiana Evidence Rule 613 permits impeachment with a prior inconsistent statement when questioning a witness about that witness's statement. *Jarrard*, 79A02-1503-CR-159 at *1 (citing *Jackson v. State*, 925 N.E.2d 369, 375 (Ind. 2010), *reh'g denied*.) Accordingly, Jarrard has failed to show that trial court rendered deficient performance when counsel did not impeach T.C. during cross-examination with prior statements made by Mother. Therefore, we affirm the post-conviction court's denial of relief on this claim of ineffective assistance of trial counsel.[4]

[27] Jarrard also argues that Trial Counsel O'Brien rendered ineffective assistance when cross-examining the DNA witnesses. He contends that counsel should have further cross-examined Forensic Analyst Stur and Forensic Biologist Keeling "to expose the fact that, contrary to the evidence presented, the lab analysts could not determine if the swabs contained any male DNA at all." (Jarrard's Br. 15).

[28] During the post-conviction hearing, Jarrard offered affidavits from the two trial DNA witnesses. In Forensic Biologist Keeling's post-conviction affidavit, she

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[4] Indeed, Jarrard has failed to show that T.C. even made the prior statements that he alleges should have been used to impeach her during cross-examination. In T.C.'s post-conviction deposition that Jarrard introduced as evidence at the post-conviction hearing, T.C. confirmed that she had talked to Mother about what Jarrard had done to her before Mother had talked to the police and hospital staff. During the deposition, when Jarrard's counsel asked T.C. if she had told her mother that Jarrard had not put anything inside of her, T.C. denied making such a statement. Additionally, T.C. confirmed that her description to her mother of Jarrard's actions would have involved Jarrard using his hands and not any foreign objects. T.C. also affirmed that she had testified truthfully at trial.

acknowledged that she had testified at trial that the vaginal/cervical swabs and external genital swabs "had a slight amount of male DNA that was below our cutoff for Y-STR analysis" and that the anal swabs "did not have male DNA." (App. Vol. 2 at 145). Forensic Biologist Keeling further averred that "[h]ad [she] been questioned further, [she] would have explained that the male DNA values [she had] observed were so low that [she] could not be certain if there was actually male DNA present or if the values were the result of background noise[,] such as "signal from the instrument, bubbles in the plate, and dust on the plate." (App. Vol. 2 at 145). In Forensic Analyst Stur's post-conviction affidavit, she acknowledged her trial testimony was that the three swabs "[ha]d not give[n] [her] enough male DNA to continue [her] analysis." (App. Vol. 2 at 146). Forensic Analyst Stur further averred that "[h]ad [she] been questioned further, [she] would have explained that [she had] classified the amount of male DNA in these three items as "undetermined[,]" which "mean[t] either there was very little male DNA in these items, or no male DNA at all." (App. Vol. 2 at 146). In the post-conviction affidavits of the DNA witnesses submitted by the State, Forensic Biologist Keeling and Forensic Analyst Stur both declared that their trial testimonies had been "true and accurate." (Ex. Vol. at 22, 24).

[29] During the post-conviction hearing, Jarrard's post-conviction counsel asked Trial Counsel O'Brien why he had not further cross examined the DNA witnesses about their DNA swab testimony. Trial Counsel O'Brien testified that the DNA evidence was not harmful or "any crushing blow" to Jarrard because there had been nothing to link Jarrard to any criminal activity and

because there had been multiple male DNA found on some of the swabs, which could have been attributed to the fact that T.C. lived in a house with her brothers. (Tr. Vol. 2 at 76). Trial Counsel O'Brien further testified that there had been some "touch DNA but it didn't identify [Jarrard]." (Tr. Vol. 2 at 76).

[30] Ultimately, Trial Counsel O'Brien indicated that his trial strategy was to show that the DNA evidence had not specifically identified Jarrard. "Few points of law are as clearly established as the principle that '[t]actical or strategic decisions will not support a claim of ineffective assistance.'" *McCary v. State*, 761 N.E.2d 389, 392 (Ind. 2002) (quoting *Sparks v. State,* 499 N.E.2d 738, 739 (Ind. 1986)), *reh'g denied*. Jarrard has failed to show that trial counsel's decision not to further cross-examine the DNA witnesses—after he had already highlighted the fact that the DNA evidence had not specifically identified Jarrard—was not part of an objectively reasonable trial strategy or that it equated to deficient performance. *See Reed v. State*, 866 N.E.2d 767, 769 (Ind. 2007) (explaining that because counsel is afforded considerable discretion in choosing strategy and tactics, a strong presumption arises that counsel rendered adequate assistance). Accordingly, Jarrard has failed to meet his post-conviction burden of showing that the post-conviction court erred by denying relief on this claim.

2. Objection to Closing Argument

[31] Lastly, we review Jarrard's ineffective assistance claim regarding counsel's failure to object to the prosecutor's closing argument, which he contends included a misstatement of the law regarding the definition of penetration.

[32] To demonstrate ineffective assistance of trial counsel for failure to object, a petitioner must prove that an objection would have been sustained if made and that he was prejudiced by counsel's failure to make an objection. *Kubsch*, 934 N.E.2d at 1150. Here, however, we need not determine whether an objection would have been sustained because our review of this ineffective assistance of counsel claim can be resolved by addressing only the prejudice prong. *See Henley*, 881 N.E.2d at 645 (explaining that our Court if can dismiss an ineffective assistance claim on the prejudice prong, we need not address whether counsel's performance was deficient).

[33] The post-conviction court found, in relevant part, that Jarrard had not shown that he was prejudiced by counsel's lack of objection to the prosecutor's closing argument because the jury had been properly instructed on the definition of penetration and had also been instructed that any statements made by the attorneys were not evidence. Indeed, Jarrard acknowledges that the trial "court gave a final instruction that correctly explained penetration[.]" (Jarrard's Br. 26). Where a "jury is properly instructed, we will presume they followed such instructions." *Gibson v. State*, 133 N.E.3d 673, 696 (Ind. 2019) (cleaned up), *reh'g denied*, *cert. denied*. *See also Steinberg v. State*, 941 N.E.2d 515, 531 (Ind. Ct. App. 2011) (explaining that "final instructions are presumed to correct any misstatements of law made during final argument" and concluding that there

was no prejudice by a prosecutor's closing remarks where the trial court correctly instructed the jury), *trans. denied*. Because Jarrard has failed to show that there is a reasonable probability that, but for his trial counsel's alleged error, the result of the proceeding would have been different, we affirm the post-conviction court's denial of post-conviction relief on this ineffective assistance of trial counsel claim. *See French*, 778 N.E.2d at 824 (holding that a petitioner's failure to satisfy either of the two prongs of an ineffective assistance of counsel will cause the claim to fail).[5]

[34] Affirmed.

Najam, J., and Tavitas, J., concur.

[5] Jarrard also argues that the "cumulative effect of trial counsel's deficient performance prejudiced [him]." (Jarrard's Br. 29). Jarrard has waived this argument because he did not raise such a claim in his post-conviction petition. *See Allen v. State*, 749 N.E.2d 1158, 1171 (Ind. 2001) ("Issues not raised in the petition for post-conviction relief may not be raised for the first time on post-conviction appeal."), *reh'g denied*, *cert. denied*. *See also* Ind. Post-Conviction Rule 1(8) ("All grounds for relief available to a petitioner under this rule must be raised in his original petition."). Moreover, because we have concluded that there was no error, we also conclude that there was no cumulative error.