

STATEMENT OF THE CASE

David L. Hale appeals the post-conviction court's denial of his petition for post-conviction relief. Hale raises a single issue for our review, namely, whether the court's denial of his petition is clearly erroneous. We affirm.

FACTS AND PROCEDURAL HISTORY

The facts underlying Hale's conviction were stated by this court in his direct appeal:

On February 18, 2006, Hale, James Munday, and Barbara Holt checked into a room at the Devon Plaza Motel in Lafayette. At some point, Munday went to a cemetery to visit the grave of his deceased wife. After Munday returned to the hotel room, Hale, Munday, and Holt drank alcoholic beverages continuously throughout the rest of the day.

At some point, Munday became agitated and turned up the radio volume very high. Hotel guests in neighboring rooms began to bang on the door, demanding that the volume be turned down. Hale and Munday began to argue, and the argument became physical. Hale picked up a knife that he had been using to prepare a steak and stabbed Munday in the right shoulder. Hale refused to take Munday to a hospital because there were three outstanding arrest warrants for Hale. The next morning, Munday was dead and Hale and Holt attempted to conceal the incident. They disposed of the knife, bloody clothing, and alcohol, subsequently leaving the hotel to go to a friend's home. After police officers learned of Munday's death, a forensic pathologist examined the body and found a stab wound that had penetrated Munday's lung and struck his heart.

On March 3, 2006, the State charged Hale with murder, class B felony aggravated battery, class C felony battery committed by means of a deadly weapon, and class C felony battery resulting in serious bodily injury. On June 27, 2006, Hale pleaded guilty to class A felony voluntary manslaughter in exchange for the State's agreement to dismiss the remaining charges. . . .

Hale v. State, No. 79A02-0610-CR-851, at *1 (Ind. Ct. App. May 7, 2007), trans. denied.

Hale was represented by counsel at the guilty plea hearing. He acknowledged that he was of sound mind and that he was aware that the trial court would answer any questions he might have. He acknowledged that he understood the elements of the Class A felony allegation and that, if he had gone to trial, the State would have had to prove those elements beyond a reasonable doubt. Hale further stated that he was satisfied with the advice his counsel, J. Michael Trueblood, had rendered.

Thereafter, the following colloquy occurred between Hale and the court:

BY THE COURT: Count number five alleges the information of voluntary manslaughter. It's a Class A felony. It alleges that on or about the 18th day of February, 2006, in Tippecanoe County, State of Indiana, David Leroy Hale did knowingly or intentionally kill another human being, to wit: James Munday, while acting under sudden heat and committed by means of a deadly weapon, to wit: a knife. Do you feel that you understand this charge of voluntary manslaughter?

BY THE DEFENDANT: Yes, sir, I do but can I ask one question?

BY THE COURT: You certainly may[.]

BY THE DEFENDANT: I never intended to kill him, that's the part I don't understand.

BY MR. TRUEBLOOD: If I may have a moment, Your Honor.

BY THE COURT: Surely.

BY MR. TRUEBLOOD: Judge, we're okay.

BY THE COURT: Thank you, Mr. Trueblood. Do you feel that you understand the matters that Mr. Trueblood's been discussing with you?

BY THE DEFENDANT: Yes, sir.

BY THE COURT: Okay. How do you plead to the charge of voluntary manslaughter?

BY THE DEFENDANT: Guilty, sir.

Def. Exh. E. at 21-22. Hale's counsel then elicited a factual basis for the plea¹ from Hale, the trial court accepted Hale's plea, and the court sentenced him accordingly. On direct appeal, we affirmed Hale's sentence.

On September 13, 2010, Hale filed his amended petition for post-conviction relief, in which he alleged that the trial court had erroneously accepted his guilty plea because he had simultaneously protested his innocence. Following an evidentiary hearing, the post-conviction court denied Hale's petition. This appeal ensued.

DISCUSSION AND DECISION

Hale appeals the post-conviction court's denial of his petition for post-conviction relief. Our standard of review is well established:

The petitioner in a post-conviction proceeding bears the burden of establishing grounds for relief by a preponderance of the evidence. Ind. Post-Conviction Rule 1(5). When appealing the denial of post-conviction relief, the petitioner stands in the position of one appealing from a negative judgment, Fisher v. State, 810 N.E.2d 674, 679 (Ind. 2004), and we will not reverse the judgment unless the evidence unerringly and unmistakably leads to the opposite conclusion, Patton v. State, 810 N.E.2d 690, 697 (Ind. 2004). We also note that the post-conviction court in this case entered findings of fact and conclusions of law in accordance with Indiana Post-Conviction Rule 1(6). We will reverse a post-conviction court's findings and judgment only upon a showing of clear error, which is that which leaves us with a definite and firm conviction that a mistake has been made. Hall v. State, 849 N.E.2d 466, 468 (Ind. 2006). Such deference is not given to conclusions of law, which we review de novo. Chism v. State, 807 N.E.2d 798, 801 (Ind. Ct. App. 2004).

Taylor v. State, 882 N.E.2d 777, 780-81 (Ind. Ct. App. 2008).

¹ Hale acknowledges in this appeal that he did not challenge the factual basis for his guilty plea in his amended petition for post-conviction relief. As such, insofar as Hale's argument on appeal might be construed as such a challenge, that argument is waived.

On appeal, Hale contends that he maintained his innocence during his guilty plea hearing when he questioned the meaning of the mens rea element of the Class A felony.

As our supreme court has discussed:

Over fifty years ago, this Court held that “a plea of guilty tendered by one who in the same breath protests his innocence, or declares he does not actually know whether or not he is guilty, is no plea at all.” Harshman v. State, 232 Ind. 618, 621, 115 N.E.2d 501, 502 (1953). “A defendant who says he did the crime and says he did not do the crime has in effect said nothing, at least nothing to warrant a judge in entering a conviction.” Carter v. State, 739 N.E.2d 126, 128-29 (Ind. 2000). Indiana jurisprudence has insisted that a factual basis must exist for a guilty plea, and that a judge may not accept a guilty plea while a defendant claims actual innocence. Ross v. State, 456 N.E.2d 420, 423 (Ind. 1983). This rule was designed to both increase the reliability of guilty pleas and prevent the diminishment of respect for the court system as jailing people who committed no crime. See Trueblood v. State, 587 N.E.2d 105, 107 (Ind. 1992).

A defendant’s plea of guilty is thus not merely a procedural event that forecloses the necessity of trial and triggers the imposition of sentence. It also, and more importantly, conclusively establishes the fact of guilt, a prerequisite in Indiana for the imposition of criminal punishment. . . .

Norris v. State, 896 N.E.2d 1149, 1152 (Ind. 2008).

In support of his claim on appeal, Hale relies exclusively on our supreme court’s decision in Patton v. State, 517 N.E.2d 374 (Ind. 1987), a capital case. There, our supreme court held that, although the defendant had testified at his guilty plea hearing that he had knowingly killed the victim, that plea was vitiated by the defendant’s subsequent statement at the sentencing hearing that he had acted recklessly. Id. at 375-76.

Patton is inapposite, and Hale misconstrues the record of the guilty plea hearing. Here, during the guilty plea hearing, Hale simply stated that he did not understand the legal meaning of the mens rea terms of the Class A felony. Hale’s counsel then

explained those meanings to him off the record, which is apparent because, following that consultation, the court asked Hale if his attorney had answered his question. Hale answered affirmatively, and he then pleaded guilty.

In sum, Hale raised a question and, after his question was answered, he entered a guilty plea. He made no subsequent statement at the hearing that impeached that plea. As such, the post-conviction court did not err when it denied Hale's petition for relief, and we affirm the court's judgment.

Affirmed.

ROBB, C.J., and VAIDIK, J., concur.