Circuit Court for Calvert County
Case No. C-04-CR-22-000102

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2444

September Term, 2023

CHARLES HOWARD JACKSON, JR.

v.

STATE OF MARYLAND

Graeff,
Ripken,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Graeff, J.

Filed: June 18, 2025

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Charles Howard Jackson, Jr., appellant, was charged in the Circuit Court for Calvert County with one count of willful failure to pay child support under Md. Code Ann., Fam. Law ("FL") § 10-203(a) (2019 Repl. Vol.). On November 17, 2022, appellant pleaded guilty. On August 3, 2023, the circuit court sentenced appellant to incarceration for three years, all but 18 months suspended, with five years of probation.

On appeal, appellant presents one question for this Court's review:

> Did the circuit court err in determining that [a]ppellant's plea was voluntary where the court did not hear a factual basis for the plea and [a]ppellant was not asked to admit to the facts constituting the offense?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

On May 3, 2022, the State charged appellant with nonsupport of his son, L.C., between September 1, 2021, and May 2, 2022.[1] On November 17, 2022, the prosecutor advised the court that the parties had reached a plea deal, and appellant would plead guilty to the single charge of failure to pay child support. The prosecutor detailed the amount of appellant's payment obligations and the date of his last payments to the three caretakers, as follows:

> [T]he A case, is $552 a month, $138 a month on the arrears, and he owes $9,657.51, having last paid on November the 1st. Three payments: one in the amount of $32.34 and two in the amount of $31.85. Prior to that was August 16th.

[1] Appellant owed child support to three individuals because the child had "moved from person to person." To protect the child's privacy, we will use his initials.

> The B case with Tina Bean (phonetic), arrears only, $138 a month, total balance $7,379.18, having last paid July 26th, $53.08.
>
> And the C case is arrears only for Thomas Cornett (phonetic), $138 a month. He owes $5,230.86, having last paid July 26th, $53.07.
>
> Your Honor, there was a cash bond set in the amount of $1500. That has been signed over to the Court this morning. So, I'm going to ask that $1,000 go in the ongoing case and $250 on each arrears.
>
> It is my understanding, after talking to Mr. Piereck, [appellant's counsel], there is one count of criminal non-support. It's my understanding Mr. Jackson is going to enter a plea of guilty to that. And we would ask that the sentence be deferred.

Defense counsel agreed that sentencing be deferred for a couple of months.

The court asked appellant a series of questions to make sure that he was "freely, knowingly, and voluntarily" pleading guilty. The colloquy included the following:

> THE COURT: You're here today on a criminal non-support, one count, maximum penalty is up to three years in jail and/or a $100 fine. Do you understand that?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: You've been represented by Mr. Piereck, is that correct?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: Has Mr. Piereck explained what the State would have to prove in order to convict you of that [count]?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: Has he answered all of your questions?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: And are you satisfied with his services thus far?

THE DEFENDANT: Yes, sir.

THE COURT: All right. And do you understand that you don't have to plead guilty here today? You have a right to have the case go to trial.

THE DEFENDANT: Yes, sir.

THE COURT: And do you understand that it's the State's burden of proof to prove that you're guilty of criminal non-support? Do you understand that?

THE DEFENDANT: Yes, sir.

After explaining the consequences of pleading guilty, the court asked defense counsel if he objected to the court taking judicial notice of appellant's payment obligations and payment history, and defense counsel stated that he had no objection. The court then stated that it would "take judicial notice and find that there's a sufficient factual basis to support the admission."

The following colloquy subsequently ensued:

THE COURT: Are you pleading guilty for criminal non-support because you are, in fact, guilty?

THE DEFENDANT: Yes.

THE COURT: All right. The Court finds that the Defendant has freely, knowingly and voluntarily waived his right to have a trial in this case. [I] find that he's freely, knowingly and voluntarily pleading guilty to criminal non-support. I will accept his plea and I find you guilty of Count 1, criminal non-support.

DISCUSSION

Appellant contends that the circuit court erred in determining that his plea was voluntary because "the court did not hear a factual basis for the plea and [he] was not asked to admit to the facts constituting the offense." He argues that the factual basis for the

charge was not sufficient to find that he was proceeding voluntarily because the record "was wholly inadequate to ensure that [he] understood that he was admitting to conduct sufficient to constitute willful failure to pay child support."

As appellant notes, FL § 10-203(a) provides that a "parent may not willfully fail to provide for the support of his or her minor child." The question presented here is whether the court properly found that appellant's guilty plea was knowing and voluntary where there was not a specific recitation on the record that the charge required a finding that his failure to pay child support was willful.

"When an appellate court reviews the application of the law to the facts of a case, a trial court receives no deference." *Tate v. State*, 459 Md. 587, 608, *cert. denied. sub nom.*, *Tate v. Maryland*, 586 U.S. 991 (2018). We review the circuit court's application of the Maryland Rules de novo. *Id.*

Maryland Rule 4-242(c) sets forth the requirements for a circuit court to accept a guilty plea, in pertinent part, as follows:

> The court may not accept a plea of guilty, including a conditional 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 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.

As the Supreme Court of Maryland has noted, the "fundamental rule" is that "a plea of guilty may be entered under circumstances showing a voluntary desire on the part of the accused to do so, with an intelligent understanding of the nature of the offense to which he

is pleading guilty and the possible consequences of such a plea." *State v. Priet*, 289 Md. 267, 275 (1981) (quoting *James v. State*, 242 Md. 424, 428 (1966)). "[T]rial judges need not 'enumerate certain rights, or go through any particular litany, before accepting a defendant's guilty plea; rather, . . . the record must affirmatively disclose that the accused entered his confession of guilt voluntarily and understandingly.'" *State v. Daughtry*, 419 Md. 35, 51 (2011) (alteration in original) (quoting *Davis v. State*, 278 Md. 103, 114 (1976)). In making a determination whether the defendant understands the nature of the charges to which he is pleading guilty, the court must assess all relevant circumstances, "including, among other factors, 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." *Priet*, 289 Md. at 288.

Here, the parties focus on the adequacy of the factual basis for the plea, which provides a "safeguard that the accused not be convicted of a crime that he or she did not commit." *Metheny v. State*, 359 Md. 576, 602 (2000). As this court has noted:

> "A trial court has broad discretion as to the sources from which it may obtain the factual basis for the plea." *Metheny*, 359 Md. at 603, 755 A.2d 1088. One "generally accepted method[ ] of establishing a factual basis for a guilty plea" is the "prosecutor's testimony," which takes the form "of a summary of the evidence [the prosecutor] expects to present at trial." [*State v.*] *Thornton*, 73 Md. App. [247,] 257-58, 533 A.2d 951 [(1987)] (quoting John L. Barkai, *Accuracy Inquiry for All Felony and Misdemeanor Pleas*, 126 U. Pa. L. Rev. 88, 121-22 (1977)). The prosecutor must "supply concrete facts rather than merely assert that a factual basis exists," and "the truth of the evidence thus summarized [must] be confirmed by the defendant." *Thornton*, 73 Md. App. at 258, 533 A.2d 951 (quoting Barkai, *supra*, at 122). So long as "the conduct which the defendant admits constitutes the offense charged to which he has pleaded guilty," though, the court may rely on the summary confirmed by the defendant to find that a sufficient factual basis

> supports the guilty plea. *Thornton*, 73 Md. App. at 255, 533 A.2d 951 (quoting *McCall v. State*, 9 Md. App. 191, 199, 263 A.2d 19 (1970)). In other words, "when facts are admitted by the defendant and are not in dispute, the judge need only apply the facts to the legal elements of the crime charged to determine if an adequate factual basis exists." *Metheny*, 359 Md. at 603, 755 A.2d 1088.

State v. Smith, 244 Md. App. 354, 375-76 (2020) (some alterations in original). The ultimate focus, however, is "whether the defendant's plea is made knowingly, voluntarily, and with the support of an adequate factual basis." *Id.* at 377.

To be sure, the factual basis for the plea set forth at the beginning of the hearing, which detailed the amounts of child support owed, did not state that appellant's failure to pay child support was willful. The Supreme Court of Maryland, however, has rejected the view that "the precise legal elements comprising the offense be communicated to the defendant as a prerequisite to the valid acceptance of his guilty plea." *Priet*, 289 Md. at 288. Rather, the court needs to ensure only that the defendant understands the nature of the charge. *Id.* In other words, the defendant needs "a basic understanding of its essential substance, rather than of the specific legal components of the offense to which the plea is tendered." *Id.*

Appellant's responses to the court's questions, combined with the factual basis provided for the plea, support a finding that his plea was voluntary, and he knew the nature of the charge to which he was pleading guilty. Appellant was represented by counsel, and he stated his attorney "explained what the State would have to prove in order to convict" him of criminal nonsupport, his attorney "answered all of [his] questions," and he was

"satisfied with his [attorney's] services." Appellant confirmed that he was "pleading guilty for criminal nonsupport because [he was], in fact, guilty."

Under these circumstances, the record supports a finding that counsel advised appellant of the nature of the charges to which he pleaded guilty. As the Supreme Court of Maryland explained in *Tate*, 459 Md. at 623, there is a presumption that "defense counsel routinely explain the nature of the offense in sufficient detail to give the accused notice of what he [or she] is being asked to admit." (alteration in original) (quoting *Priet*, 289 Md. at 290). Although this presumption is not applicable in cases where "the only evidence proffered to show that a defendant is aware of the nature of the charges against him is the fact that he or she is represented by an attorney and that the defendant discussed the plea with his or her attorney," *Daughtry*, 419 Md. at 69, it does apply where there is a factual basis to support the presumption that a defendant's attorney advised him of the nature of the charges. *See Hicks v. Franklin*, 546 F.3d 1279, 1284 (10th Cir. 2008) ("We will not apply the presumption that the attorney explained the element to the defendant . . . unless there is some factual basis in the record to support it."). Here, appellant stated that his attorney "explained what the State would have to prove in order to convict" him of that count. Under the totality of the circumstances, the record was sufficient to determine that appellant voluntarily and intelligently entered his guilty plea.

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