UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0010

September Term, 2012

MATTHEW DAVID SLUSS

v.

STATE OF MARYLAND

Meredith,
Woodward,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: July 21, 2015

In 1996, appellant, Matthew Sluss, pled guilty to fourth degree sexual offense and possession of child pornography in the Circuit Court for Allegany County. On March 15, 2012, appellant was convicted in the United States District Court for the District of Maryland on unrelated charges involving the distribution of child pornography. On January 9, 2012, appellant filed a petition for writ of error coram nobis ("the coram nobis petition") in the circuit court on the grounds that the 1996 guilty plea was neither knowing nor voluntary. The circuit court denied appellant's request for coram nobis relief on March 19, 2012.

On appeal, appellant presents one question for our review, which we have slightly rephrased:

> Did the trial court err in determining that appellant had an understanding of the nature of the charges against him and thus had knowingly and voluntarily entered a guilty plea in the State of Maryland?

We answer this question in the negative and thus affirm the judgment of the circuit court.

BACKGROUND

State Convictions

In 1994, appellant became acquainted with a twelve- or thirteen-year-old boy ("the victim") through an online bulletin board. Appellant informed the victim that appellant intended to create his own bulletin board and needed "co-system operators" to assist him. The victim volunteered to help appellant with the creation of the bulletin board. The victim's mother purchased from appellant a telephone modem for her son's computer, and appellant met the victim in person for the first time when appellant delivered the modem to the victim's

home in September or October of 1994. Once at the home, appellant embraced the victim and asked him for a kiss, which the victim refused. The next day, appellant telephoned the victim and asked him questions about his sexuality.

At some point, appellant returned to the victim's home, where he downloaded "x-rated" files onto the victim's computer. The victim later told police that these files contained images of naked women, men and boys engaged in various sexual acts. The victim advised police that the boys in these images were his age or younger. In December 1994, the victim went to appellant's residence, and appellant showed the victim more pornographic images of men and boys engaged in sexual acts. The victim noted at this time that appellant had more than five hundred pornographic files on his computer. Appellant gave the victim passwords to access and view appellant's collection of pornography.

The victim also told police that, on five different occasions, appellant grabbed and fondled the victim's genital area. For the first four times, the victim slapped at appellant and told him to stop. On the fifth occasion, the victim struck appellant, and the fondling incidents ceased.

Appellant eventually spoke to the police himself and admitted to "wrestling" with the victim. Appellant claimed that the wrestling matches "escalated" into appellant fondling the victim's genitals, although he denied that the victim ever struck him. Appellant also told police that he had downloaded sexually explicit images onto his and the victim's computer.

Based on these interactions with the victim, appellant was charged with one count of fourth degree sexual offense, one count of assault and battery, and several counts involving the possession and distribution of child pornography. On January 16, 1996, appellant appeared in the circuit court and entered an *Alford* plea[1] as to the fourth degree sexual offense and a standard guilty plea as to one count of possession of child pornography ("the 1996 guilty plea"). Appellant also entered an *Alford* plea as to an unrelated charge of misdemeanor theft from Walmart.[2]

On April 29, 1996, the circuit court sentenced appellant to concurrent sentences of one year for the fourth degree sexual offense, one year for the possession of child pornography charge ("the Maryland sex offenses"), and eighteen months for the theft charge. The court suspended the execution of all of the sentences in favor of an eighteen-month period of supervised probation. On May 13, 1997, appellant was found guilty of first degree sexual abuse in Arkansas and was sentenced to thirty-six months' incarceration, with eighteen months suspended. On July 9, 1998, the circuit court found that appellant had violated his

[1] *See North Carolina v. Alford*, 400 U.S. 25, 37-38 (1970) (holding that a court may accept the guilty plea of an accused who refuses to admit committing the criminal act, but "intelligently concludes that his interests require entry of a guilty plea and the record before the judge contains strong evidence of actual guilt").

[2] During the investigation into appellant's contact with the victim, appellant admitted to purchasing a "high speed tape back up system" from Walmart. He then replaced the high speed system with a lower speed system, which appellant returned to Walmart for a refund of the price of the higher speed system. This constituted theft of $177.00.

probation and ordered that appellant be incarcerated for the balance of his eighteen-month sentence.

Federal Conviction

In the spring and summer of 2010, federal law enforcement officers discovered that appellant "was downloading and sharing large amounts of child pornography over a publicly available P2P file sharing program." Federal officers also uncovered evidence that appellant had been creating child pornography himself by recording minors engaging in sexual activity via a webcam.

Appellant was arrested on September 15, 2010. On June 8, 2011, appellant pled guilty in the U.S. District Court for the District of Maryland to one count of Advertising Child Pornography, in violation of 18 U.S.C. § 2251(d). On March 15, 2012, the U.S. District Court sentenced appellant to thirty-three years' incarceration. Ordinarily, a conviction under 18 U.S.C. § 2251(d) requires a sentence of not less than fifteen years nor more than thirty years. 18 U.S.C. § 2251(e). However, a person who "has 2 or more prior convictions . . . under the laws of any State relating to the sexual exploitation of children" is subject to a mandatory minimum sentence of thirty-five years. *Id*. In appellant's case, the court accepted the U.S. Attorney's recommendation that appellant's sentence be reduced from thirty-five years to thirty-three years because appellant had "provided substantial assistance in the investigation and prosecution of others," and thus was eligible for a downward adjustment in his sentence.

Coram Nobis Petition

On January 9, 2012, appellant filed in the circuit court the coram nobis petition that is the subject of this appeal. Appellant argued that the 1996 guilty plea was "neither knowing or voluntary," and therefore violated his constitutional rights. Furthermore, appellant contended that he faced a "significant collateral consequence" as a result of the convictions for the Maryland sex offenses, because the prior convictions in Maryland and Arkansas increased appellant's sentence for the federal crime from a maximum of thirty years to a mandatory minimum of thirty-five years.

The circuit court, after considering appellant's coram nobis petition and holding a hearing on the matter, determined in a Memorandum & Order dated March 19, 2012:

> [T]he Court concludes that the charges of possession of child pornography and fourth degree sexual offense are not complex. Further that the accused was not an individual with diminished mental capacity but rather was about to graduate with an associates degree in the field of computers.
>
> The transcript of the plea process reflects that the State's Attorney gave a lengthy and detailed summation of the facts relevant to the plea offense. The recitation and exhibit included a copy of a search warrant with even greater detail with accompanying photographs of children engaged in sexual activity. This description of the offenses was in sufficient detail to set forth the elements of the offenses.
>
> Based on these findings the Court concludes that under the totality of circumstances the record reflects that [appellant] knowingly and voluntarily entered his pleas with knowledge of the elements of the charges to which he pleaded guilty.

Appellant filed this timely appeal on March 28, 2012. Additional facts will be set forth as necessary to resolve the question presented.

DISCUSSION

Voluntary and Knowing Pleas Under Maryland Rule 4-242

A court's acceptance of a guilty plea must be based on a "reliable determination on the voluntariness issue which satisfies the constitutional rights of the defendant." *Boykin v. Alabama*, 395 U.S. 238, 242 (1969) (citation and internal quotation marks omitted). The *Boykin* Court described the constitutional rights waived by a guilty plea: "First, is the privilege against compulsory self-incrimination guaranteed by the Fifth Amendment and applicable to the States by reason of the Fourteenth. Second, is the right to trial by jury. Third, is the right to confront one's accusers." *Id.* at 243 (citations omitted). The Supreme Court concluded that courts accepting guilty pleas cannot "presume a waiver of these three important federal rights from a silent record." *Id.* (footnote omitted). Instead, the record must reflect that the defendant who entered the guilty plea knowingly and voluntarily waived these constitutional rights. *Id.* at 242-43.

Maryland Rule 4-242(c) governs the acceptance of pleas, and reflects the necessity of a voluntary and knowing guilty plea:

> **(c) Plea of guilty.—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. In addition, before accepting the plea, the court shall comply with section (f) of this Rule. The court may accept the plea of guilty even though the defendant does not admit guilt. Upon refusal to accept a plea of guilty, the court shall enter a plea of not guilty.

(Emphasis added). The Rule does not define what is meant by the requirement that a defendant must plead "with [an] understanding of the nature of the charge." *Id*.

The Court of Appeals considered this question in *State v. Priet*, 289 Md. 267, 268-74 (1981). *Priet* consolidated three appeals from this Court involving Rule 731(c), which was the predecessor to Rule 4-242(c) and contained identical language regarding the requirement of a defendant's "understanding of the nature of the charge." *See id*. at 268-69; *State v. Daughtry*, 419 Md. 35, 50 (2011) (stating that Rule 731(c) was "the predecessor to current Rule 4-242"). Priet and the other appellees asked the Court of Appeals to uphold the reversal of their criminal convictions on the grounds that the trial courts had accepted their guilty pleas in violation of Rule 731(c). *Priet*, 289 Md. at 268-69. Specifically, the appellees argued that Rule 731(c) went beyond the due process standard mandated by the U.S. Constitution and required that the trial judge provide a "simple explanation of the substance of the charge [that] would suffice to establish an accused's understanding of the offense." *Id.* at 278. The appellees claimed that the trial courts presiding over their cases failed to provide such explanation, and thus their guilty pleas failed to meet the requirements of Rule 731(c). *Id.*

According to the Court, the following occurred at Priet's trial:

> The trial judge said to Priet: "Now, you are asking us to enter a guilty plea to the charge of robbery with a dangerous and deadly weapon, are you not?" Priet replied, "Yes, sir." The trial judge then told Priet that upon conviction for the offense, a sentence of twenty years could be imposed. Priet said he understood. [The trial judge] advised Priet in detail of the various constitutional and statutory rights that he would be waiving if his guilty plea were accepted. Priet said he understood. [The trial judge] then told Priet that if his guilty plea were accepted, there would be no trial but that a "statement" would be read into the record. Again Priet said he understood. **[The trial judge] asked Priet whether his plea was "voluntary," of his "own free will and without any conditions" and entered because he was "in fact guilty."** Priet responded affirmatively to each of these questions. The trial judge next asked Priet whether, except for the plea agreement, any promises or inducements had been made to him in return for his guilty plea and whether he had been threatened, intimidated, or forced into pleading guilty. Priet responded in the negative. **In response to further questions from the court, Priet acknowledged that he had discussed his guilty plea with his attorney, as well as the relevant facts of the case and possible defenses to the crime. At this point in the dialogue, [the trial judge] said that he was satisfied that the plea was voluntary**. **The prosecutor then read an agreed statement of facts to the court. It disclosed that Priet and a companion had entered a 7-11 Store and, at the point of a fourteen-inch bayonet**, and in the presence of store employees, **had taken money from the store's cash register**, together with a traveler's check and a cigarette coupon.

Id. at 270 (emphasis added). The trial court subsequently entered a verdict of guilty and sentenced Priet. *Id.* at 271. Priet's case thus did not contain any specific reference to Priet's understanding of the nature of the charge to which he was pleading guilty or a recital of the elements of that charge. *See id.* at 270.

In the other two consolidated cases, however, the records reflected some discussion of the nature of the relevant offenses. *Id.* at 272-24. One appellee, Pincus, stated that he "understood the difference between first and second degree murder," and that "he had taken the difference in punishment into consideration in pleading guilty to second degree murder." *Id.* at 273. The other appellee, Vandiver, acknowledged that he had "discussed the elements of robbery with his counsel," and that he understood "what the offense of robbery consist[ed] [of], [and] what burden the State would have to prove" to obtain a conviction for robbery. *Id.* at 274. Both Pincus and Vandiver answered questions about their background, asserted that they had not been threatened or induced into entering a guilty plea, and acknowledged that they had waived certain constitutional rights in pleading guilty. *Id.* at 272-74. As with Priet, an agreed statement of facts was entered into the record in both matters. *Id.* at 273-74.

After outlining the facts of each case and the case law predating Rule 731(c), the Court of Appeals held:

> Consistent with the principles espoused in the majority of these state and federal cases . . . **Rule 731(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. The rule does not require that the precise legal elements comprising the offense be communicated to the defendant as a prerequisite to the valid acceptance of his guilty plea. Rather, by its express terms, the rule mandates** that a guilty plea not be accepted unless it is determined by the court, after questioning of the defendant on the record, **that the accused understands the "nature" of the charge.** This, of course, is an essential requirement of the rule and must be applied in a practical and realistic manner. **It simply contemplates that the court will explain to the accused, in**

> **understandable terms, the nature of the offense to afford him a basic understanding of its essential substance, rather than of the specific legal components of the offense to which the plea is tendered.** The nature of some crimes is readily understandable from the crime itself. **Necessarily, the required determination can only be made on a case-by-case basis, taking into account the relevant circumstances in their totality as disclosed by the record, 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**.

Id. at 287-88 (emphasis added).

The Court concluded that "the test" for the acceptance of guilty pleas under Rule 731(c) is "whether, considering the record as a whole, the trial judge could fairly determine that the defendant understood the nature of the charge to which he pleaded guilty." *Id.* at 291. Applying this test to the facts of the three cases, the Court of Appeals determined that this Court had reversed the convictions of the appellees in error, because "the record demonstrates that each [appellee] was questioned at length concerning the voluntariness vel non of his plea, was informed of the penalty for the offense, and of the constitutional and other rights that would be waived by the entry of a guilty plea." *Id.* at 290. The Court also adopted the presumption set forth in *Henderson v. Morgan*, 426 U.S. 637 (1976), that "'it may be appropriate to presume 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.'" *Priet*, 289 Md. at 290 (quoting *Henderson*, 426 U.S. at 647).

The holding of *Priet*, including the *Henderson* presumption, was called into question in 2005 when the Supreme Court issued its opinion in *Bradshaw v. Stumpf*, 545 U.S. 175 (2005). In *Bradshaw*, the defendant claimed that he "had pleaded guilty to aggravated murder without understanding that specific intent to cause death was a necessary element of the charge under [state] law." *Id.* at 182. The Supreme Court reversed the Sixth Circuit and upheld Stumpf's conviction, concluding that "[i]n Stumpf's plea hearing, his attorneys represented on the record that they had explained to their client the elements of the aggravated murder charge; Stumpf himself then confirmed that this representation was true." *Id.* at 183. In reaching this outcome, the *Bradshaw* Court held:

> [W]e have never held that the judge must himself explain the elements of each charge to the defendant on the record. Rather, **the constitutional prerequisites of a valid plea may be satisfied where the record accurately reflects that the nature of the charge and the elements of the crime were explained to the defendant by his own, competent counsel.**

Id. at 183 (emphasis added).

Bradshaw appeared to undermine the holding of *Priet* in two ways. First, *Bradshaw* held that both the nature *and* the "elements of the crime" must be explained to the defendant, whereas *Priet* determined that Rule 4-242 "does not require that the precise legal elements comprising the offense be communicated to the defendant as a prerequisite to the valid acceptance of his guilty plea." *Compare Bradshaw*, 545 U.S. at 183, *with Priet*, 289 Md. at 288. Further, *Bradshaw* stated that the record must reflect that the nature and elements of

charge actually "were explained" to the defendant, suggesting that courts could not find that such explanation was given under the *Henderson* presumption. *Bradshaw*, 545 U.S. at 183. As a result, in one post-*Bradshaw* case, this Court observed:

> [T]he *Bradshaw* opinion has effected a significant restriction to the principles enunciated by the Court of Appeals in *Priet*. No longer can a trial judge rely on the presumption that defense counsel has sufficiently explained to the defendant the nature of the offense to which he or she is entering a guilty plea.

Abrams v. State, 176 Md. App. 600, 622-23 (2007).

Nevertheless, in the case of *State v. Daughtry*, 419 Md. 35 (2011), the Court of Appeals reaffirmed *Priet* and held that the Henderson presumption survived *Bradshaw*. *Id.* at 68-69, 71 n.17. The Court stated that *Bradshaw* never commented on the correctness of presuming that counsel explained the nature of the charges to the defendant, because the facts of *Bradshaw* did not raise that issue. *Id.* at 68-69. Instead, the record in *Bradshaw* contained an express representation by defense counsel that he had explained the elements of charges to the defendant, rendering the *Henderson* presumption unnecessary. *Id.* The Court, however, declared the *Henderson* presumption to be of "limited viability." *Id*. at 68-69.

At the plea hearing in *Daughtry*, the following colloquy occurred between Daughtry and the trial court:

> [THE COURT]: Sir, would you please stand and tell me your full name?
>
> [DAUGHTRY]: Demetrius Daughtry.

[THE COURT]: And how old are you?

[DAUGHTRY]: Twenty-one.

[THE COURT]: What was the last grade of school that you finished?

[DAUGHTRY]: Tenth.

[THE COURT]: Are you able to read, write and understand English?

[DAUGHTRY]: Yes.

[THE COURT]: Have you talked over your plea with your lawyer?

[DAUGHTRY]: Yes.

[THE COURT]: Is this your decision?

[DAUGHTRY]: Yes.

Id. at 44.

The Court of Appeals reiterated

> that the test, as stated in *Priet*, in determining whether a guilty plea is voluntary under current Rule 4-242(c), is whether the totality of the circumstances reflects that a defendant knowingly and voluntarily entered into the plea.

Id. at 71 (footnotes omitted). With regard to the *Henderson* presumption, the Court determined that because of the "anemic" record in *Daughtry*, employing the presumption "on an otherwise naked record would be contrary to Rule 4-242's requirement that there be an

examination 'on the record in open court.'" *Id*. at 71, 75 (quoting Md. Rule 4-242(c)). The Court concluded:

> [R]egarding the issue of the defendant being made aware of the nature of the charges against him, where the record reflects nothing more than the fact that a defendant is represented by counsel (as in the present case) 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.

Application of Daughtry *and* Priet *to the Instant Case*

The record in the case *sub judice* indicates that the trial court's acceptance of the 1996 guilty plea was based upon the colloquy between appellant and defense counsel:

[DEFENSE COUNSEL]:	All right ah, [appellant,] you heard [the prosecutor] outline the terms of the plea agreement ah, to the pleas which you're entering pleas of guilty to is that correct?
[APPELLANT]:	Yes.
[DEFENSE COUNSEL]:	**And you and I have discussed those and you understand the plea agreement is that correct?**
[APPELLANT]:	**Yes.**
[DEFENSE COUNSEL]:	**All right. Now ah, did you receive a copy of the charges in this case?**

[APPELLANT]:	**Yes I did.**
[DEFENSE COUNSEL]:	**And have you read those charges?**
[APPELLANT]:	**Yes I have.**
[DEFENSE COUNSEL]:	**And have you and I discussed those charges?**
[APPELLANT]:	**Yes.**
[DEFENSE COUNSEL]:	**And do you understand what you're charged with?**
[APPELLANT]:	**Yes.**
[DEFENSE COUNSEL]:	Ah, and do you have any questions about the charges with which you're charged?
[APPELLANT]:	No.
[**DEFENSE COUNSEL]:**	**All right. Now have you told me everything that you know about this case?**
[APPELLANT]:	**Yes sir.**
[DEFENSE COUNSEL]:	**And ah, have you and I discussed if we were to go to trial, possible defenses that might be raised?**
[APPELLANT]:	**Yes**.
[DEFENSE COUNSEL]:	All right. Now do you have any questions ah, of me regarding ah, the ah, the charges or any possible

defenses that [sic] should we go to trial?

[APPELLANT]: No sir.

(Emphasis added).

Appellant argues that "courts may not accept guilty pleas without clearly determining that the defendant is aware of the nature of the offense to which he is pleading guilty and understands the elements of the offense." Appellant claims that, under *Daughtry*, "the record must contain facts from which a rational inference may be drawn that the defendant had been advised of the elements and nature of the crime in order to support a conclusion that the defendant ha[d] [the] knowledge" needed to enter into a knowing and voluntary plea. Appellant emphasizes the failure of the record in the instant case to support the inference that appellant had "even a rudimentary understanding of what the elements of the charged offenses were."

The State responds that appellant acknowledged that he (1) read a copy of the charges, (2) reviewed the charges with counsel, (3) discussed possible defenses with counsel, and (4) "understood what he was charged with."[3] The State argues that these admissions

[3] The State also makes four arguments that it claims preclude our review of the merits of appellant's argument. First, the State argues that appellant waived his entitlement to coram nobis relief by failing to seek leave to appeal his convictions for the Maryland sex offenses. Second, the State contends that, even if appellant did not waive his right to coram nobis relief by failing to seek leave to appeal, he waived it by failing to seek relief under the Uniform Postconviction Procedure Act. Third, the State asserts that appellant's coram nobis (continued...)

demonstrate that appellant's plea was knowing and voluntary. The State also contends that the validity of the 1996 guilty plea is supported by the facts read onto the record at the plea hearing, as well as defense counsel's agreement at the plea hearing that the facts, "based on the advise [sic] of counsel are sufficient to support a guilty verdict."

We agree with the State and conclude that the circuit court properly accepted appellant's 1996 guilty plea as knowing and voluntary. We shall explain.

In applying *Priet* and *Daughtry* to the facts of the instant case, our first task is to determine whether the *Henderson* presumption may be invoked. As previously stated, the Court of Appeals declared in *Daughtry* that the *Henderson* presumption retained "limited viability" after *Bradshaw*, but declined to apply such presumption to the facts of *Daughtry*. 419 Md. at 68-69. The Court held that, where the record reveals nothing more than "the defendant is represented by counsel and [ ] the defendant discussed the plea with his or her attorney," there is an insufficient factual basis in the record to support the presumption. *See id.* at 76. Nevertheless, the Court upheld its previous application of the *Henderson* presumption in *Priet*, explaining that, in *Priet*, the record reflected that Priet "had discussed

[3](...continued)
petition is barred by laches. Last, the State claims that appellant failed to satisfy the requirements for coram nobis relief because he did not establish a significant collateral consequence that resulted from his conviction for the Maryland sex offenses. Because we conclude that the State prevails on the merits, we do not reach these arguments.

his plea, the facts of the case and possible defenses to the charge with his attorney." *Daughtry*, 419 Md. at 68-70.

In our view, the facts revealed by the record in this case have greater similarity with those in *Priet* than those in *Daughtry*. Just like Priet, appellant acknowledged that he discussed with his attorney both the plea agreement and the possible defenses to the charges. *See Daughtry*, 419 Md. at 70 (citing *Priet*, 289 Md. at 270, 291). Appellant also told the trial court that he read and discussed the charges with his attorney, and that he told his attorney "everything" that he knew about the case, which clearly implies that appellant and his attorney discussed the facts of the case. Taken together, appellant made the same acknowledgment that Priet made about the matters discussed with his attorney—the plea agreement, the facts of the case, and any possible defenses. Moreover, appellant made an additional acknowledgment that he understood what he was "charged with." Under these circumstances, we conclude that there was a sufficient factual basis in the record to support the application of the *Henderson* presumption. *See Daughtry*, 419 Md. at 76. Under that presumption, an inference can be drawn that defense counsel discussed the charges "in sufficient detail to give [appellant] notice of what he is being asked to admit." *Daughtry*, 419 Md. at 48-49 (citing *Henderson*, 426 U.S. at 647).

Having established that appellant received sufficient notice from defense counsel regarding the nature of the offenses, we next review the "totality of the circumstances" to determine whether appellant entered his plea knowingly and voluntarily, as required by Rule

4-242. *See Daughtry*, 419 Md. at 71-72 (citing *Priet*, 289 Md. at 277); *see also* Md. Rule 4-242(c). The "circumstances" we review under this test are, as discussed above, the record at the plea hearing, including the colloquy between appellant and defense counsel, and the inference allowed by *Henderson* presumption. We also consider the three factors identified in *Priet*, *i.e.*, "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." *Daughtry*, 419 Md. at 72 (quoting *Priet*, 289 Md. at 277). In its Memorandum & Order, the circuit court addressed these factors in denying the coram nobis petition, and we agree with the court's analysis.

Like the circuit court, we conclude that "the charges of possession of child pornography and fourth degree sexual offense are not complex," and that appellant's argument to the contrary is unpersuasive. Appellant argues that these offenses are not "readily understandable from the label of the crime itself," because both fourth degree sexual offense and possession of child pornography "may be proven in multiple ways and are constrained by numerous limitations and qualifications." With regard to the child pornography charge, appellant further contends that "the description utilized in the courtroom [during the plea hearing]—'possession of child pornography'— was woefully inadequate to convey the nuanced set of elements that constitute the several manifestations of the offense."

Appellant's argument, however, ignores other information from the plea hearing. Although a charge of fourth degree sexual offense may not be readily discernible from its

label, appellant admitted that he read the charges against him. The charges accused appellant of committing a fourth degree sexual offense by having sexual contact with the victim. The statement read into the record by the prosecutor, and accepted by defense counsel as sufficient to support a guilty verdict, further described how appellant fondled the victim's genitals despite the victim's verbal and physical protestations. These facts convince us that appellant understood that the fourth degree sexual offense charge was premised on his fondling of the victim's genitals, and not on some other conduct constituting a fourth degree sexual offense.

Similarly, although the term "child pornography" was not defined at the plea hearing, the charges that appellant read described appellant as possessing a "visual representation depicting an individual under the age of sixteen (16) years engaged in sexual conduct." The prosecutor also proffered that the images found on appellant's computer consisted of "young males involved in sexual activity,"and defense counsel agreed that this fact would support a guilty verdict. Therefore, we hold that the charges, as conveyed to appellant during the plea proceeding, were not complex and were readily understandable by appellant.

We also agree with the circuit court that the second *Priet* factor—"the personal characteristics of the accused"—further indicates that appellant entered his plea knowingly and voluntarily, with an understanding of the nature of the charges against him. *See Daughtry*, 419 at 72 (quoting *Priet*, 289 Md. at 277). At the sentencing hearing held subsequent to the 1996 guilty plea, defense counsel described appellant as a student at

Allegany Community College who was about to receive a degree in the field of computers. The circuit court thus properly found that appellant "was not an individual with diminished mental capacity."[4] We note that appellant had more education than Priet, whose education ended in the ninth grade, and that appellant had particular expertise in an area related to the charges, namely, the use of computers. *See Priet*, 289 Md. at 270. We conclude that appellant possessed the mental capacity to understand the nature of the charges against him, and thus had the ability to enter a knowing and voluntary guilty plea.

The third *Priet* factor—"the factual basis proffered to support the court's acceptance of the plea"—also supports the validity of the 1996 guilty plea. *See Daughtry*, 419 Md. at 72 (quoting *Priet*, 289 Md. at 277). As stated above, the proffered facts describe appellant's fondling of the victim's "genital area" and appellant's possession of 500 images depicting "young males involved in sexual activity." These facts indicate that appellant understood the nature of the specific charges against him.

Finally, we find an "absen[ce] [of] other circumstances tending to negate a finding of voluntariness." *Daughtry*, 419 Md. at 75. During the colloquy between appellant and his counsel, appellant made several additional acknowledgments, including that he (1) was not

[4] In reviewing a coram nobis petition, the trial court is permitted to consider circumstances on the record before it that are outside the plea hearing. See State v. Smith, __ Md. __, __, No. 47, September Term 2014 (filed July 13, 2015), slip op. at 35 ("[I]n a coram nobis case such as this one, the only issue is whether the defendant understood the nature of the charges—regardless of whether the trial court could determine as much." (emphasis in original)).

medicated at the time of the plea hearing, (2) could understand English, and (3) understood that he was entitled to a jury trial and a presumption of innocence. Moreover, appellant affirmatively waived his rights to have a trial by jury, confront witnesses, and avoid self-incrimination. We thus see nothing in the record that suggests that appellant entered his plea involuntarily.

For the reasons set forth above, we hold that the circuit court correctly ruled that appellant entered his 1996 guilty plea knowingly and voluntarily. Thus there is no basis for coram nobis relief, and appellant's request for such relief was properly denied.

JUDGMENT OF THE CIRCUIT COURT FOR ALLEGANY COUNTY AFFIRMED; APPELLANT TO PAY COSTS.