IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
March 27, 2007 Session

STATE OF TENNESSEE v. ROWLAND KEITH HALL

Appeal from the Circuit Court for Morgan County
No. 8989 E. Eugene Eblen, Judge

No. E2006-00111-CCA-R3-CD - Filed July 1, 2007

Following a two-day trial before a Morgan County jury, the defendant, Rowland Keith Hall, was convicted of manufacturing methamphetamine, *see* T.C.A. § 39-17-417 (2006), and possession of drug paraphernalia, *see id*. § 39-17-425. Prior to sentencing, the defendant filed a motion to substitute counsel, which the trial court granted. The trial court imposed a four-year sentence on the manufacturing conviction to be served in community corrections after service of 90-days' incarceration. The court ordered a suspended sentence of 11 months and 29 days for the paraphernalia conviction to be served concurrently with the four-year manufacturing sentence. On appeal, the defendant complains that the trial court admitted hearsay testimony that violated his confrontation rights and that trial counsel rendered ineffective assistance of counsel. After careful review, we affirm the judgments of conviction.

Tenn. R. App. P. 3; Judgments of the Circuit Court are Affirmed.

JAMES CURWOOD WITT, JR., J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER. and J.C. MCLIN, JJ., joined.

John E. Appman, Jamestown, Tennessee (at trial); and Travis Hawkins, Nashville, Tennessee (at new trial and on appeal), for the Appellant, Rowland Keith Hall.

Robert E. Cooper, Jr., Attorney General & Reporter; Jennifer L. Bledsoe, Assistant Attorney General; Scott McCluen, District Attorney General; and Roger Delp, Assistant District Attorney General, for the Appellee, State of Tennessee.

OPINION

Viewed in the light most favorable to the State, the evidence at trial showed that Henry Petrey, who lived at 17 Rome Road in Lancing, owned an A-frame house that was located approximately 300 feet from his primary residence. Mr. Petrey testified that in March 2002 his son "talked [him] into letting [the defendant] stay" at the A-frame house and pay rent, $125 per month. Mr. Petrey saw the defendant coming and going from the house from time to time. The defendant

lived alone but entertained visitors. Mr. Petrey was unaware that methamphetamine was being manufactured at the house until local law enforcement officers executed a search warrant for the premises.

On cross-examination, Mr. Petrey affirmed that he had three children, one of whom was his adult son, Tommy. Tommy Petrey and his wife had been living in the A-frame house before the defendant took up residence. The couple moved in with Mr. Petrey when he needed help caring for his elderly mother, and the couple divorced shortly after Mr. Petrey's mother died. Mr. Petrey testified that when his son was living at the A-frame house, the daughter-in-law "didn't allow . . . company" other than having someone stop and talk for a few minutes. Mr. Petrey stated that the defendant never paid the agreed-upon rent.

Tommy Petrey testified that he had known the defendant for eight years. When the search warrant was executed on March 15, Tommy Petrey was not present; he was shoeing horses in Gatlinburg. Tommy Petrey explained that the defendant "needed somewhere to live," and Tommy Petrey agreed to rent the A-frame house to the defendant for $125 per month. The defendant was living in the A-frame house during February and the first part of March 2002. Tommy Petrey testified that he tried to collect the agreed-upon rent from the defendant, but the defendant claimed that he did not have the money.

Tommy Petrey estimated that he saw the defendant coming and going from the A-frame house two or three times a day. The defendant drove a red Chevrolet Blazer and did not appear to have any regular employment.

Tommy Petrey denied knowing anything about methamphetamine manufacturing, and he denied leaving behind items, such as brake cleaner, match books, or tubing, when he moved out of the A-frame residence. He testified that the defendant moved his personal property into the A-frame house, including deer mounts and other trophy heads.

On cross-examination, Tommy Petrey admitted that in 2004 he pleaded guilty to passing three forged checks; he received a 30-day sentence which he served. Regarding the events on trial, he testified that he lived only a "few days" in the A-frame house in 1998; otherwise, throughout his life he had lived with his father in the main brick residence. Tommy Petrey's only explanation for moving to the A-frame house was "[j]ust to get away," and he stated that he moved a couch and a bed into the A-frame house. Tommy Petrey stated that the defendant and one other man, Rusty Simpson, were the only other people who had lived in the A-frame house.

Tommy Petrey denied that he went to the A-frame house the evening before the search warrant was executed. However, he did see the defendant's vehicle parked at the house. Tommy Petrey mentioned that the defendant had "parties every night" that "kept [his] dad awake." Tommy Petrey knew the defendant's brother, Jason Hall, but Tommy Petrey did not know if the brothers were together the evening before the search warrant was executed. Jason Hall visited with the defendant on occasion, but the defendant was the only person who lived at the A-frame house

on a day-to-day basis. Regarding his whereabouts that evening, Tommy Petrey testified that he went to Gatlinburg the night of March 14 and stayed with a friend, Danny Owens. He worked the next day in Gatlinburg and returned home at approximately 9:00 p.m.

Morgan County Deputy Sheriff Steven Davis testified that as part of his duties he develops contacts with individuals in the community to gain information about illegal activities. At times, individuals would contact him to provide information, and at other times, Deputy Davis would inquire about activities, such as purchases of items used to manufacture methamphetamine. Deputy Davis testified that based on information he had received, he began checking into the defendant and his whereabouts.

On March 15, 2002, Deputy Davis and Sheriff Gibson drove to the A-frame house to speak with the defendant. The defendant was present, and Deputy Davis related that from the front doorway he could see "the cooking utensils, the plastic tubing, all the brake clean[er], . . . all the stuff necessary to make meth." Based on the discovery, Sheriff Gibson left to apply for a search warrant, and Deputy Davis remained outside the residence to guard the property. When the sheriff returned with the warrant, Deputy Davis assisted in searching the residence. Based on his law enforcement training and experience, Deputy Davis recognized the ingredients used to make methamphetamine, including "the empty containers, and the containers of all of the components." He testified that he found "antifreeze, heet, [] brake clean[er], a lot of aluminum foil, paper towels, coffee filters, coffee pots, [and] things stained with the iodine." He also found tubing with residue from making methamphetamine and a ventilation system consisting of a fan placed in a window to blow out air inside the residence.

Deputy Davis remained at the scene when the Southeast Methamphetamine Task Force arrived to decontaminate the site and to process the chemicals found. The sheriff's department was not responsible for disposing of the chemicals. That task was assigned to a company that specialized in handling and disposing of the hazardous materials.

On cross-examination, Deputy Davis clarified that he first approached the rear of the residence, where the back door was open and from where he saw the methamphetamine materials. Deputy Davis then walked to the front entrance by which time Sheriff Gibson was inside the house talking with the defendant. The defense quizzed Deputy Davis why the defendant was not arrested at that time and was allowed to leave the scene. Deputy Davis replied that the defendant was telling them that "it wasn't his place." The defense also sought to elicit from Deputy Davis that the items found inside the house could be purchased at many stores and that he could not testify where the defendant purchased any of the items. Deputy Davis responded, however, that three or four days before the search, the defendant had purchased aluminum foil at the Dollar General Store in Wartburg. Upon similar questioning regarding Sudafed tablets, Deputy Davis testified that the "stores in the area indicated – surveillance at those stores indicated that [the defendant] purchased numerous items at numerous locations . . . in the months leading up to March."

On redirect examination, Deputy Davis identified various photographs that were collected from the A-frame residence. Among the items was a photograph of the defendant wearing a "safari hat." Deputy Davis testified that the hat "was a real trademark – a real identifier for the folks who were giving [him] information . . . [a] tall guy, red hair, long red hair, wearing a safari hat."

On recross-examination, Deputy Davis testified that he saw other photographs in the A-frame house. He recalled that most of the photographs were of the defendant and fish or deer that he had killed. Deputy Davis did not recall seeing any photographs of Tommy Petrey.

Sheriff Bobby Gibson testified that over a period of time, his office had collected information regarding the defendant. Sheriff Gibson had seen the defendant but did not know him. Sheriff Gibson explained that on March 15, he drove to the A-frame residence to investigate an anonymous citizen complaint about an odor emanating from the residence. When he pulled up to the residence, the "front door was standing open," and Sheriff Gibson stated that he saw "someone run out of the living room, up the stairs, and go upstairs." Sheriff Gibson approached the door and "hollered and knocked." At first, no one responded, but "all of a sudden [Sheriff Gibson saw] a big bunch of hair come down over the – from the roof where the floor was." The person "hollered" and wanted to know what the sheriff wanted. Sheriff Gibson testified that he stepped inside the home and told the individual that he needed to talk with him. While waiting for the individual, Sheriff Gibson observed numerous items commonly used to manufacture methamphetamine in the house and detected an odor associated with manufacturing methamphetamine.

Sheriff Gibson spoke briefly with the defendant, who denied living at the residence and professed not to know who lived at the residence. The sheriff noticed eight or nine deer heads on the wall, and the defendant said that he had killed the deer. Sheriff Gibson asked for consent to search the premises, but the defendant declined on the basis that he did not live on the premises. Accordingly, Sheriff Gibson decided to apply for a search warrant. As Sheriff Gibson was leaving, the defendant walked outside of the residence, locked the door, and drove away in his red truck.

Sheriff Gibson identified photographs of what was discovered in the residence after the search warrant was obtained and executed. Once he determined that a methamphetamine manufacturing operation existed, he backed out of the building and called for specialists to decontaminate the site. Through the photographs Sheriff Gibson identified the various drug-related items and explained how each item was used in the methamphetamine manufacturing process. He also identified items that he sent to the Tennessee Bureau of Investigation (TBI) for testing. During the search, Sheriff Gibson found other items indicating that the defendant had been occupying the residence; the items included a guitar, clothing in the defendant's size, numerous photographs of the defendant and his family, and letters addressed to the defendant. He also interviewed Mr. Petrey and learned that the defendant was renting the A-frame residence. The sheriff did not find anything indicating that a second individual had been occupying the A-frame house.

On cross-examination, Sheriff Gibson testified that he had met the defendant "a time or two" prior to the search and that he knew the defendant's father. At some earlier time, the sheriff had charged the defendant's father with possession of 10 pounds of marijuana. That arrest led to a civil action in federal court, and the defendant's father obtained a judgment against the sheriff. Sheriff Gibson denied having a "grudge." He related that he had helped out the defendant's father since that time by getting a judge to approve signature bonds when the defendant's father was arrested because he and his brother had "been into it, shooting at each other." Sheriff Gibson testified that based on his investigation, he did not suspect Tommy Petrey of being involved with the methamphetamine manufacturing operation found.

Jacob White, a forensic scientist with the TBI Crime Laboratory, testified that he received a plastic vial containing residue and other items submitted for analysis. The residue in the plastic vial testified positive for methamphetamine, and he admitted on cross-examination that his analysis could not determine the age of the controlled substance. Testing on another item was inconclusive, and a green leafy substance testified positive for marijuana. To Agent White's knowledge, no items were submitted for latent print analysis.

The State rested its case, and the defendant called two witnesses. Jason Hall, the defendant's brother, testified that early evening on March 14, he was at the defendant's "A-frame, playing music with [the defendant] and his friends." Jason Hall named four other individuals present. He testified that he rode with the defendant to the A-frame residence and that he left with Tommy Petrey. Jason Hall stated that when he left he accidently took the defendant's keys to the red Blazer. Jason Hall maintained that while he was at the residence, he did not observe any methamphetamine being processed. Jason Hall testified that he last saw Tommy Petrey at approximately 11:00 p.m. at the home of B.J. Howard.

On cross-examination, Jason Hall denied buying for the defendant ingredients to process methamphetamine. He also denied that any "meth cooking" was underway at the A-frame house. Jason Hall said that he left with Tommy Petrey at approximately 9:00 p.m.; they first went to Tommy Petrey's house and later to B.J. Howard's home. Jason Hall also denied that the defendant lived at the A-frame residence; rather he testified that they "went down there and played music on occasions." Both he and the defendant played guitar. Jason Hall became evasive when the State showed him photographs of the methamphetamine-related items inside the A-frame house. He testified that he could not "recall" seeing any of the items, that he "didn't really pay attention" because he "was there playing music, and that he was unfamiliar with the odor of brake cleaner."

Regarding the mounted deer heads, Jason Hall claimed that the defendant had given them to Tommy Petrey. He also claimed that at the time, the defendant was living with his grandmother.

The defendant's mother, Lisa Phillips, testified that she, her 77-year-old mother, the defendant, and Jason Hall live together at 332 Ridge Road in Lancing. She has known Tommy Petrey since she was nine years old, and Tommy Petrey had visited in her home many times, brought

her deer meat, and hunted near her home. She confirmed that both sons play the guitar, and they play music together.

Ms. Phillips testified that the defendant was sleeping at the house on the morning of March 15. Later she spoke with him after he showered. Ms. Phillips recalled that the defendant was driving Tommy Petrey's vehicle, a green Jeep Cherokee.

On cross-examination, Ms. Phillips denied that the defendant resided at the A-frame residence. She had been to the premises approximately three times, but each time a lot of people were present. She also denied that the defendant's belongings, other than a guitar and amplifier, were at the A-frame residence. She testified that the defendant was not at the A-frame residence on the evening of March 14, at least as of the time she retired for bed at 10:00 p.m. The next day, Ms. Phillips looked for the defendant after he left in the jeep. She drove to the Petrey's main residence but did not find the jeep. She then went next door, to the A-frame house. The defendant was not at that house, although the door was open and his Blazer was parked at the premises.

The defense rested its case, and based on the evidence presented, the jury found the defendant guilty of the charged offenses of manufacturing methamphetamine and possession of drug paraphernalia.

Aggrieved of his convictions, the defendant has appealed. He raises two issues. He argues that his right to confrontation was violated when Deputy Davis was allowed to testify about information he had received that prompted the deputy to look for the defendant at the A-frame residence. He also argues that his right to effective assistance of counsel was violated by trial counsel's failure to call a local store clerk to impeach Tommy Petrey's credibility, his failure to strike from the venire a female juror who revealed numerous ties to law enforcement officers, and his failure to permit the defendant to testify.

We begin with the claim that trial counsel rendered ineffective assistance of counsel.

INEFFECTIVE ASSISTANCE OF COUNSEL

The record before us shows that trial counsel filed a motion to withdraw immediately following the jury's verdict. The motion recited that the defendant had discharged trial counsel and no longer desired his services. Trial counsel also later filed a motion for substitution of counsel. An order was entered on May 16, 2005, permitting substitute counsel to represent the defendant.

The record does not contain a written motion for new trial; however, the judgment of conviction for manufacturing methamphetamine entered on September 23, 2005, contains the following notation: "Defendant has filed a Motion for New Trial, which was partially heard this date. Service of the 90 days is to be held in abeyance to see if the defendant files an appeal to the Court of Criminal Appeals. If so, the case will be held until that Court files it's Opinion." Also, the record contains a written supplemental motion for new trial that incorporates the earlier motion.

On June 23, 2005, the trial court conducted a joint sentencing hearing and new trial hearing. Pertinent to this appeal, the defendant called Sherry Turner who had been acquainted with Tommy Petrey for a long time. Ms. Turner testified that Tommy Petrey lived two houses down from her and had always lived with his father.

Ms. Turner was employed at Dollar General Store in Morgan County. She recalled that while at work, she received a telephone call from Tommy Petrey who asked her if she "would put him 25 boxes of Sudafed back, and nobody would know it." Ms. Turner told Tommy Petrey that she would not help him, and she testified that she had not spoken with him since that time. Ms. Turner stated that she assumed that the request was related to "dope." She testified that she told her best friend and her husband about the incident.

On cross-examination, Ms. Turner estimated that she received the call sometime between January and March 2005. She was unable to be more specific about the date. She was acquainted with the defendant and aware that the defendant and Tommy Petrey knew each other.

After Ms. Turner testified, the court adjourned the new trial hearing and directed the defendant to file more detailed allegations regarding trial counsel's ineffectiveness, which he did. The hearing resumed on December 16, 2005, at which time the defendant withdrew his claim that trial counsel did not permit the defendant to testify.

The defendant testified in support of his motion that he gave trial counsel names of potential witnesses, among them Sherry Turner. The defendant stated that he told counsel about Tommy Petrey "writing bad checks" and about Tommy Petrey calling Ms. Turner for Sudafed. The defendant testified that, despite the information, trial counsel did not interview Ms. Turner. The defendant estimated that he provided the information to counsel approximately one year before trial.

On cross-examination, the State highlighted the inconsistency between the defendant's testimony that he told counsel about Ms. Turner sometime in 2004 and Ms. Turner's testimony that Tommy Petrey called her at work within the January to March 2005 time frame. She also had testified that she began working for the Dollar General Store on July 19, 2004. The State elicited that the defendant and Ms. Turner were friends, and indeed when she referred to telling only a friend and her husband, the defendant was the "friend." Ms. Turner in her testimony, however, did not identify the defendant as the "friend," and the defendant's only explanation for that curious omission was that he did not believe that "the question was asked to her like that."

The defendant did not present evidence regarding his claim that counsel was ineffective in failing to remove the female juror who ultimately became the foreperson of the jury. Defense counsel merely argued that based on the trial transcript, the woman apparently had a personal relationship with the sheriff and that "it was a serious mistake not to strike her."

The State presented no proof on the ineffective assistance of counsel claims.

The trial court ruled from the bench that the defendant had not carried his burden on the claim that trial counsel was ineffective. The court found that trial counsel performed adequately in defending the case and that any possible error would not have made a difference at trial. The court also declined to order a new trial regarding the defendant's hearsay complaints.

On January 9, 2006, the defendant filed a notice of appeal; the notice was filed within 30 days of the trial court's oral ruling on December 16, 2005. The record reflects that on March 2, 2006, the trial court entered a one paragraph written order denying the defendant's motion for new trial. We regard the appeal as properly before us. *See* Tenn. R. App. P. 4(d).

On appeal, the defendant presses his claim that trial counsel was ineffective for failing to call Ms. Turner as a witness at trial to impeach the credibility of Tommy Petrey and to contradict Sheriff Gibson's voucher that Tommy Petrey had no involvement with methamphetamine. He does not pursue his complaint that trial counsel should have exercised a strike to remove the female juror from the jury panel, and we confine our review accordingly.

On appeal, the lower court's findings of fact regarding ineffective assistance of counsel are reviewed de novo with a presumption of correctness that may only be overcome if the evidence preponderates against those findings. *Fields v. State*, 40 S.W.3d 450, 458 (Tenn. 2001). "Claims of ineffective assistance of counsel are considered mixed questions of law and fact and are subject to de novo review." *Serrano v. State*, 133 S.W.3d 599, 603 (Tenn. 2004); *see State v. Burns*, 6 S.W.3d 453, 461 (Tenn. 1999).

When a petitioner challenges the effective assistance of counsel, he has the burden of establishing (1) deficient representation and (2) prejudice resulting from that deficiency. *Strickland v. Washington*, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); *Baxter v. Rose*, 523 S.W.2d 930, 936 (Tenn. 1975). Deficient representation occurs when counsel's services fall below the range of competence demanded of attorneys in criminal cases. *Bankston v. State*, 815 S.W.2d 213, 215 (Tenn. Crim. App. 1991). Prejudice is the reasonable likelihood that, but for deficient representation, the outcome of the proceedings would have been different. *Overton v. State*, 874 S.W.2d 6, 11 (Tenn. 1994). Courts need not address both *Strickland* components in any particular order or even address both if the petitioner fails to meet his burden with respect to one. *Henley v. State*, 960 S.W.2d 572, 580 (Tenn. 1997). On review, there is a strong presumption of satisfactory representation. *Barr v. State*, 910 S.W.2d 462, 464 (Tenn. Crim. App. 1995).

We note at the outset that raising the issue of ineffective assistance of counsel on direct appeal is a practice "fraught with peril." *State v. Daniel W. Livingston*, No. M2004-00086-CCA-R3-CD, slip op. at 13 (Tenn. Crim. App., Nashville, Mar. 15, 2005), *rev'd on other grounds*, 197 S.W.3d 710 (Tenn. 2006). Ineffective assistance of counsel claims should normally be raised by a petition for post-conviction relief inasmuch as a petition based on ineffective assistance of counsel is a single ground for relief, and all factual allegations must be presented in one claim. *See* T.C.A. § 40-30-206(d) (2006). Nonetheless, our supreme court has held that such claims may be presented on direct appeal, and that when done so the reviewing court should apply the same

standard as utilized for ineffective assistance of counsel claims in post-conviction proceedings. *See Burns*, 6 S.W.3d at 461 n.5.

The trial court in the present case did not belabor the issue whether counsel's failure to call Ms. Turner was deficient representation pursuant to the first prong of *Strickland* and *Baxter*. Instead, the trial court examined and based its ruling on the defendant's failure to prove the prejudice prong of *Strickland* and *Baxter*. This approach was appropriate because the court was not required to address both prongs or components of the ineffective assistance claim if the petitioner failed to meet his burden with respect to one. *See Henley*, 960 S.W.2d at 580.

From our review of the record, nothing preponderates against or detracts from the trial court's conclusion that the defendant failed to establish that trial counsel's performance created a reasonable likelihood that, but for deficient representation, the outcome of the proceedings would have been different. The defendant offers nothing new on appeal other than the bare assertion that the failure to call Ms. Turner had a prejudicial effect on the outcome of the trial. Even had Tommy Petrey not testified at trial, the State had sufficient evidence to connect the defendant with the A-frame residence thus leading a reasonable jury to conclude that all of the obvious trappings of a methamphetamine manufacturing operation found in the residence were connected to the defendant. Moreover, even had the defendant undermined the sheriff's opinion testimony about Tommy Petrey's involvement with methamphetamine, nothing would have impugned the sheriff's key testimony about what he found at the A-frame residence, including the presence of the defendant.

We affirm the trial court's denial of the defendant's claim that trial counsel provided ineffective assistance of counsel.

CONFRONTATION RIGHTS

We are unpersuaded that the defendant's right to confront witnesses was abridged in this case. First, the allegedly offensive testimony by Deputy Davis and Sheriff Gibson did not repeat any particular statements made by citizens regarding the defendant. Deputy Davis testified that over a period of time and based on information in the community that he had been gaining, he began to look for the defendant.

Second, it was the defendant who, so to speak, "got the ball rolling." For instance, the State inquired of Deputy Davis whether people in the community contacted him and provided information about illegal activities. Deputy Davis agreed that he received such information and that based on certain information provided, he started to look for the defendant. At that point, the defendant voiced the following objection: "Judge, we object to hearsay, Your Honor. It's coming in the back door. He's asking what other people told him and this information. Then in essence, to say what the other people were telling him, that [the defendant] was buying these things. And that's clearly hearsay. We object to it." This verbal objection carried more potential for prejudice than Deputy Davis's generic reference to unspecified information.

Then, during cross-examination and as part of the defense theory that the defendant was not involved with the illegal activity at the A-frame house, defense counsel challenged Deputy Davis to name places where the defendant had purchased items used to manufacture methamphetamine. Regarding aluminum foil, Deputy Davis responded that he actually knew that the defendant had purchased the item at the Dollar General Store three or four days prior to March 15. Defense counsel also asked, "Do you know anywhere where he bought more than one package of cold tablets at any one time?" Deputy Davis responded, "The store in the area indicated – surveillance at those stores indicated that he purchased numerous times at numerous locations." The defendant cites to a portion of the transcript wherein Deputy Davis testified that the defendant's safari hat was "a real trademark – a real identifier for the folk who were giving [him] information." Notably, the defendant did not object to this testimony.

In our opinion, the defendant opened the door to the type of testimony that he now argues is objectionable. When that occurs, the party opening the door will not be heard to later complain. *See State v. Land*, 34 S.W.3d 516, 530-31 (Tenn. Crim. App. 2000).

Relying on *Crawford v. Washington*, 541 U.S. 36, 124 S. Ct. 1354 (2004), the defendant argues that the testimony violated his constitutional right of confrontation. In *Crawford*, the Supreme Court held that testimonial out-of-court statements by a nontestifying declarant may be admitted only if the declarant is unavailable to testify and the defendant had a prior opportunity to cross-examine the declarant. *Id*. at 68, 124 S. Ct. at 1374.

We need not dwell on the defendant's *Crawford* argument because the decision in *State v. Robinson*, 146 S.W.3d 469 (Tenn. 2004), disposes of the matter. In that case, the supreme court addressed and ruled upon a similar confrontation complaint in the following fashion:

> While the defendant may very well be correct that both *Crawford* and Tennessee Rule of Evidence Rule 803(1.1) bar hearsay statements of identification if the declarant does not testify at trial, neither *Crawford* nor Rule 803(1.1) is dispositive in this case because the defendant himself both elicited and opened the door to the testimony he now assigns as error. Under these circumstances, the defendant is not entitled to relief. Indeed, it is well-settled that a litigant "will not be permitted to take advantage of errors which he himself committed, or invited, or induced the trial court to commit, or which were the natural consequence of his own neglect or misconduct." *Norris v. Richards*, 193 Tenn. 450, 246 S.W.2d 81, 85 (1952); *see also State v. Smith*, 24 S.W.3d 274, 279-80 (Tenn. 2000); Tenn. R. App. P. 36(a). Thus, the defendant is not entitled to relief on this claim.

Id. at 493. Consistent with *Robinson*, we likewise hold that the defendant in the present case is not entitled to relief, and we affirm the trial court's rejection of the defendant's confrontation complaint.

In summary, we hold that the defendant's right to confront witnesses was not abridged in this case and that the defendant failed to establish that trial counsel rendered ineffective assistance of counsel.

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JAMES CURWOOD WITT, JR., JUDGE