UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1634

September Term, 2014

TERENCE CRAWLEY

v.

STATE OF MARYLAND

Krauser, C.J.,
Berger,
Reed,

JJ.

Opinion by Reed, J.

Filed: February 6, 2017

In 2003, the appellant, Terence Crawley, pled guilty to a charge of unarmed carjacking and was sentenced to five years of incarceration, with all but eighteen months suspended. After serving his sentence, he pled guilty in federal court to a charge of bank robbery with the use of a firearm. In an effort to reduce the sentencing guidelines for his federal crime, he is now attempting to invalidate his plea of guilty to unarmed carjacking. On January 21, 2014, the appellant, acting *pro se*, filed a petition for writ of error *coram nobis*, which the circuit court rejected on August 26, 2014. The appellant presents a single question for our review, which we rephrase:

> Did the circuit court err in denying the appellant's petition for *coram nobis* relief?

For the following reasons, we answer this question in the negative. Therefore, we affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

In 2002, the appellant pled guilty to one count of first degree assault in Prince George's County[1] and one count of carjacking in Montgomery County. The Honorable Durke Thompson presided over a Change of Plea Hearing ("plea colloquy") in the Circuit Court for Montgomery County on November 12, 2002. At the plea colloquy, Judge Thompson questioned the appellant about his decision to enter a guilty plea. The appellant answered affirmatively when Judge Thompson asked him if he had the law explained to him and if he understood the law. The State then proffered facts regarding the evidence it would have presented had the case gone to trial, to which counsel for the appellant

[1] The first degree assault charge is not relevant to the instant appeal.

objected.[2] Judge Thompson found that the plea had been entered freely and voluntarily, and that, in spite of appellant's counsel's objection, the State's facts supported the plea.

On January 7, 2003, Judge Thompson imposed a sentence of five years, with all but eighteen months suspended. The appellant did not file an appeal from the judgment of conviction or the sentence. After serving the duration of his sentence, the appellant was released on June 7, 2006.

On September 19, 2011, the appellant appeared for sentencing after entering a plea of guilty to bank robbery with the use of a firearm in the United States District Court for the Eastern District of Tennessee. Because of his prior convictions for unarmed carjacking and first degree assault, the appellant was subject to federal recidivist sentencing enhancement for "career offenders" of violent crimes. As such, the sentencing guidelines for the appellant rose from 141-155 months of incarceration to 272-319 months. The court sentenced the appellant to 272 months of incarceration.

On January 21, 2014, the appellant filed a *pro se* petition for writ of error *coram nobis* in the Circuit Court for Montgomery County. The Honorable Joseph A. Dugan, Jr.

[2] Appellant's counsel stated the following in his objection:

> Objection. Judge, there is a correction to be made. The [appellant] did in fact take the car . . . [and] he didn't have the authority to take the car, but [he] made no threats as indicated by the State. In fact, in discussing in the statement both the victim and the [appellant], it was what I would probably term as a friendly carjacking. She offered him to take the Bible, he got her groceries out of the car for her, but does that count as carjacking? It's kind of somewhat unusual. With respect to the case of them taking the vehicle from her person, it would meet the definition of carjacking.

denied the petition in an Opinion and Order dated August 26, 2014. Judge Dugan found that the record clearly established that the appellant fully grasped the elements of unarmed carjacking and that he voluntarily and knowingly entered the guilty plea. The appellant, who remains incarcerated for the conviction of bank robbery with the use of a firearm, subsequently filed this timely appeal.

DISCUSSION

A. Parties' Contentions

The appellant argues that the circuit court erred in denying his petition because he originally pled guilty to unarmed carjacking without an understanding of the nature and elements of the crime, thereby making the plea insufficient under both the Fourteenth Amendment to the United States Constitution and Maryland Rule 4-242(c). He asserts that the definition of the offense[3] is not so simple that it can be assumed to be understood by the average person. *Compare with State v. Daughtry*, 419 Md. 35 (2011).[4] The appellant argues that the complexity of the crime[5] was such that "due process . . . mandated a

[3] Unarmed carjacking is defined as follows: "An individual may not take unauthorized possession or control of a motor vehicle from another individual who actually possesses the motor vehicle, by force or violence, or by putting that individual in fear through intimidation or threat of force or violence." Md. Code Ann., Crim. Law § 3-405(b)(1) (codified in 2002 and derived without substantive change from the former Md. Code Ann., Art. 27, § 348A).

[4] In *Daughtry*, the Maryland Court of Appeals held that the nature of the charge of first degree murder could not be assumed to be "readily understandable from the label of the crime itself." 419 Md. at 73.

[5] The appellant contends that the several uses of the word "or" in the definition of unarmed carjacking, *see supra* note 3, shows that the offense consists of "multiple elements and a variety of manners in which the statute may be violated." Appellant's Br. at 6.

thorough[,] 'on-the-record' explication of the offense to assure that the nature and elements of the offense [were] comprehended." Because the elements of unarmed carjacking were never expressly explained to the appellant, he contends that he could not have knowingly and voluntarily pleaded guilty to the offense.[6]

In making these contentions, the appellant attempts to refute two factors that the circuit court relied on to reject his petition. First, the appellant argues that his affirmative answers to the questions of whether he had seen the charging document and whether he had spoken with his attorney should not serve as evidence that he understood the charge. Second, he asserts that his attorney's understanding of the charge should not be dispositive of whether he himself understood the nature of unarmed carjacking.

The State argues that there was clear evidence that the appellant had knowledge of the nature and elements of the crime. The State points out that the appellant "was expressly advised and personally acknowledged that he was pleading guilty to a charge of unarmed carjacking and the factual basis supporting that charge," and that the appellant "acknowledged that the facts as proffered could have been proven beyond a reasonable doubt by the State had he gone to trial." Appellee's Br. at 6. Additionally, the State attempts to distinguish this case from that of *State v. Daughtry,* where the Court of Appeals held that an appellant's affirmative answer to the question of whether he discussed the plea with his attorney was not sufficient under Rule 4-242(c). *See* 419 Md. at 75. The State argues

[6] The appellant asserts that his being only twenty years old, as well as his failure to complete high school, contribute to the notion that he could not have fully understood unarmed carjacking based on his plea colloquy. Appellant's Br. at 7.

that the plea colloquy that took place here, in which the trial court asked the appellant if he had discussed the facts and possible defenses with his attorney, provided the court with ample proof to conclude that the appellant understood the nature of the offense to which he pled guilty.

B. Standard of Review

The standard of review applied to an appeal of a circuit court's decision to grant or deny a petition for writ of error *coram nobis* is the same standard applied to proceedings under the Maryland Post Conviction Procedure Act. "The purpose of the Post Conviction Procedure Act was to create a simple statutory procedure, in place of the common law *habeas corpus* and *coram nobis* remedies, for collateral attacks upon criminal convictions and sentences." *Gluckstern v. Sutton*, 319 Md. 634, 658 (1990) (internal citations omitted). This standard is as follows:

> We "will not disturb the factual findings of the post-conviction court unless they are clearly erroneous." *Wilson v. State*, 363 Md. 333, 348, 768, A.2d 675, 683 (2001). "Although reviewing factual determinations of the post-conviction court under a clearly erroneous standard, we make an independent determination of relevant law and its application to the facts." *State v. Adams,* 406 Md. 240, 255, 958 A.2d 295, 305 (2008), *cert. denied,* [556] U.S. [1133], 129 S.Ct. 1624, 173 L.Ed.2d 1005 (2009).

Arrington v. State, 411 Md. 524, 551-52 (2009).

C. Analysis

Maryland Rule 4-242(c) states that a guilty plea cannot be accepted until the court concludes, after an on-the-record examination of the defendant, the "defendant is pleading

voluntarily, with understanding of the nature of the charge and the consequences of the plea." We hold that the circuit court was correct in finding that the appellant was not entitled to *coram nobis* relief, because the record reflects that the defendant entered into the plea knowingly and voluntarily.

In determining the sufficiency of the appellant's guilty plea, it is important to consider two previous decisions made by the Court of Appeals. In *State v. Priet*, 289 Md. 267 (1981), the Court relied on the fact that defendants were questioned at length about the voluntariness of their pleas, as well as the fact that they each acknowledged discussing their pleas with counsel, to uphold three guilty pleas made by three different defendants. The Court explained that Rule 731(c), the predecessor to Rule 4-242(c), "does not impose any ritualistic or fixed procedure to guide the trial judge in determining whether a guilty plea is voluntarily and intelligently entered." *Id*. at 287-88. Rather, the validity of a defendant's guilty plea is determined through a "case-by-case" analysis of the "totality of the circumstances as reflected in the entire record." *Id*. at 276, 288. The Court further explained that, among other factors, courts should consider "the complexity of the charge, the personal characteristics of the accused, and the factual basis proffered to support the court's acceptance of the plea." *Id*. at 288. The Court also relied on an observation previously made by the Supreme Court: that "it may be appropriate to presume that in most cases defense counsel routinely explain the nature of the offense in sufficient detail . . . ." *Id*. at 290 (citing *Henderson v. Morgan*, 426 U.S. 637, 647 (1976)).

In *State v. Daughtry*, which is also highly relevant to the present case, the Court overturned the appellant's guilty plea, holding that the record of the plea colloquy did not provide sufficient proof to conclude that the appellant knowingly and voluntarily entered into the plea. *See* 419 Md. at 42. The only evidence from the plea colloquy that related to the appellant's knowledge of the charge was the appellant's affirmative response to the judge's question of whether he had spoken about the plea with his lawyer. *See id*. at 70. In its analysis, the Court reaffirmed the "totality of the circumstances" analysis that it adopted in *Priet*, and applied the test to Rule 4-242(c). *See id.* at 71. In spite of that, the Court limited the effect of the "presumption" relied on in *Priet* that defense counsel routinely explains the nature of the offense to the defendant. *Id*. at 70. The Court held that when "the record reflects nothing more than the fact that a defendant is represented by counsel and that the defendant discussed generically the plea with his or her attorney, . . . the plea must be vacated." *Id*. at 71. Finally, the Court held that some crimes, including that of first degree murder, are too complex to be fully understood from the "label of the crime itself." *Id*. at 73. However, the Court did note that it did not intend to create a list of all crimes that fell into this category, *see id*. at 72, and that "a mere mention of certain crimes on the record may suffice under Rule 2-424(c)'s mandate that there be 'an examination of the defendant on the record in open court.'" *Id*. at 72 n. 19.

We agree with the State's argument that the criteria established in *Priet* and in *Daughtry* were fully satisfied in this case. Judge Thompson, the sentencing judge in this matter, began the plea colloquy by informing the appellant that the State was required to

prove him guilty beyond a reasonable doubt, that he would have the right to present a defense at trial, and that he had various other rights that would be affected by the guilty plea. Judge Thompson then asked the appellant the following question:

> THE COURT: So that you are entering this plea freely and voluntarily and for no other reason than because as you have had the law explained to you and you understand it and you've thought about the facts, that you are in fact guilty of unarmed carjacking in violation of the law in accordance with the day and date and time mentioned in the charging document by the state as it has been amended?

The appellant answered this question affirmatively.

We agree with the circuit court's point that, though the sentencing judge did not explicitly ask the appellant whether he understood each of the elements of carjacking, *see supra* note 3, the judge was in effect asking precisely that question. By answering the sentencing judge's question affirmatively, the appellant represented to the court that he possessed a knowledge of the charge, and that he recognized that he was, in fact, guilty of carjacking. Thus, the appellant's affirmative answer to this question allows us to infer that the plea was entered knowingly and voluntarily, in accordance with Rule 4-242(c).

This plea colloquy is obviously much more extensive than that which occurred in *Daughtry*, where the only evidence of the appellant's knowledge was the Court's question of whether he had discussed the plea with his attorney. *See* 419 Md. at 44. As such, we may presume that the appellant's attorney explained to him the nature and elements of unarmed carjacking, and we may rely on this presumption as further evidence of the appellant knowingly and voluntarily entering his plea. *Cf. id*. at 76 ("[W]here the record

reflects nothing more than the fact that a defendant is represented by counsel and that the defendant discussed generically the plea with his or her attorney, such a plea colloquy is deficient under Rule 4-242(c) . . . ."). We also agree with the circuit court that it can be assumed, based on appellant's counsel admitting and disputing elements of unarmed carjacking in open court, *see supra* note 2, that the appellant had the charge fully explained to him. Based on the "totality of the circumstances as reflected in the entire record," *Priet*, 289 Md. at 288, it is clear that there was sufficient evidence for the circuit court to conclude that the appellant entered his plea knowingly and voluntarily, and that the court did not abuse its discretion in denying the appellant's petition for *coram nobis* relief.

The appellant argues that the definition of unarmed carjacking, *see supra* note 3, was so complex that he should have received an "'on-the-record' explication of the offense to assure that the nature and elements of the offense was comprehended." Appellants Br. at 6. We disagree; the charge of unarmed carjacking is not so complex that additional explanation was required. Rather, we feel that carjacking is "a self-explanatory legal term, [and is] so simple in meaning that a lay person can be expected to understand it." *Daughtry*, 419 Md. at 72 (citing *State v. Crowe*, 168 S.W.3d 731, 750 (Tenn. 2005)). Thus, the fact that the appellant did not receive an "'on the record' explication of the offense" does not change our conclusion that the plea was entered knowingly and voluntarily. Furthermore, in *Priet*, the Court of Appeals noted that a "ritualistic recital of the technical elements of the crime" is not necessary, but that the determination of the sufficiency of the plea should focus on the "totality of the circumstances." 289 Md. at 277. Since an analysis into the

entire record makes it clear that the appellant did possess sufficient knowledge of the nature and definition of the charge of unarmed carjacking, the appellant's argument as to the complexity of the charge does not change our conclusion. *Compare with Daughtry*, 419 Md. at 73 (where the only evidence from the plea colloquy related to whether the plea was "knowing and voluntary" involved the judge asking the appellant if he had discussed the plea with his attorney, the Court held that the charge of first degree murder "is not readily understandable from the label of the crime itself" because of the difficulty in distinguishing between first and second degree murder); *and with State v. Smith*, 443 Md. 572, 620 (2015) (where the only evidence from the plea colloquy related to whether the appellant's plea was "knowing and voluntary" involved the judge asking whether the plea was entered freely and whether the appellant was satisfied with his representation, the Court held that the elements of conspiracy were too complex to be assumed to have been understood simply by the name of the charge); *and with Graves v. State*, 215 Md. App. 339, 358 (2013) (where the only portion of the plea colloquy that related to whether the plea was entered "knowingly and voluntarily" consisted of the judge asking whether the defendant had discussed the charge with his attorney, this Court held that the charge of use of a handgun in commission of a felony "is not readily understandable from the label of the crime itself" because the average citizen likely does not know what crimes are considered felonies).

For the aforementioned reasons, we hold that the circuit court was correct in its finding that the appellant knew of and understood the nature and elements of the carjacking charge. As such, we affirm the judgment of the circuit court.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.