Circuit Court for Howard County
Case No.: 13-K-13-053470

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1248

September Term, 2024

STATE OF MARYLAND

v.

RYAN PATRICK MATTHIAS

Nazarian,
Beachley,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Beachley, J.

Filed: September 26, 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).

INTRODUCTION

This is an appeal by the State from a grant of post-conviction relief in a criminal case. For the reasons set forth below, we shall reverse.

BACKGROUND

Trial & Sentencing

On May 15, 2014, a jury sitting in the Circuit Court for Howard County found Ryan Patrick Matthias, appellee, guilty of first-degree murder for the shooting death of his ex-girlfriend, Deborah Castellano. On July 25, 2014, the court sentenced him to life imprisonment for first-degree murder plus twenty consecutive years' imprisonment for a firearms offense.

At trial, it was the State's theory that Matthias, after learning that his former girlfriend had been seeing other men, killed her. The State presented evidence that he rented a car, drove from North Carolina to Columbia, Maryland, and ambushed Ms. Castellano in the parking lot of her apartment building, shooting her three times.

Direct Appeal

Matthias took a direct appeal of his convictions to this Court, contending that the trial court erred in admitting cell-phone location evidence and evidence of odometer readings as shown on rental car agency records. We affirmed his convictions in an unreported opinion. *Matthias v. State*, No. 1122, Sept. Term, 2014 (filed February 23, 2017).

On direct appeal we summarized the evidence adduced during Matthias' trial, which

we repeat below. We have modified the factual summary slightly for readability and conciseness:

> In July 2012, after meeting Ms. Castellano online, Matthias moved from Charlotte, North Carolina, into Ms. Castellano's residence in Herkimer, New York. They stopped living together in March 2013, shortly before Ms. Castellano moved to Columbia, Maryland, where she rented an apartment[.] She began working as a dealer and floor supervisor at the Maryland Live Casino in Anne Arundel County.
>
> Matthias helped her move into the new apartment, hiring some of her new neighbors to help him with her furniture. He then returned to Charlotte . . . where he worked the night shift at a retail distribution center.
>
> [Approximately a month later,] [i]n April 2013, Matthias was living with his sister, Stephanie Owens, [who] testified that her brother was distressed over his relationship with Ms. Castellano. He characterized their status as a six-month "break," and reported that Ms. Castellano still said she loved him. He said that he hoped to reconcile with her. Ms. Owens, however, felt that Ms. Castellano was "distancing herself from him."
>
> On April 29 and 30, 2013, Matthias called his employer and reported he was too sick to work. He arranged to rent a vehicle from Triangle Rent A Car in Charlotte, and then drove to Columbia, Maryland. On April 30, without prior notice, he knocked on the door of the neighbors who had helped him move Ms. Castellano's belongings into her apartment. While in the neighbors' apartment, Matthias peered out the window toward Ms. Castellano's apartment, and asked one of her neighbors "whether [he] knew if [Ms. Castellano] was going out with somebody else."
>
> Ms. Castellano, indeed, had been seeing other men, and was active on dating websites. In the early morning hours of May 1, a co-worker with whom she had been intimate left her apartment. Around 2 a.m. on May 1, Matthias called his sister from "Baltimore." Ms. Owens testified that [Matthias] was angry, "crying," and "screaming . . . about seeing a gentleman coming out of [Ms. Castellano's] apartment." He "talked about suicide" and said "he was ninety-five percent sure that he was going to hurt somebody and then kill himself." According to Ms. Owens, Matthias "wanted to hurt" Ms. Castellano "and then he was going to hurt himself because he had nothing else to live for." After convincing him to come home instead, Ms. Owens sent a Facebook message to Ms. Castellano's brother, telling him that, after Matthias had seen "a man coming out of her apartment," "he thought about

hurting her[.]" She asked him to tell his sister not "to keep giving him hope," and warned that Ms. Castellano should watch out for her safety.

On May 2, 2013, Matthias returned to work in North Carolina, but he left his shift early, complaining of illness. On May 3, he rented a Dodge Challenger from Triangle. A distinctive feature of that model is that the rear taillights extend across the entire back of the vehicle.

According to Verizon records, . . . a cell phone having a number for which Matthias was the subscriber, initiated a "data streaming" event, also known as an Internet protocol ("IP") session (indicating Internet usage rather than a call or text message), at 2:20 a.m. on May 4, 2013. The session utilized a specific cell tower known as "Annapolis Junction." This cell tower is located at 9504 Old Annapolis Road in Ellicott City, which is 1.9 "air miles" from Ms. Castellano's apartment.

Avram Polinsky, from Verizon, and Det. Dan Branigan, from the Howard County Police Department, explained that a smart phone typically initiates both calls and IP sessions through one of the three sectors (or faces) of the cell tower that is geographically closest to where that cellular device is located at the moment of initiation. Maps prepared from information reflected in Matthias's Verizon records, which were admitted without objection, show that, between the afternoon of May 3 and the early morning of May 4, Matthias's smart phone traveled from Charlotte, North Carolina, to Howard County, Maryland. These maps indicate that Matthias's phone connected to cell towers in the Charlotte area during the late afternoon of May 3; in the Richmond, Virginia, area around 10:30 p.m.; and in Ellicott City at 2:20 a.m. on May 4.

Ms. Castellano clocked out of work at the casino at 3:42 a.m. on May 4. She returned home, and parked her Toyota Corolla in front of her apartment building, next to a white Dodge Caravan. While she was still in the driver's seat, Ms. Castellano was mortally shot three times.

The shooting wakened Ms. Castellano's neighbors. Shortly after 4:00 a.m., Maria Zeledon, a resident of an adjacent apartment building, heard "three shots." Looking out her third floor window, she saw a vehicle with distinctive taillights all across the back. She heard the tires of the vehicle make a squealing noise as it left the scene.

At the same time, Veronica Arredondo, a first-floor resident of Ms. Castellano's apartment building, heard four "strong" noises that sounded like "tires . . . had exploded," followed by the sound of a car "tak[ing] off" with

"really loud" squealing tires. Later, at 9:10 a.m. on May 4, Ms. Arredondo went to her white Dodge Caravan, which she had parked in the apartment lot at approximately 3:45 a.m. In the adjacent car was a "dead lady."

There were spent casings from a .45 caliber firearm on the ground, and blood stains on the passenger side of Ms. Arredondo's van, which was parked next to the driver's side of Ms. Castellano's vehicle. Although the murder weapon was never recovered, police obtained palm prints from the exterior passenger side of the van, and forensically matched those prints to Matthias.

At approximately 6:30 a.m. on May 4, 2013, Matthias called Michelle Peterson, a tractor trailer driver whom he had met online in 2009. During the call, Matthias told Ms. Peterson that he was traveling down the I-81 corridor in Virginia. Ms. Peterson testified that she had only met Matthias in person twice, had not been in contact with him since 2010, and did not make arrangements with to meet with him that day.

Later, on the morning of May 4, Matthias phoned his fifteen-year-old son in Roanoke. According to the boy's mother, Matthias made the call between 7 and 8 a.m., and then showed up for an unscheduled visit to their Roanoke home, driving a rented vehicle. After 9 a.m. on May 4, Matthias called his sister to tell her he was taking her advice to spend more time with his son.

After spending the evening in Roanoke, Matthias drove back to Charlotte, where he returned the rental car on May 5, 2013. Triangle Rent A Car manager John Molina testified that, he performed the routine "walk-around" of the vehicle when Matthias rented it on May 3, to "document damage, mileage and fuel." On May 5, the odometer had changed from 23,500 to 24,545, a total of 1,045 miles. . . . Mr. Molina explained that there was an "incorrect" odometer reading on the first page of the rental agreement, which would have indicated a total mileage of only 675 miles. A drive from Charlotte to Columbia, and then to Roanoke and back to Charlotte would be over 800 miles.

On May 8, Matthias called Michelle Peterson again, asking her to lie if anyone called about him, and say that he had been "hanging" with her over the weekend of May 3-4. Because he failed to answer her questions about who would be calling and why, Ms. Peterson hung up on him. Matthias also told her that he had changed his phone number.

> Matthias was charged with Ms. Castellano's murder and incarcerated pending trial. At the Howard County Detention Center, he had daily conversations with another inmate, Sean Witt. At trial, Mr. Witt testified that Matthias was upset that the victim had been dating other men, called her "very promiscuous" and "a whore," and said that "she got what she deserved." Witt maintained that Matthias's account of his whereabouts on May 3-4, 2013, changed several times as discovery in the criminal proceedings was disclosed to him. Although Matthias told Witt that "they're not going to find a gun," Matthias was aware that his palm print on the vehicle adjacent to Ms. Castellano's car would be "a damning piece of evidence against him."
>
> In recorded telephone calls to family members from jail, Matthias repeatedly stated that he did not travel to Maryland on May 3-4, 2013, and insisted that the paperwork for his rental vehicle would support that claim by showing that he traveled only 675 miles.
>
> In closing, the State argued that Matthias's palm print, cell phone, and distinctive rental car placed him at the murder scene, and that his behavior afterward, in attempting to establish an alibi and discussing the crime during his incarceration, showed consciousness of guilt.

Matthias, slip op. at 2-7.

Petition for Post-Conviction Relief

In 2020, Matthias filed, in the circuit court, a *pro se* petition for post-conviction relief. In 2021, through counsel, he filed a supplemental petition raising, *inter alia*, a claim that he was denied his right to effective assistance of counsel when his trial counsel failed to object to certain voir dire questions the trial court had posed to prospective jurors during jury selection that he asserted ran afoul of the holding of *Dingle v. State*, 361 Md. 1 (2000).[1]

[1] In a nutshell, *Dingle*, and its progeny, prohibit compound voir dire questions that require prospective jurors to self-assess whether they can be fair and impartial. We discuss *Dingle* in greater detail *infra*.

In his post-conviction petition, Matthias argued that the following voir dire questions asked of the prospective jurors in his case were objectionable under *Dingle* because they were compound questions asking the jurors to identify their own bias and self-assess whether they could remain fair and impartial despite the bias:[2]

> Ladies and gentlemen, as I indicated earlier in terms of what the charges are in this case, my question for you is, do any of you have such strong feelings about homicide, first degree premeditated murder and/or second degree specific intent murder that it would interfere with your ability to render a fair and impartial verdict based solely on the testimony and the evidence that you would hear in this case?
>
> Does any member of the jury panel have such strong feelings regarding use of a handgun in a crime of violence or a felony that they are concerned that it would interfere with their ability to render a fair and impartial verdict basely solely on the testimony and the evidence that you would hear in this case and the law as you would be instructed by the Court?
>
> Ladies and gentlemen, members of the panel, would any of your feelings about the potential sentence of imprisonment for life without the possibility of parole prevent or substantially impair you from making an impartial decision about the Defendant's guilt or innocence?
>
> Ladies and gentlemen, members of the panel, would any of your feelings about the sentence of imprisonment for life without the possibility of parole prevent or substantially impair you in rendering a sentence for the Defendant in accordance with the evidence, the law, the individualized circumstances of Mr. Matthias and the nature of this case?
>
> Ladies and gentlemen, members of the panel, and some of you may have already answered this question, if you have you don't have to repeat yourself, does any member of the jury panel have such strong feelings regarding domestic violence that it would interfere with your ability to render a fair and impartial verdict?

[2] The State agrees that at least some of the voir dire questions violated *Dingle*. We shall assume, without deciding, for the purposes of this appeal that at least some of the questions were objectionable on the basis of *Dingle* and its progeny.

> Ladies and gentlemen, is there any other reason not already explained why any member of the jury panel cannot be a fair and impartial juror in this case, including, but not limited to, any beliefs related to race, sex, gender, sexual orientation or other personal attributes of the accused or witnesses? Or any religious and/or social beliefs that you may hold yourself which may inhibit your ability to be a fair and impartial juror in this case?

After lunch, the court conducted voir dire with a second panel of jurors, asking the following questions relevant to this appeal:

> Ladies and gentlemen, members of the panel, do any of you have such strong feelings about homicide in the first degree, premeditated murder and/or second degree specific intent murder that it would interfere with your ability to be fair and impartial and to render a judgment based solely on the testimony and the evidence that would be introduced during the course of this trial?
>
> My question for you, ladies and gentlemen, is, would your feelings about the potential sentence of imprisonment for life without the possibility of parole prevent or substantially impair you from making an impartial decision about the Defendant's guilt or innocence?
>
> Is there anyone who is concerned that their feelings about the sentence of imprisonment for life without the possibility of parole would prevent or substantially impair them from making an impartial decision about the Defendant's guilt or innocence?
>
> Somewhat similarly, ladies and gentlemen, is there anyone on the panel who has feelings about the sentence of imprisonment for life without the possibility of parole that would prevent or substantially impair you in sentencing the Defendant in accordance with the evidence, the law, the individualized circumstances of Mr. Matthias and the nature of this case if a guilty verdict was rendered with respect to first degree murder?
>
> Somewhat similarly, ladies and gentlemen, does any member of the jury have such strong feelings regarding domestic violence that it would interfere with your ability to be fair and impartial in this case?
>
> Does any member of the jury panel have such strong feelings regarding the charge of premeditated deliberate and willful murder in the first degree that they believe those strong feelings would interfere with their ability to render

> a fair and impartial verdict based solely on the testimony and the evidence and the law as instructed by the Court?
>
> Somewhat similarly, ladies and gentlemen, does any member of the jury panel have such strong feelings regarding the use of a handgun in a crime of violence or a felony that they would be concerned that they would be unable to render a fair and impartial verdict based solely on the testimony and the evidence and the law as instructed by the Court?
>
> Ladies and gentlemen, is there any other reason not already inquired about but why you would believe that you cannot be a fair and impartial juror in this case, including, but not limited to, any beliefs related to race, sex, gender, sexual orientation or other personal attributes of the accused or witnesses or any religious or any social beliefs that you may hold yourself which may inhabit [sic] your ability to be fair and impartial as a juror in this case?
>
> And, lastly, ladies and gentlemen, is there any other matter which has not been addressed but that any member of the panel feels could possibly adversely affect their ability to be fair and impartial in weighing the evidence in this case and in determining an appropriate sentence if required to do so?

In his post-conviction petition, Matthias asserted that his trial counsel made a serious attorney error by failing to object to the compound voir dire questions, thereby satisfying the first prong, the "performance" prong, of the two-pronged test outlined in *Strickland v. Washington*, 466 U.S. 668 (1984). As for the second prong of *Strickland*, the "prejudice" prong, Matthias argued that prejudice is presumed under the circumstances presented by this case. Matthias also argued that he was prejudiced by trial counsel's failure to object to the voir dire questions because, had counsel objected to them, a winning issue would have been preserved for appeal.

The Post-Conviction Court's Decision

After holding a hearing on the petition, the post-conviction court found that Matthias had been denied his right to effective assistance of trial counsel when counsel failed to

object to the voir dire questions. As a result, the post-conviction court vacated all of Matthias' convictions.[3] In pertinent part, the post-conviction court ruled as follows:

> Here the trial Court, in every instance, allowed [Matthias] and [the] State to ask additional questions to prospective jurors who responded to the *voir dire* questions now complained of. However, given the phrasing of each *voir dire* question enumerated above, it is apparent that the questions are in violation of *Dingle*, *Pearson* [*v. State*, 437 Md. 350 (2014)], and *Collins* [*v. State*, 452 Md. 614 (2017)]. Because the trial Court in the instant action asked *voir dire* questions substantially akin to the impermissible *voir dire* questions at issue in *Pearson*, and because such questions usurped the role of the trial Court to evaluate the prospective jurors' impartiality, the trial Court could not have properly impaneled a jury. Therefore, the Court finds that [Matthias'] trial counsel, in failing to object to such questions, deficiently interpreted the law at the time of trial. Trial counsel's deficient interpretation of the law prejudiced [Matthias] by violating his right to an impartial jury as afforded by the Sixth Amendment and to the U.S. Constitution and the Twenty-First Article of the Maryland Declaration of Rights. *See Wright v. State*, 411 Md. 503, 513-514 (2009). This Court finds that [Matthias'] trial counsel provided ineffective assistance of counsel at trial. The Court will grant the Petitioner's Supplemental Petition based on this allegation of error and will order a new trial.

The State's Appeal

The State sought leave to appeal from the post-conviction court's decision to award Matthias a new trial. We granted the State's application for leave to appeal and transferred the case to our regular appellate docket. *State v. Matthias*, No. 0704, Sept. Term, 2024 (August 27, 2024).

On appeal, the State asserts that the post-conviction court erred in granting Matthias post-conviction relief for two reasons. First, the State asserts that the post-conviction court's finding that trial counsel "deficiently interpreted the law at the time of trial" is

[3] Matthias' trial counsel did not testify during the post-conviction proceedings.

erroneous because trial counsel did not testify during the post-conviction proceedings and no other evidence was adduced during the post-conviction proceedings "regarding trial counsel's knowledge of the law at the time of trial."

Second, the State argues that the post-conviction court's prejudice finding is erroneous. Specifically, with respect to prejudice, the State argues that (1) Matthias did not produce any evidence of prejudice, that is, he presented no evidence of a significant or substantial possibility of a different result at trial had counsel objected to the voir dire questions at issue, (2) the post-conviction court erred to the extent that it presumed that the trial court would not have asked *Dingle*-compliant voir dire questions had counsel objected on *Dingle*-based grounds, (3) prejudice is not presumed in the circumstances of this case, and (4) in light of the strength of the State's case against Matthias, he could not have proved prejudice had he tried.

Matthias' Appellate Response

Matthias argues that the post-conviction court correctly found deficient performance notwithstanding that trial counsel was not called to testify during the post-conviction proceedings. This is so, according to Matthias, because "some acts, like the failure to file a motion for reconsideration of sentence, and, by comparison, the failure to object to improper *voir dire* questions, are by their nature deficient and nothing more need be adduced to prove the deficiency."

With respect to the post-conviction court's prejudice finding, Matthias argues (1) that the post-conviction court correctly presumed that the trial court would not have given

Dingle-compliant voir dire questions had trial counsel objected on *Dingle*-based grounds, (2) that prejudice should be presumed because trial counsel's failure to object to the voir dire questions amounted to a constructive denial of counsel, and (3) the State is wrong in its assertion that "the strength of the case against Mr. Matthias established that there was no substantial or significant possibility" of a different result, because the State's case was based entirely on circumstantial evidence and, even though "circumstantial evidence can be as persuasive as direct evidence," there is also the "possibility that at least one juror could find that the inferences that must be drawn from that circumstantial evidence require [sic] only raises suspicion and gives room to speculation or conjecture not consistent with a finding of guilt beyond a reasonable doubt."[4]

DISCUSSION

Post-Conviction Generally

Claims of ineffective assistance of counsel are governed by a two-part test, as established in *Strickland v. Washington*, 466 U.S. 668 (1984), under which the petitioner bears the burden of demonstrating: (1) that counsel's performance was deficient; and (2) that, as a result, the petitioner was prejudiced. *Barber v. State*, 231 Md. App. 490, 515 (2017).

To prove a deficiency in performance, "a petitioner must show that the acts or

[4] It is noteworthy that in his appellate brief Matthias admits that he made no attempt during the post-conviction proceedings to prove traditional actual *Strickland* prejudice, *i.e.*, he made no attempt to prove that, but for counsel's error in not objecting, there is a significant or substantial possibility of a different result at trial.

omissions of counsel were the result of unreasonable professional judgment and that counsel's performance fell below an objective standard of reasonableness considering prevailing professional norms." *Id.* A petitioner must also overcome the presumption that the challenged conduct might be considered sound trial strategy. *Oken v. State*, 343 Md. 256, 283 (1996). Thus, a court must "affirmatively entertain the range of possible 'reasons [a post-conviction petitioner]'s counsel may have had for proceeding as they did[.]'" *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011) (quoting *Pinholster v. Ayers*, 590 F.3d 651, 692 (9th Cir. 2009) (Kozinski, C.J., dissenting)).

To show that trial counsel's deficient performance prejudiced the defense (putting aside those few situations in which prejudice is presumed), a petitioner must show a significant or substantial possibility of a different result at trial absent the error. *Bowers v. State*, 320 Md. 416, 426-27 (1990).

Standard of Review

A post-conviction court's determination regarding claims of ineffective assistance of counsel "is a mixed question of law and fact." *State v. Jones*, 138 Md. App. 178, 209 (2001) (quoting *Strickland*, 466 U.S. at 698). We will not disturb the factual findings of the post-conviction court unless they are clearly erroneous. *Wilson v. State*, 363 Md. 333, 348 (2001). We will make our own independent analysis, however, based on our own judgment and application of the law to the facts, whether a post-conviction petitioner has proved a denial of the Sixth Amendment right to effective assistance of counsel. *Harris v. State*, 303 Md. 685, 697 (1985). In other words, a reviewing court must exercise its own

independent judgment as to the reasonableness of counsel's conduct and the prejudice, if any. *Jones*, 138 Md. App. at 209.

Dingle

In *Dingle*, broadly speaking, Maryland's Supreme Court repudiated two-part "compound" voir dire questions, which ask jurors to assess their own partiality, because "it is the trial judge that must decide whether, and when, cause for disqualification exists for any particular venire person." 361 Md. at 14-15. Accordingly, these forms of self-assessing questions during voir dire improperly shift the responsibility to decide bias from the trial court to the potential jurors themselves. *Id.* at 21.

An example of one of the several two-part self-assessing voir dire questions the trial court in *Dingle* had asked the jury was:

> Have you or any family member or close personal friend ever been a victim of a crime, and if your answer to that part of the question is yes, would that fact interfere with your ability to be fair and impartial in this case in which the state alleges that the defendants have committed a crime?

Id. at 5. The trial court also told the jury that they need not stand in response to the voir dire question at issue unless they had answered "yes" to both parts of the question. *Id.* at 4-5.

In *Dingl*e, the Court determined that while "the trial court has broad discretion in the conduct of voir dire, most especially with regard to the scope and the form of the questions propounded," a "voir dire inquiry in which a venire person is required to respond only if his or her answer is in the affirmative to both parts of a question" is problematic. *Id.* at 13, 21. The Court reasoned that a voir dire question phrased this way both deprives

the defendant of his ability to challenge those prospective jurors who otherwise would have had an answer to the first part of the question but determined they did not need to respond based on their belief they could be fair and impartial, and impermissibly usurps the trial court's duty to determine the prospective juror's "ability to be fair and impartial." *Id.* at 21.

Over the course of the next several years, our Supreme Court decided cases that seemed to somewhat muddy the *Dingle* waters. *See, e.g.*, *State v. Thomas*, 369 Md. 202 (2002); *Sweet v. State*, 371 Md. 1 (2002); and *State v. Shim*, 418 Md. 37 (2011). In *Pearson v. State*, 437 Md. 350 (2014), our Supreme Court recognized that history, clarified the holdings of those cases, and re-affirmed the holding of *Dingle*.[5] By the time of Matthias' May 2014 trial, the uncertainty caused by *Thomas*, *Sweet*, and *Shim* had recently been settled by *Pearson*.[6]

Presumed Prejudice

The United States Supreme Court's opinions in *Strickland* and *United States v. Cronic*, 466 U.S. 648 (1984), establish that the presumption of prejudice in an ineffective assistance of counsel claim arises under only three circumstances. First, "[a]ctual . . . denial of the assistance of counsel altogether is . . . presumed to result in prejudice." *Strickland*, 466 U.S. at 692. Second, "constructive denial of the assistance of counsel altogether is . . .

[5] *Pearson* abrogated the aspects of *Shim*, *Sweet*, and *Thomas* that conflicted with *Dingle*.

[6] *Pearson* was decided on February 21, 2014. Matthias' trial began a few months later, on May 6, 2014.

presumed to result in prejudice." *Id.* Third, "prejudice is presumed when counsel is burdened by an actual conflict of interest." *Id.* (citing *Cuyler v. Sullivan*, 446 U.S. 335, 345-50 (1980)).

Structural Error

Maryland's Supreme Court has noted the following about "structural errors" and the requirement that they be preserved for appeal to result in automatic reversal on direct appeal:

> [T]he U.S. Supreme Court has acknowledged that certain constitutional rights are so basic to a fair trial that their infraction can never be treated as harmless error. These errors are known as structural errors because they affect the framework within which the trial proceeds and are not simply an error in the trial process itself. If a structural error is objected to at trial and raised on direct appeal, the defendant is entitled to automatic reversal regardless of the error's actual effect on the outcome. Even when an error is deemed structural, however, a defendant must preserve the issue for appellate review to be entitled to an automatic reversal.

Newton v. State, 455 Md. 341, 353-54 (2017) (cleaned up).

This Case

As noted above, Matthias, as a post-conviction petitioner, bore the burden of proving both deficient performance and prejudice. *Strickland*, 466 U.S. at 687. When we review the two prongs, "*Strickland* also instructs that [we] need not consider the performance prong and the prejudice prong in order, nor do [we] need to address both prongs in every case." *Newton*, 455 Md. at 356. Because we hold that Matthias failed to establish prejudice, we will assume for purposes of this opinion that Matthias satisfied *Strickland*'s performance prong.

The Post-Conviction Court Presumed Prejudice

The post-conviction court concluded that "[t]rial counsel's deficient [performance] prejudiced [Matthias] by violating his right to an impartial jury as afforded by the Sixth Amendment and to the U.S. Constitution and the Twenty-First Article of the Maryland Declaration of Rights." Because this is the sole reference to "prejudice" in the post-conviction court's opinion, we infer that the court presumed *Strickland* prejudice under the circumstances of this case. For this proposition, the post-conviction court cited to *Wright*, 411 Md. at 513-514, without any discussion of that case.

In *Wright*, during jury selection, "the venirepersons were asked, as a group, a roster of seventeen questions." *Id.* at 506. At the end of the "collective questioning," each venireperson was individually called to the bench and asked whether they had any information in response to the voir dire questions. *Id.* Wright's counsel objected to this method of conducting voir dire, arguing that "the problem is [the jurors' abilities] to remember all the questions." *Id.* at 507. The trial court overruled the objection. *Id.* On appeal of the preserved claim that the trial court abused its discretion by employing a voir dire process that deprived Wright of a fair and impartial jury, Maryland's Supreme Court agreed with Wright and reversed his convictions. *Id.* at 515. The Court did not characterize the trial court's error in that case as a "structural defect."

The major distinction between *Wright* and Matthias' case is the posture of the two cases. Specifically, *Wright* involved a voir dire-based claim of trial court error that was preserved for, and raised on, direct appeal. Matthias' post-conviction claim is founded on

ineffective assistance of counsel for failing to raise a voir dire-based claim at trial.

The ordinary rule is that, "where a petitioner alleges ineffective assistance of counsel, 'the burden rests on' him or her to satisfy both the performance prong and the prejudice prong" of *Strickland*. *Ramirez v. State*, 464 Md. 532, 562 (2019) (quoting *Chronic*, 466 U.S. at 658). A post-conviction petitioner is only relieved of his burden to establish prejudice in the three areas outlined earlier where prejudice is presumed. None of those three areas is applicable here.[7]

[7] Matthias claims that when his trial counsel failed to object to the voir dire questions, that amounted to a constructive denial of counsel. We are not persuaded.

In *Ramirez*, our Supreme Court explained that

> [c]onstructive denial of the assistance of counsel occurs where, even though counsel was neither absent nor prevented from assisting the petitioner during a critical stage of the proceeding, the circumstances still amount to a denial of the assistance of counsel. For example, constructive denial of the assistance of counsel occurs where "counsel entirely fails to subject the prosecution's case to meaningful adversarial testing[.]" *Cronic*, 466 U.S. at 659.

464 Md. at 574.

A major premise of Matthias' argument in this regard is that trial counsel knew that the voir dire questions were *Dingle*-violative, and then failed to "carefully listen to the *voir dire*" given. He arrives at these conclusions presumably from the fact that some of the voir dire questions trial counsel suggested to the court were *Dingle*-compliant and because attorneys are presumed to know the law. Under these circumstances, according to Matthias, it was as if counsel was not present during voir dire.

However, Matthias failed to establish in post-conviction the facts upon which he now relies for his constructive denial of counsel argument. Based on this record, we do not know that trial counsel was aware of *Dingle* and its progeny. We do not know that trial counsel knew that the voir dire questions may have been *Dingle*-violative, and we do not know why trial counsel did not object to them on that basis. These failures of proof are largely because Matthias, who had the burden of production and persuasion to prove a

(continued)

Prejudice is not Presumed in the Circumstances of this Case

Even if a *Dingle* violation is deemed to be a structural defect on direct appeal from a conviction (which no court has, as of yet, squarely held) and therefore not amenable to harmless error analysis, that does not mean that prejudice is presumed in the context of a *Strickland* ineffective assistance of counsel claim in post-conviction.

In *Weaver v. Massachusetts*, 582 U.S. 286 (2017), the United States Supreme Court held that prejudice would not be presumed in a claim of ineffective assistance of counsel for failing to object to a trial court error in closing the courtroom, which, if preserved, and raised on direct appeal, would have amounted to a structural defect and would not be amenable to harmless error analysis.

Similarly, Maryland's Supreme Court has determined that, even if a voir dire-based claim were determined to be a form of structural error on direct appeal, "that would not relieve [a defendant] of the obligation to prove prejudice when alleging the ineffective assistance of counsel." *Ramirez*, 464 Md. at 573 (citing *Weaver*, 582 U.S. at 302-03).[8] In fact, *Ramirez* noted that "Supreme Court and Maryland case law make clear that, in the event of structural error, the doctrine of harmless error does not apply on direct appeal; but,

claim of ineffective assistance of counsel, did not call trial counsel to inquire about what counsel knew and why they did not object. Moreover, any presumption that trial counsel knows the law cannot relieve a post-conviction petitioner asserting an ineffective assistance of counsel claim from shouldering their burden to prove that claim.

[8] In *Ramirez*, Ramirez raised a claim of ineffective assistance of counsel for failing to strike an admittedly biased juror who ended up as a seated juror through trial, deliberations, and verdict. 464 Md. at 539-41.

in an ineffective assistance of counsel case, the petitioner must still prove prejudice." *Ramirez*, 464 Md. at 573 n.11. In *Clark v. State*, the Court noted the following about the *Ramirez* decision:

> Following the lead of the Supreme Court of the United States in *Weaver*, in *Ramirez*, 464 Md. at 575-77, this Court refused to expand the three exceptions to the requirement to prove prejudice under *Strickland* to include an additional category of structural error—an attorney's deficient performance during *voir dire* in jury selection process.

485 Md. 674, 725 (2023). Moreover, in *Newton v. State*, 455 Md. 341 (2017), our Supreme Court did not presume *Strickland* prejudice on a claim of ineffective assistance of counsel for consenting to the presence of an alternate juror during deliberations even though such a claim, if preserved and raised on direct appeal, would have resulted in automatic reversal because of its nature as structural error.

Accordingly, Matthias was required to establish *Strickland* prejudice, that is, a significant or substantial possibility of a different result at trial absent counsel's supposed error, which he concedes he did not endeavor to do. We hold that the post-conviction court erred in determining otherwise.

Appellate Prejudice

As noted earlier, the State asserts that the post-conviction court erred to the extent that it presumed that the trial court would not have asked *Dingle*-compliant voir dire questions had counsel objected on *Dingle*-based grounds. This argument is made in response to an argument raised by Matthias in post-conviction that he could establish *Strickland* prejudice by showing that, had trial counsel objected to the *Dingle*-violative voir

dire questions, the issue would have been preserved for appeal, and he would have succeeded on appeal.

In this appeal, Matthias argues that the record shows that the trial court would not have asked *Dingle*-compliant voir dire questions in the face of an objection by counsel. He arrives at this conclusion on the basis that his trial counsel, and the State, had both proposed some *Dingle*-compliant voir dire questions (without ever mentioning *Dingle* or its progeny) and the trial court did not utilize them.

Even though it appears that the post-conviction court did not explicitly base its ruling on any of the foregoing arguments, we shall briefly address them.

As noted earlier, in *Newton v. State*, 455 Md. 341 (2017), our Supreme Court addressed a claim of ineffective assistance of trial counsel for acquiescing to the presence of an alternate juror with the deliberating jury. In that case, Newton had argued that he was prejudiced by the error because, "if his trial counsel had objected to the presence of the alternate, he would have been granted a new trial on appeal." *Id.* at 361. The Supreme Court dispatched this argument with the observation that, because we "'presume . . . that the judge . . . acted according to law[,]' [w]e therefore must assume that if Newton's attorney had objected, the judge would have sustained Newton's objection and excused the alternate as required by Maryland Rule 4-312(g)(3)."[9] *Id.* (first two alterations in original)

[9] *Newton*'s observation in this regard is fully consistent with the legal maxim that "absent a misstatement of law or conduct inconsistent with the law, a trial judge is presumed to know the law and apply it properly." *Medley v. State*, 386 Md. 3, 7 (2005) (cleaned up).

(quoting *Strickland*, 466 U.S. at 694).

We are not persuaded that Matthias has rebutted the presumption that the trial court would have correctly applied the law in the face of a proper objection on *Dingle*-based grounds. And, therefore, because we presume that the trial court would not have erred in the face of an objection by counsel based on legally correct grounds, there would have been nothing to raise on appeal. We therefore reject Matthias' attempt to prove *Strickland* prejudice in this manner.

Actual Prejudice

Finally, we agree with the State that, had Matthias attempted to prove that he suffered prejudice, that is, a significant or substantial possibility of a different result at trial had his trial counsel objected, his effort would likely have been futile. As we catalogued in our opinion on direct appeal of Matthias' convictions, the State offered compelling evidence of Matthias' guilt, even if it was all circumstantial. That evidence included: a detailed account of Matthias' distressed relationship with the victim; Matthias talking about wanting to hurt the victim before the shooting; the "distinctive" rental car; the car-rental records; the cell phone records; Matthias' palm print on the blood-stained van that was parked adjacent to the victim's car where she was found shot dead; and the consciousness-of-guilt evidence that arose from, *inter alia*, Matthias' effort to manufacture an alibi. *Matthias v. State*, No. 1122, Sept. Term, 2014, slip op. at 2-7 (filed February 23, 2017). In the parlance of *Ramirez*, we conclude that "[the] strength of the State's case against [Matthias] leads to the conclusion that there is no substantial or significant possibility that

the outcome of the trial would have been different" had the court propounded *Dingle*-compliant voir dire questions.[10] *See Ramirez*, 464 Md. at 580.

CONCLUSION

For the reasons we have explained, the post-conviction court erred in presuming prejudice in Matthias' ineffective assistance of trial counsel claim for failing to object to *Dingle*-violative voir dire questions. Accordingly, we reverse and vacate the post-conviction court's order granting post-conviction relief.

JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY REVERSED. COSTS TO BE PAID BY APPELLEE.

[10] Indeed, *Ramirez* found no *Strickland* prejudice even where a seated juror affirmatively stated that he *could not* render a fair and impartial verdict. The circumstances here are less egregious because it is unknown whether any juror maintained such beliefs.