Circuit Court for Anne Arundel County
Case Nos. 02-K-05-2276/02-K-05-2185

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1333

September Term, 2015

STATE OF MARYLAND

v.

ALFRED EUGENE DORSEY

Kehoe,
*Krauser,
Zarnoch, Robert A.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Krauser, J.

Filed: December 12, 2017

*Krauser, J., now retired, participated in the hearing of this case while an active member of this Court and as its Chief Judge; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the preparation of this opinion.

Finding that the record of the plea hearing of Alfred Eugene Dorsey, appellee, was not sufficient to show that Dorsey understood the nature of the two armed robberies to which he pleaded guilty, the Circuit Court for Anne Arundel County granted Dorsey's petition for post-conviction relief and ordered that he be given a new trial. The State thereafter noted this appeal, presenting two issues. As worded by the State, they are:[1]

I. Did Dorsey waive his post-conviction claim because he could have raised it earlier but did not?

II. Did the post-conviction court erroneously determine that Dorsey did not understand the nature of the armed robbery charges to which he pleaded guilty?

We conclude, first, that Dorsey waived his post-conviction claim that his plea was involuntary, because he was advised, by the circuit court, of his right to file an application for leave to appeal, yet failed to do so, and second, even if that claim was, in fact, not waived, it is without merit, as the record shows, contrary to what the post-conviction court held, that Dorsey understood the nature of the armed robbery charges to which he was pleading guilty. We therefore reverse the judgment of the post-conviction court and remand

[1] The State also appears to have raised a third issue, in the body of its brief, which was not listed in the issues section of that brief, namely, whether the post-conviction court "failed to resolve" whether Dorsey had waived his post-conviction claim that his plea was neither knowingly or voluntarily made. But, although the post-conviction court's written opinion did not expressly address whether Dorsey had, or had not, waived his post-conviction claim, the court did note that, in order to obtain relief, a post-conviction petitioner must show that his complaint has not been previously and finally litigated or waived. *See* Maryland Code, Criminal Procedural Article § 7-106(b); Maryland Rule 4-402. And then, by granting Dorsey a new trial based solely on the merits of his underlying claim that his guilty plea was invalid, the post-conviction court implicitly rejected the State's waiver defense.

this case to that court for it to consider other claims raised by Dorsey, in his post-conviction petition, that were not reached below.

Facts

The following recitation of facts is a summary of the statement of facts proffered by the State at Dorsey's plea hearing with the exception of a reference to a third robbery at a Shell gas station. That robbery and all charges stemming therefrom were dismissed, as agreed by the parties, after Dorsey pleaded guilty to armed robberies of both a "Maci's" gas station and an Exxon gas station, so no factual recitation with respect to the Shell station robbery was made by the State.

The armed robberies of which Dorsey was accused of committing occurred in August and September of 2005 at three different gas stations in Anne Arundel County, Maryland: On August 27, 2005, an employee at an Exxon gas station was approached by an African-American male, who pointed a sawed-off shotgun at him and demanded the money in the station's register, a demand with which the employee promptly complied. When the police subsequently arrived at the Exxon, the employee, after giving police a detailed description of the robber,[2] told the officers that the robber had left the gas station in a van.

Thirteen days later, on September 9, 2005, a Maci's gas station attendant was forced to turn over approximately $200 to an African-American male, who had entered the gas

[2] The Exxon employee described the robber as "a Black male, 20 to 30 years of age, wearing glasses, a blue baseball hat, white tee shirt, dark shorts, white socks, white sneakers and described the weapon as a black and brown sawed-off shotgun."

station's store, demanded money, and then "lifted his shirt and displayed the handle of a gun" when she looked at him and asked, "Are you serious?" According to the gas station attendant, the robber was wearing a "white tee shirt with a Methodist Church logo" and arrived in a minivan. Then, four days after that, on September 14, 2005, a Shell gas station was robbed by an African-American male armed with a long rifle or long gun.

An investigation of the three robberies led police to suspect that Alfred Eugene Dorsey, appellee, was the individual who had robbed the three stations. Armed with a search warrant for Dorsey's residence, police conducted a search of that property. There, they recovered, among other things, a "rusted sawed-off shotgun barrel" and "a white tee shirt with Mount Calvary United Methodist Church written on it." The officers were also "able to confirm that Mr. Dorsey was operating a 1995 Honda Odyssey minivan." Then, after Dorsey was arrested, photographic line-ups were shown to the gas station employees, who were the subjects of the robberies. From those photographs, the witnesses identified Dorsey as the person who had committed the robbery at their respective gas stations.

The Proceedings Below

On October 21, 2005, Dorsey was charged with one count of armed robbery and related offenses for the September 9, 2005 robbery of the Maci's gas station, and two counts of armed robbery and related offenses for the September 14, 2005 robbery of the Shell gas station, in Case No. K-05-2185.[3] Six days later, he was charged in a separate

[3] The grand jury indictment in Case No. K-05-2185 charged that Dorsey had

(Continued . . .)

grand jury indictment with one count of armed robbery and related offenses for the August 27, 2005 robbery of the Exxon gas station in Case No. K-05-2276.[4]

On February 17, 2006, Dorsey appeared before the Anne Arundel County circuit court. At that time, his counsel and the prosecutor informed the trial court that a plea agreement had been reached: Dorsey would plead guilty to the armed robbery of the Maci's gas station and to the armed robbery of the Exxon gas station, and the State, in return, would drop the charges relating to the robbery of the Shell gas station and request that Dorsey's combined maximum sentence for the two counts of robbery to which he was pleading guilty would not exceed 20 years of imprisonment, while the defense would remain free to argue for a lesser sentence. Then, after the court conducted a plea colloquy with Dorsey, the State proffered a detailed statement of the facts supporting the charges to which Dorsey was pleading guilty. Upon completion of that statement, the court found Dorsey guilty of both counts of armed robbery.

On April 4, 2006, the circuit court first sentenced Dorsey, for the armed robbery of the Exxon gas station, to a term of twenty years of imprisonment, suspending all but twelve

(. . . continued)
committed the following offenses, with respect to Meredith Hooper, the Maci's gas station attendant: armed robbery, robbery, second-degree assault, reckless endangerment, and theft. The indictment further charged that Dorsey had committed the following offenses, with respect to Bob Patel and Mison Phillips, the Shell gas station employees: two counts of armed robbery, two counts of robbery, two counts of first-degree assault, two counts of second-degree assault, theft, and carrying a weapon openly with intent to injure.

[4] The second grand jury indictment, Case No. K-05-2276, charged that Dorsey had committed the following offenses, with respect to Rana Ahmad, the Exxon gas station employee: armed robbery, robbery, first-degree assault, second-degree assault, reckless endangerment, carrying a weapon openly with intent to injure, and theft.

years of that sentence. Upon completion of the unsuspended portion of that sentence, Dorsey was to be placed on probation for five years. It then sentenced him, for the armed robbery of the Maci's station, to a consecutive term of twenty years of imprisonment but then suspended all of that sentence. Both of the foregoing sentences were to run from September 12, 2005.

Almost four years later, the Anne Arundel circuit court, on July 8, 2009, signed an order, admitting Dorsey into a drug rehabilitation program. Then, six months later, Dorsey was released from the program and placed on probation. But, before he had completed half of that probation, Dorsey was summoned to appear, before the circuit court, for a violation of probation hearing. At that hearing, on April 9, 2012, Dorsey admitted that he had violated his probation, and the circuit court ordered him to serve the remainder of his two sentences.

Nineteen months later and more than seven-and-a-half years after he had entered the guilty pleas at issue, Dorsey, on October 21, 2013, filed, *pro se*, a petition for post-conviction relief, claiming ineffective assistance of both his plea and probation counsels. Then, eleven months later, Dorsey filed a supplement to his post-conviction petition, with the assistance of the Public Defender's Office, contending that his 2006 guilty plea was invalid because, as the record of his plea hearing purportedly showed, he did not understand the nature of the charges to which he was pleading guilty and therefore he had not knowingly and voluntarily enter his plea. He further asserted that his failure to raise this claim at an earlier proceeding did not constitute a waiver of this claim because he "was erroneously advised" as to his appellate rights at both his plea and sentencing hearings.

Later, on December 23, 2014, Dorsey filed, *pro se*, a second supplement to his petition, contending that his sentence was illegal.

At the ensuing hearing on Dorsey's initial post-conviction petition and the two supplements to his petition, Dorsey withdrew his initial *pro se* petition and proceeded solely on the claims raised in the two supplements to his initial petition, that is, that his sentence was illegal and that he did not knowingly and voluntarily enter his plea.[5] After Dorsey and the attorney, who had represented him at his 2006 plea and sentencing, testified, Dorsey's post-conviction counsel argued that Dorsey had not understood the armed robbery charges to which he was pleading guilty, as neither his plea counsel nor the court had explained the nature and elements of the offense of armed robbery at that hearing and, at no time, did he waive that claim. He therefore requested that the post-conviction court vacate Dorsey's 2006 guilty plea and grant him a new trial. The State responded that the record of the plea hearing showed that Dorsey understood the nature of the armed robbery charges to which he was pleading guilty and that, in any event, he had waived his post-conviction claim, since he had failed to raise the issue earlier.

[5] There appears to be some confusion, in the record, whether Dorsey's ineffective assistance of counsel claims were properly before the post-conviction court, given that, at the post-conviction hearing, Dorsey expressly "withdrew" his initial *pro se* petition in which he had raised his claims of ineffective assistance of counsel before the hearing. Nonetheless, Dorsey, at that hearing, testified that his plea counsel had rendered ineffective assistance of counsel. And, in spite of Dorsey's withdraw of his initial petition, the post-conviction court, in its written opinion, asserted that his ineffective assistance of counsel claims were still "before th[e] court." As such, we leave it to the court below, on remand, to resolve whether or not the ineffective assistance of counsel claims were properly before that court and remain issues to be resolved.

Following that hearing, the post-conviction court, in a written opinion, granted Dorsey's request for a new trial, finding that the colloquy, conducted by the plea hearing court, was "not enough to prove [Dorsey] understood the elements of the charged offenses," and therefore his plea did not satisfy Maryland Rule 4-242(c) and must be vacated. Having so ruled, the court did not reach Dorsey's claim of ineffective assistance of counsel and illegal sentence. Challenging that decision, the State filed an application for leave to appeal from the circuit court's decision, which this Court ultimately granted.

Standard of Review

The factual findings and determinations of a post-conviction court are subject to a clearly erroneous standard of review. *See Arrington v. State*, 411 Md. 524, 551 (2009). However, we "make an independent determination of relevant law and its application to the facts." *Id.* (internal citations and quotation marks omitted).

Moreover, a decision by a post-conviction court to grant or deny a petitioner a new trial is within that court's discretion and is reviewed on appeal for an abuse of discretion. *Id.* (internal citations and quotation marks omitted). Under the abuse of discretion standard, a trial court's ruling "will not be reversed simply because the appellate court would not have made the same ruling" but must be "well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable." *Id.* at 552 (internal citations and quotation marks omitted). However, our deference to the trial court's exercise of discretion "is always tempered by the requirement that the [trial] court correctly apply the law applicable to the case." *Id.*

Discussion

I.

The State contends that Dorsey waived his post-conviction claim that his plea was involuntary by failing to raise it either at his 2006 sentencing hearing, or "in an application for leave to appeal the [2006] judgment of conviction," or at "the imposition of backup time" at his 2012 probation hearing.

A.

However, before we consider the merits of the forgoing contention, we shall briefly address Dorsey's claim that the State has, in part, waived this contention, because, at the post-conviction hearing, the State, he alleges, only asserted that he had waived his post-conviction claim by failing to file an application for leave to appeal following his probation violation hearing in 2012, without any mention of his failure to do so at sentencing or in an application for leave to appeal following sentencing.

But, in fact, at the post-conviction hearing, the State made the following argument as to waiver:

> [State]: The final comment I have **with regard to waiver**, is that I do understand that [at Dorsey's April 4, 2006 sentencing, the court] gave, I guess, inconsistent information as to the ability to ascertain an appeal in this case. But [at Dorsey's April 9, 2012 violation of probation hearing, the court] didn't. [The court at sentencing] told him he could file a [sic] application for leave to appeal within 30 days. **And he did not do that**.
>
> So, I would argue that [Dorsey's post-conviction claim] has in fact been waived. **He has had multiple opportunities to have**

> **brought this issue forward**, and address[ ] it. And he has not done so.

(Emphasis added).

Accordingly, the State's assertions, at the post-conviction hearing, were not limited to Dorsey's failure to file an application for leave to appeal following his probation violation hearing in 2012, as, at that proceeding, it noted that Dorsey was informed by the sentencing court that he had 30 days to file an application for leave to appeal and further asserted that Dorsey had "multiple opportunities" to raise the issue of the voluntariness of his plea, yet had never done so. Those "multiple opportunities" was an obvious reference to Dorsey's failure to file an application for leave to appeal following the imposition of his sentence, in 2006, as well as his failure to file an application for leave to appeal from his 2012 violation of probation hearing. Thus, there is no merit to Dorsey's contention that the State failed to preserve its assertion that Dorsey waived this post-conviction claim.

B.

We now turn to the State's contention that Dorsey waived his post-conviction claim that his plea was involuntary because he did not file an application for leave to appeal, challenging his guilty plea, after his 2006 convictions.

Under § 7-106(b)(1)(i) of the Maryland Uniform Post-Conviction Procedure Act, "an allegation of error is waived when a petitioner could have made but intelligently and knowingly failed to make the allegation . . . in an application for leave to appeal a conviction based on a guilty plea." Maryland Code, Criminal Procedure Article ("CP") § 7-106(b)(1)(i). And, when a petitioner fails to make such allegation in an application for

leave to appeal, according to § 7-106(b)(2), "a rebuttable presumption" arises "that the petitioner intelligently and knowingly failed to make the allegation." Moreover, "in the case of applications for leave to appeal a conviction based on a guilty plea," this rebuttable presumption arises "whether or not an application was filed." *State v. Gutierrez*, 153 Md. App. 462, 473 (2003). In other words, the failure to file an "application for leave to appeal a conviction based on a guilty plea" results in a rebuttable presumption that any subsequent challenge to that guilty plea was knowingly and intelligently waived.

There is no dispute that Dorsey failed to file an application for leave to appeal based on his guilty plea. Thus, a rebuttable presumption of waiver arises, under § 7-106(b), that Dorsey knew of his right to challenge the validity of his guilty plea and knowingly and intelligently waived that right by not filing an application for leave to appeal based on his guilty plea. Undaunted, Dorsey attempts to rebut this presumption with the claim that the court failed to properly advise him of his right to file such an application for leave to appeal.

Specifically, he maintains that the plea advisements were inaccurate and insufficient because the court failed to inform him that he could challenge not only his sentence but also his plea in an application for leave to appeal. And then, at his ensuing sentencing hearing, the court, he claims, misadvised him that he had a "right to appeal the decision" instead of a "right to file an application for leave to appeal."

To bolster his claim that the foregoing alleged instructional flaws undermines the State's claim of waiver, Dorsey cites *Gross v. State*, 186 Md. App. 320 (2009). Gross pleaded guilty to a charge of possession with intent to distribute cocaine. *Id.* at 322. But, at his plea hearing, the trial judge informed Gross that "by entering a plea of guilty you're

giving up your right to a direct appeal of this case but you will have a right to ask for leave to appeal to the Court of Special Appeals[,]" and Gross responded that he understood that right. *Id.* at 328-29 (emphasis in original). Then, at Gross' sentencing hearing, the court informed him that he had "30 days to appeal this sentence[.]" *Id.* at 329 (emphasis in original).

Gross did not file an application for leave to appeal from his guilty plea and sentence, but, several years later, filed a petition for writ of error *coram nobis*, claiming that his guilty plea was not knowing and voluntary, because of the misinformation given to him by the court. The State countered that he had waived his right to challenge his guilty plea, and the circuit court thereafter denied him *coram nobis* relief. This Court held, however, that "the information given to Gross . . . on the date the plea was accepted and later at the time of sentencing was not sufficient to constitute a waiver[.]" *Id.* at 331. The circuit court, we explained, had erroneously advised Gross, at sentencing, that he could "appeal this sentence" within thirty days, but he was never informed, at either his guilty plea hearing or sentencing, that he had a right to challenge his conviction and the underlying guilty plea supporting that conviction, leaving Gross with the misimpression that the only thing he could challenge in an application for leave to appeal was his sentence.

Unlike Gross, Dorsey was not given information, by the circuit court, that might have led him to believe that he could not seek appellate review of his guilty plea. In fact, although the circuit court was not required to advise a defendant of the specific grounds on which he could file an application for leave to appeal, *see State v. Castellon-Gutierrez*, 198 Md. App. 633, 650-51 (2011), the court nonetheless expressly informed Dorsey, at his plea

hearing, that he would need to "obtain permission from the Court of Special Appeals to allow [him] to appeal[,]" which he could obtain on "at least four grounds," including "whether [his] plea was freely and voluntarily given." Then, at sentencing, the court informed Dorsey that he had the "right to appeal the decision . . . within the next 30 days."

Consequently, unlike Gross, Dorsey was not improperly told by the court, at his sentencing hearing, that he could only seek appellate review of his sentence. Rather, he was expressly informed that he could also seek such review of his guilty plea. And, although the sentencing court used the term "right to appeal," rather than "right to file an application for leave to appeal," Dorsey was advised, at his plea hearing, that he would need to obtain permission from this Court before filing any appeal.

Hence, we conclude that, pursuant to CP § 7-106, there was a rebuttable presumption that Dorsey waived his claim that his guilty plea was invalid as a result of his failure to raise that claim in an application for leave to appeal. And, as Dorsey was sufficiently advised of his right to challenge the validity of his guilty plea at his 2006 guilty plea and sentencing proceedings, we conclude that he has not rebutted the presumption of waiver under CP § 7-106. Therefore, we hold that Dorsey has waived his post-conviction claim that his guilty plea was invalid.

II.

The State next contends that, even if Dorsey did not waive his post-conviction claim that his guilty plea was invalid, the post-conviction court erred in granting him a new trial on the basis of that claim. We agree.

In its written opinion, granting Dorsey a new trial, the post-conviction court held that the record of the guilty plea was not sufficient to show that Dorsey understood the nature of the armed robbery charges to which he had pleaded guilty because "[a]rmed robbery is complex, containing several different elements, and [is] not readily understandable from the label of the crime itself" (internal citations and quotation marks omitted), and because neither the court below, nor Dorsey's counsel, expressly inquired as to whether he understood the elements of those charges or explained the elements of the charges to Dorsey, on the record, at his plea hearing.

That ruling was erroneous, the State asserts, because the "totality of the circumstances" show that Dorsey understood the nature of the charges against him and because the post-conviction court did not apply the presumption, articulated first in *Henderson v. Morgan*, 426 U.S. 637 (1976), and then in *State v. Priet*, 289 Md. 267 (1981), that "in most cases defense counsel routinely explain the nature of the offense in sufficient detail to give the accused notice of what he is being asked to admit." *Id.* at 281-82 (quoting *Henderson*, 426 U.S. at 647).

Maryland Rule 4-242(c) provides, inter alia, that a "court may not accept a plea of guilty . . . until after an examination of the defendant on the record in open court conducted by the court, the State's Attorney, the attorney for the defendant, or any combination thereof," and "the court determines and announces on the record that (1) the defendant is pleading voluntarily, with understanding of the nature of the charge and the consequences of the plea; and (2) there is a factual basis for the plea."

The Court of Appeals, in *State v. Daughtry*, 419 Md. 35 (2011), considered the validity of a plea of guilty where "the only portion of the plea colloquy" that related to "ascertaining whether the plea was knowing and voluntary was Daughtry's affirmative response to the trial judge's question, 'Have you talked over your plea with your lawyer?'" *Id.* at 42. Finding that exchange insufficient to demonstrate that Daughtry understood the nature of his charges, the Court reversed his conviction.

In so doing, the Court of Appeals noted that "[o]ur jurisprudence, in determining the validity of a guilty plea, has focused always on whether the defendant, based on the totality of the circumstances, entered the plea knowingly and voluntarily." *See Daughtry*, 419 Md. at 69 (citations omitted). It then went on to reaffirm the validity of, what it called, the "*Henderson/Priet* presumption," that is, the presumption that defense counsel routinely explain the nature of the charges to the defendant in sufficient detail for the defendant to know and understand the nature of the charges. But, the Court then hastened to limit the applicability of that presumption, warning that "where 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), and the plea must be vacated." *Id.* at 71. Then, in light of that limitation, the Court held that Daughtry's mere confirmation that he had "talked over [his] plea with [his] lawyer," was insufficient, as it only showed that Daughtry understood, at most, the terms of the plea agreement and not the nature of the charges to which he was pleading guilty. *Id.* To employ the *Henderson/Priet* presumption, instructed the Court, there must be some additional "hook" in the record on which to hang the "hat" of the presumption, beyond the

mere fact that the defendant was represented by counsel and had "generically" discussed the plea with his or her attorney. *Id.* at 76.

"[S]trong evidence . . . that the defendant entered the guilty plea knowingly and voluntarily[,]" *id.* at 74-75, avowed the *Daughtry* Court, is when the defendant himself "informs the trial court that either he understands personally or was made aware by, or discussed with, his attorney the nature of the charges against him[.]" *Id.* at 74. And, in addition to such "strong evidence," other factors the court may consider under the "totality of the circumstances" include "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 72 (quoting *Priet*, 289 Md. at 277).

In light of *Daughtry*, it is clear that when we apply the totality of the circumstances standard to the record before us, that record, as the State claims, is more than sufficient to show that Dorsey understood the nature of "armed robbery." Indeed, during Dorsey's February 17, 2006 guilty plea hearing, the court conducted a lengthy plea colloquy "to determine" in its words, "whether [Dorsey's] plea is freely and voluntarily given." During that colloquy, Dorsey stated that he had received a copy of the charges against him and that he had "had enough time to go over the charges . . . with his attorney," a factual scenario similar to what occurred in *Gross*, 186 Md. App. at 350-51, where this Court held that, when the defendant "told the plea judge that he had received a copy of the indictment ('charging document') and had discussed the charges and 'gone over' the elements of the charges with his counsel. . . . [I]t was entirely proper for the court to presume that appellant knew the elements of the charge to which he agreed to plead guilty."

To be sure, Dorsey's affirmation that he had had "enough time to go over the charges" with his counsel amounted to an admission that he had "discussed with[ ] his attorney the nature of the charges against him." Such an admission, as we just noted, is, according to the *Daughtry* Court, "strong evidence" that a defendant knew and understood the nature of the charges against him. 419 Md. at 74-75. Moreover, Dorsey agreed that he was, in fact, guilty of the armed robbery charges and was entering into the guilty plea "freely and voluntarily." Furthermore, we note that the plea colloquy, in the instant case, was far more extensive than that which occurred in *Daughtry*, where the only evidence that Daughtry knew and understood the murder charge he was facing was that he had answered simply "yes" to the court's question of whether he had talked over his *plea* with his attorney. *See* 419 Md. at 70. Thus, we can conclude, based on this portion of the plea colloquy alone, that the court below erred in not applying the presumption that Dorsey's plea counsel explained the nature of his charges in sufficient detail, and, therefore, that Dorsey's plea was entered knowingly and voluntarily.

Furthermore, the prosecutor, at Dorsey's post-conviction hearing, asked Dorsey's plea counsel, while he was on the witness stand, whether, when he met with Dorsey after reaching a plea agreement with the State, he would have "discussed with [Dorsey] the facts, and the evidence, and the crimes that he was charged with, and the elements the State would have had to prove, and how the evidence that the State had would fit into those elements." Dorsey's former counsel replied, "I mean, I believe I would have." The tentativeness of this response is understandable, as this question required Dorsey's plea counsel to recall a guilty plea proceeding which had occurred nine years ago. But, while that testimony is

arguably far from compelling evidence, by itself, it does lend further support to the conclusion that such a discussion took place, *see State v. Smith*, 443 Md. 572, 653 (2015) (Watts, J., plurality opinion joined by Harrell and Battaglia, JJ., and McDonald, J., concurring) (holding that, when a claim that a guilty plea was not knowing and voluntary is raised in a collateral proceeding, such as a *coram nobis* or post-conviction proceeding, a reviewing court may properly consider the testimony of a defense counsel as to what he told his client regarding the nature of the charge prior to the entry of the plea), and, therefore, application of the "*Henderson/Priet* presumption."

In addition, among the factors to be taken into account, under the "totality of the circumstances" test, according to the *Daughtry* Court are "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." 419 Md. at 72-74 (quoting *Priet*, 289 Md. at 277). Those factors collectively provide significant support for the conclusion that Dorsey entered his plea knowingly and voluntarily.

Indeed, as for the "personal characteristics of the accused," at the time of the plea, we note that Dorsey was thirty-seven years of age, had graduated from high school, and had received an associate's degree in engineering from Anne Arundel Community College. And, if that was not enough, he was quite familiar with the criminal justice system as Dorsey had an extensive record of misdemeanor theft and drug possession charges. Thus, Dorsey had the education and experience to understand and appreciate the nature of the charges to which he was pleading guilty.

Then, as for the "the factual basis proffered to support the court's acceptance of the plea[,]" the prosecutor, at Dorsey's 2006 guilty plea hearing, gave a thorough statement of fact in support of the plea, in which it highlighted all of the elements of the crimes to which Dorsey was pleading guilty. He described, in detail, each robbery, depicting how Dorsey approached each victim while armed, displayed or pointed his weapon, and demanded money, and then how each victim, in fear, turned over, to Dorsey, whatever money he or she possessed. Accordingly, the factual basis proffered, by the State, lends further support that Dorsey understood the nature of the armed robbery charges to which he was pleading guilty.

And, as for the "complexity of the charge," the Court of Appeals, in *Priet*, in assessing the validity of a guilty plea to armed robbery, declared that "armed robbery" was an uncomplicated charge, or, as the Court put it, "a simple one," 289 Md. at 291, although the Court appears to have stepped back from that description in a footnote in *Daughtry*. *See* 419 Md. at 57 n.10. In any event, "armed" and "robbery" are hardly technical terms and, in fact, are likely to be readily understood even by those with little formal education. But, even if that were not so, they would be readily understood by a 37-year-old man with an associate's degree in engineering who is no stranger to the criminal justice system.

For the foregoing reasons, we hold that the Anne Arundel County circuit court erred in holding that Dorsey did not understand the nature of the armed robbery charges against him at the time of his 2006 guilty plea and in granting him the post-conviction relief of a new trial on the basis of that erroneous holding. Hence, we reverse the judgment of the circuit court, and remand for further proceedings, so that the circuit court may address the

remaining claims in Dorsey's post-conviction petitions that were argued before the post-conviction court at the March 4, 2015 hearing.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY REVERSED AND THE CASE REMANDED TO THAT COURT FOR PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.