IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JEROMY JENKINS,	)	
	)	
Appellant,	)	
	)	**WD88078**
v.	)	
	)	**OPINION FILED:**
	)	**August 4, 2026**
STATE OF MISSOURI,	)	
	)	
Respondent.	)	

Appeal from the Circuit Court of Jackson County, Missouri
The Honorable Cory L. Atkins, Judge

Before Division One: Gary D. Witt, Presiding Judge, Mark D. Pfeiffer, Judge, and Thomas N. Chapman, Judge

Mr. Jeromy L. Jenkins ("Jenkins") appeals the judgment of the Circuit Court of Jackson County, Missouri ("motion court"), which denied his Rule 29.15[1] motion for post-conviction relief ("PCR motion"). Because we conclude that Jenkins has failed to demonstrate that the motion court clearly erred in denying his claim that his trial counsel ("Trial Counsel") was constitutionally ineffective for failing to convince him to accept

[1] All rule references are to I MISSOURI COURT RULES – STATE 2024.

the State's plea offer instead of proceeding to trial when Jenkins was adamant that he was innocent during plea negotiations prior to trial, we affirm.

Factual and Procedural Background[2]

In December 2018, Jenkins was charged with three counts of first-degree sodomy of a victim under age twelve. Each count carried a mandatory life sentence upon conviction with no possibility of parole before thirty[3] years' imprisonment. *See* § 566.060.2(3).[4]

After several continuances, Jenkins's jury trial was eventually set for November 30, 2021. Ahead of the trial, the State extended three separate plea offers to reduce Jenkins's charges.

On August 17, 2021, the State offered to dismiss one count, to amend the two remaining counts to first-degree statutory sodomy of a victim under age twelve,[5] and to recommend consecutive sentences of ten years' imprisonment in exchange for Jenkins's

[2] "On appeal from the motion court's denial of a Rule 29.15 motion, we view the facts in the light most favorable to the underlying criminal conviction as those facts bear upon the motion court's judgment." *Tatham v. State*, 715 S.W.3d 235, 237 n.1 (Mo. App. W.D. 2025) (quoting *Morrison v. State*, 619 S.W.3d 605, 607 n.1 (Mo. App. W.D. 2021)).

[3] Section 566.060.2(3) contains an exception, not applicable here, authorizing parole after fifteen years if the defendant has reached the age of seventy-five.

[4] All statutory references are to THE REVISED STATUTES OF MISSOURI (2016), as supplemented through July 10, 2018, unless otherwise indicated.

[5] A conviction of first-degree statutory sodomy of a victim under age twelve carries a mandatory minimum sentence of ten years' imprisonment and a maximum sentence of life imprisonment. § 566.062.2(1). Unlike a conviction of first-degree sodomy of a victim under age twelve, a conviction of first-degree statutory sodomy of a victim under age twelve does not require the defendant to serve thirty years in prison before parole eligibility. *Contrast* § 566.060.2(3), *with* § 566.062.2(1).

guilty plea. After discussion with Trial Counsel, Jenkins rejected the offer without making any counteroffer or attempting to engage in further discussions with the State on a possible plea agreement.

On November 16, the State offered to dismiss two of the counts against Jenkins and to amend the final count to first-degree statutory sodomy of a victim under age fourteen[6] without further specification on the length of the recommended sentence. The State received no response to this plea offer.

On November 18, the State offered to dismiss one count and to amend the other two counts to first-degree statutory sodomy in exchange for Jenkins agreeing to a bench trial rather than a jury trial.

On November 21, Jenkins—facing three felony charges with mandatory life sentences at trial—offered to plead guilty to "misdemeanor probation." The State rejected Jenkins's plea proposal.

On November 22, the parties appeared before the trial court for a pretrial hearing. At this hearing, the State recited the plea offers extended to Jenkins and the responses the State had received. During this hearing, Trial Counsel indicated that he did not recall receiving the November 16 plea offer and requested the opportunity to discuss it with Jenkins:

> [TRIAL COUNSEL]: Yes, Your Honor. I do want to make one statement regarding the plea offers that the State has laid out right now. In my communications . . . I don't believe I was provided an option . . . for

[6] A conviction of first-degree statutory sodomy of a child under age fourteen carries a mandatory minimum sentence of five years' imprisonment and a maximum sentence of life imprisonment. *See* § 566.062.2.

> pleading to one count and dismissing two, okay? So that is one issue that I will discuss with Mr. Jenkins further. . . . We did put out a counter offer of plea misdemeanor probation and that's the extent of the plea offers and negotiations that's transpired, Your Honor.
>
> THE COURT: Okay. I understand that there may be new information to you at this moment.
>
> [TRIAL COUNSEL]: Briefly, yes, on that one offer. We've consulted thoroughly about that, Your Honor. I don't believe that's going to change anything, Your Honor.
>
> THE COURT: You don't want to take a break and go talk to your client?
>
> [TRIAL COUNSEL]: Yes, that would be good.
>
> . . . .
>
> (Off the record.)
>
> [TRIAL COUNSEL]: Thank you, Your Honor.
>
> THE COURT: Okay. We're back on the record. [Trial Counsel], did you want to supplement the record at all?
>
> [TRIAL COUNSEL]: No, Your Honor, just that we've discussed the additional offer that was outlined today and we're rejecting that offer and we're ready to proceed.

After this announcement by Trial Counsel, the State, on its own accord, amended the charges from three counts of first-degree sodomy to three counts of first-degree statutory sodomy of a child under age twelve.

The parties proceeded with the amended charges to a jury trial on November 30. The jury acquitted Jenkins on one count but convicted him of second-degree child molestation and attempted first-degree statutory sodomy. The jury recommended that Jenkins be sentenced to fifteen years' imprisonment and ten years' imprisonment respectively. The trial court imposed the jury's recommended sentences with the terms to

run consecutively for a total of twenty-five years' imprisonment. Jenkins appealed his convictions, and this Court affirmed his convictions and sentences. *State v. Jenkins*, 675 S.W.3d 704 (Mo. App. W.D. 2023).

On January 8, 2024, Jenkins filed his *pro se* PCR motion. Jenkins's PCR counsel subsequently filed an amended motion. As relevant to this appeal, Jenkins alleged in his amended motion that Trial Counsel provided constitutionally ineffective assistance in failing to properly advise him of the risks of proceeding to a jury trial and that, if Trial Counsel had properly advised him of those risks, he would have accepted a plea offer.

The motion court held an evidentiary hearing on Jenkins's amended motion. Jenkins presented the testimony of two witnesses: Trial Counsel and himself.

Trial Counsel confirmed that the record of the pretrial hearing fully and accurately captured all plea negotiations in the case. Trial Counsel recalled discussing each of the plea offers with Jenkins and explaining the consequences of accepting each plea agreement. Trial Counsel also recalled that Jenkins refused to entertain any plea offer from the State and adamantly demanded to go to trial because he maintained his innocence of the charges.

Although Jenkins could not recall many of the specific details of his discussions with Trial Counsel, he confirmed that he rejected all of the plea offers because he maintained his innocence and because he believed that he would be acquitted by a jury. Nonetheless, Jenkins asserted that he overestimated the likelihood of his acquittal because he perceived Trial Counsel to be highly confident in his case. But, Jenkins did not identify any specific action, statement, or piece of advice from Trial Counsel that led

him to overestimate the strength of his available defense, nor did Jenkins identify any warning that Trial Counsel should have provided him to dissuade him from proceeding to trial.

The motion court denied Jenkins's claim of constitutionally ineffective assistance of counsel. The motion court concluded that Trial Counsel had provided constitutionally adequate representation by communicating all plea offers to Jenkins and explaining the consequences of each plea offer to permit Jenkins to make an informed decision. Furthermore, the motion court concluded that Trial Counsel's performance did not prejudice Jenkins because Jenkins chose to proceed to trial because he maintained his innocence, not because of Trial Counsel's advice.

Jenkins timely appealed. In his sole point on appeal, Jenkins argues the motion court clearly erred in rejecting his claim of ineffective assistance of counsel.

Standard of Review

"Appellate review of the [motion] court's action on the motion filed under this Rule 29.15 shall be limited to a determination of whether the findings and conclusions of the [motion] court are clearly erroneous." *Scott v. State*, 719 S.W.3d 723, 725 (Mo. banc 2025) (quoting Rule 29.15(k)). "In applying this standard, appellate courts should defer to the motion court's superior opportunity to judge the credibility of witnesses and recognize the 'circuit court is entitled to believe all, part, or none of the evidence presented at the post-conviction hearing.'" *Flaherty v. State*, 694 S.W.3d 413, 419 (Mo. banc 2024) (quoting *Driskill v. State*, 626 S.W.3d 212, 220 (Mo. banc 2021)). To find that a decision was clearly erroneous, this Court must form a "definite and firm

impression that a mistake has been made" after a review of the entire record. *See id.* at 416 (quoting *Davis v. State*, 486 S.W.3d 898, 905 (Mo. banc 2016)). "The motion court's findings of fact and conclusions of law are presumed to be correct." *Beck v. State*, 637 S.W.3d 545, 551 (Mo. App. W.D. 2021) (quoting *Hays v. State*, 360 S.W.3d 304, 309 (Mo. App. W.D. 2012)).

Analysis

"During plea negotiations defendants are entitled to the effective assistance of competent counsel. . . . The two-part *Strickland v. Washington*[7] test applies to challenges to guilty pleas based on ineffective assistance of counsel." *Lafler v. Cooper*, 566 U.S. 156, 162-63 (2012) (citation modified). Under the two-part *Strickland* test, the movant must affirmatively demonstrate by a preponderance of the evidence: "(1) his trial counsel failed to exercise the level of skill and diligence that a reasonably competent trial counsel would in a similar situation, and (2) he was prejudiced by that failure." *Watson v. State*, 520 S.W.3d 423, 435 (Mo. banc 2017).

To establish the performance prong, "a movant must overcome the strong presumption that counsel's conduct was reasonable and effective and *identify specific acts or omissions of counsel* that, in light of all the circumstances, fell outside the wide range of professional competent assistance." *McKee v. State*, 540 S.W.3d 451, 456 (Mo. App. W.D. 2018) (emphasis added) (citation modified) (quoting *Hoeber v. State*, 488 S.W.3d 648, 655 (Mo. banc 2016)).

[7] *Strickland v. Washington*, 466 U.S. 668 (1984).

The United States Supreme Court has established the following test for *Strickland* prejudice when evaluating trial counsel's purported error in failing to properly advise a defendant to accept a plea agreement:

> In these circumstances a defendant must show that but for the ineffective advice of counsel there is a reasonable probability that the plea offer would have been presented to the court (*i.e.*, *that the defendant would have accepted the plea* and the prosecution would not have withdrawn it in light of intervening circumstances), that the court would have accepted its terms, and that the conviction or sentence, or both, under the offer's terms would have been less severe than under the judgment and sentence that in fact were imposed.

Lafler, 566 U.S. at 164 (emphasis added).

If the movant fails to prove either prong, relief cannot be granted. *Hecker v. State*, 677 S.W.3d 507, 512 (Mo. banc 2023). And if the movant fails to satisfy one prong, we need not address the other. *Staten v. State*, 624 S.W.3d 748, 750 (Mo. banc 2021); *Shores v. State*, 674 S.W.3d 127, 133 (Mo. App. W.D. 2023).

Prejudice Prong

At the PCR hearing, Trial Counsel testified that Jenkins adamantly professed his innocence and, *for that reason*, refused to consider pleading guilty. The motion court found Trial Counsel's testimony credible, and the record corroborates Trial Counsel's testimony. Jenkins summarily rebuffed the State's three documented attempts to negotiate a plea agreement. Despite having three months to consider the State's initial plea offer and one week to consider the final plea offer, Jenkins made no serious effort to initiate negotiations beyond tendering a single counteroffer to plead guilty to an unspecified misdemeanor and receive an unspecified term of probation. Furthermore, at

the PCR hearing, *Jenkins himself* confirmed that he rejected the State's plea offers because he maintained his innocence, and he could not identify any specific action or omission by Trial Counsel that influenced his decision to proceed to trial beyond his adamant belief that he was innocent.

Based on this record, the motion court did not err in concluding that Jenkins refused to seriously entertain the possibility of accepting any of the State's plea offers because of his belief that he would be acquitted at trial and that, as a result, no advice from Trial Counsel could have reasonably changed Jenkins's mind on proceeding to a jury trial.

Because Jenkins's determination to prove his innocence—not the advice of his counsel—led him to refuse the State's plea offers, Jenkins has failed to demonstrate any *Strickland* prejudice. *See Wrice v. State*, 485 S.W.3d 382, 385-86 (Mo. App. E.D. 2016) (Where the PCR movant maintained his innocence during plea negotiations and confirmed at his PCR evidentiary hearing that his innocence was his primary motivating factor in refusing to accept a plea offer from the State, the PCR movant failed to demonstrate a reasonable probability that he would have accepted a plea offer if he had effective assistance of counsel attempting to convince him to accept the plea offer.); *Savick v. State*, 461 S.W.3d 63, 67 (Mo. App. S.D. 2015) ("The motion court did not believe Savick's explanation for why he rejected the offer. The motion court believed [trial counsel], who testified that Savick rejected the plea offer because he believed he was innocent and wanted a jury trial. . . . Therefore, Savick did not prove that he rejected the plea offer because of [trial counsel's] allegedly inadequate explanation of its terms.");

Joseph v. State, 482 S.W.3d 457, 461 (Mo. App. E.D. 2016) ("The record overwhelmingly shows that Movant was not willing to plead guilty. Even though he knew he had been identified as the burglar, the alleged crime met each element of first-degree burglary, the potential sentence, and that his attorney did not believe it was a good case for trial, Movant was adamant that he was innocent of the crime and was not willing 'to entertain any other idea except for a trial.'"); *Moore v. State*, 407 S.W.3d 172, 179 (Mo. App. E.D. 2013) (reasoning that, because "the evidence showed Movant was not willing to plead guilty[,]" the PCR movant was not "prejudiced by [trial counsel's], or the earlier attorneys', failure to inform him the plea offer could expire"); *Noland v. State*, 413 S.W.3d 684, 685-86 (Mo. App. S.D. 2013) (deferring to the motion court's determination that the PCR movant failed to demonstrate *Strickland* prejudice resulting from his trial counsel's advice regarding the State's plea offer because the PCR movant unrelentingly demanded to go to trial and refused to consider any guilty plea).

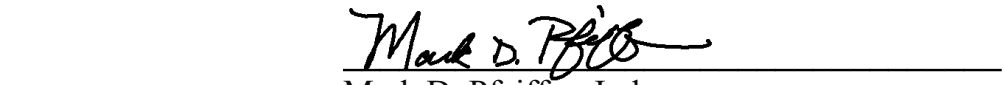
The motion court did not clearly err in concluding that Jenkins failed to meet his burden of proving the prejudice prong. Having concluded that Jenkins has failed to satisfy the prejudice prong, we need not and do not address the performance prong.[8]

[8] *Ex gratia*, we note that Trial Counsel's performance during plea negotiations was reasonable and constitutionally sufficient. Trial Counsel presented all plea offers to Jenkins and thoroughly explained the consequences of the plea proposals, especially the difference between the possible lengths of sentences for a guilty plea versus convictions by a jury to the pending charges. Jenkins failed to identify one act or piece of advice at the PCR hearing that he claims Trial Counsel should have provided him in considering the State's plea offers and merely summarily states that Trial Counsel failed to properly advise him. Jenkins's testimony at the PCR hearing, that he agreed he would now plead guilty "having gone through the trial and knowing what [I] know now," suggests that his ineffective assistance claim is motivated by his dissatisfaction with the outcome of his

Jenkins's point on appeal is denied.

Conclusion

The judgment of the motion court is affirmed.



Mark D. Pfeiffer, Judge

Gary D. Witt, Presiding Judge, and Thomas N. Chapman, Judge, concur.

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trial and his hindsight-fueled regret in not accepting a more favorable plea offer as opposed to any argument that Trial Counsel failed to properly advise him of the risks of going to trial.

"[A]s a general rule, defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused." *Missouri v. Frye*, 566 U.S. 134, 145 (2012). "If a plea [agreement] has been offered, a defendant has the right to effective assistance of counsel in considering whether to accept it." *Lafler v. Cooper*, 566 U.S. 156, 168 (2012). Thus, defense counsel holds a "duty to advise a client of the possible consequences he [or she] could receive if convicted at trial so that the client may make an informed decision as to whether to accept or reject a plea agreement." *Williams v. State*, 367 S.W.3d 652, 656 (Mo. App. E.D. 2012) (alteration in original) (quoting *McClendon v. State*, 247 S.W.3d 549, 554 (Mo. App. E.D. 2007)). Here, Jenkins received such constitutionally effective assistance of counsel from Trial Counsel during plea negotiations.