

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2823

September Term, 2014

STATE OF MARYLAND

v.

BRIAN ARTHUR TATE

Woodward, C.J.
Arthur,
*Krauser,

JJ.

Opinion by Krauser, J.

Filed: August 15, 2017

*Krauser, J., now retired, participated in the hearing of this case while an active member of this Court and as its Chief Judge; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the preparation of this opinion.

**This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

In 1992, Brian Arthur Tate, appellee, pleaded guilty, in the Circuit Court for Anne Arundel County, to the first-degree murder of Jerry Lee Haines. Twenty-three years later, appellee filed a pro se petition for post-conviction relief in that court, claiming, among other things, that his plea was neither knowing nor voluntary and should be vacated. His case was then transferred to the Circuit Court for Howard County for post-conviction proceedings, where his petition, now amended with the assistance of counsel, was denied.

He thereafter filed a motion to reopen his post-conviction proceedings, in light of the Court of Appeal's recent decision in *State v. Daughtry*, 419 Md. 35, 71 (2011). The Howard County circuit court granted that motion, and reopened Tate's post-conviction proceedings. Then, relying principally on the *Daughtry* decision, the court vacated his guilty plea and ordered that the case be transferred back to the Anne Arundel County circuit court, where Tate had entered his plea, for further proceedings.

The State then filed an application for leave to appeal, not in the Howard County court where his petition had been granted, but in the Anne Arundel County circuit court, where Tate had entered his plea and where the matter was then pending. In response, Tate filed an opposition to the State's application and, as part of that opposition, a motion to dismiss the State's application on the grounds that it was filed in what Tate maintained was the wrong court, namely, the Anne Arundel County circuit court, and not the Howard County circuit court, which he claimed was the appropriate forum, as it was the Howard County court that had set aside his plea. This Court subsequently granted that application but left the motion to dismiss for a future panel of this Court to decide.

The State presents a single issue. Rephrased, to facilitate review, it is:

Did the Howard County circuit court err in setting aside Tate's 1992 guilty plea to first-degree murder?

Tate, of course, contends that the circuit court did not err in so ruling and, furthermore, in his pending motion to dismiss, seeks dismissal of the State's appeal on the grounds that the State's application for leave to appeal was filed in the wrong circuit court.

Because we conclude that the State's application for leave to appeal was filed in the proper court, that is, the Anne Arundel County circuit court, we shall deny Tate's motion to dismiss. But, as we find that Tate's 1992 plea of guilty was knowing and voluntary, we reverse the judgment of the Howard County circuit court and remand this case to the Anne Arundel County circuit court, where Tate entered his plea, for further proceedings.

Proceedings Below

On March 16, 1992, Tate was charged in the Anne Arundel County circuit court, with having committed on February 24, 1992, the following crimes: first-degree murder, armed robbery, attempted armed robbery, robbery, assault with intent to rob, and theft. He was also charged, at that time, but in a separate indictment, with unrelated arson charges.

On November 2, 1992, Tate appeared before the Anne Arundel County circuit court for a plea hearing.¹ At that hearing, the State described the plea agreement that it had reached with Tate as follows: Tate would enter a plea of guilty as to the first-degree murder charge, and, in return, the State would *nolle pros* the remaining charges alleged in both

¹ The first page of the plea hearing transcript incorrectly states that the year of the hearing was 1991.

indictments and not request a sentence of life without parole on the first-degree murder charge. After conducting a lengthy plea colloquy, in which both the court and defense counsel questioned Tate regarding his understanding of the plea agreement, the charge to which he was pleading guilty, and the rights that he was waiving by agreeing to plead guilty, the circuit court entertained a detailed statement of facts, proffered by the State, in support of Tate's plea. It then accepted the plea and found Tate guilty of first-degree murder.

At the sentencing hearing that ensued several months later, in the Anne Arundel County circuit court, the defense presented testimony of two psychologists in support of its request that Tate be sent to the Patuxent Institution for treatment. The circuit court then sentenced Tate to life in prison, with parole, and with a "recommendation" for treatment at the Patuxent Institution.

In 2005, Tate filed a *pro se* petition for post-conviction relief in the Anne Arundel County circuit court, claiming, in pertinent part, that his "plea was not entered into voluntarily and knowingly." Then, after acquiring counsel, he filed an amended post-conviction petition four months later, in 2006, that added the claim that he did not understand the nature of the offense to which he was pleading guilty at the time of his plea, because the elements of the premeditated first-degree murder offense were not explained to him at that time and that his plea was therefore defective under Maryland Rule 4-242(c).

That petition, however, was later transferred by the Anne Arundel County circuit court to the Howard County circuit court, for reasons that do not appear in the record.²

But, before issuing its ruling as to Tate’s post-conviction claims, the Howard County circuit court permitted Tate to file a belated application for leave to appeal from his conviction, which this Court denied. Thereafter, the Howard County circuit court addressed Tate’s request for post-conviction relief, in a written decision, in which it found that Tate had a “satisfactory understanding of the nature of the charges and plea” at the time that he entered his plea and, consequently, denied his request that it be set aside.

Tate responded to that ruling with a motion to reopen his post-conviction proceeding, claiming that “since there was no on-the-record confirmation that he understood the elements of the crime to which he [had] pleaded guilty,” and thus, pursuant to the recently issued decision of the Court of Appeals, *State v. Daughtry*, 419 Md. 35 (2011), his guilty plea had not been “knowingly, voluntarily, and intelligently” entered.

Following a hearing on that motion, the Howard County circuit court, relying principally on *Daughtry*, granted Tate’s motion to reopen post-conviction proceedings. Specifically, it found that Tate’s guilty plea was not knowingly and voluntarily entered because the record of the plea hearing failed to show that Tate was sufficiently advised of

² It is not altogether clear why the case was transferred from the Anne Arundel County circuit court to the Howard County circuit court. The State gives no explanation, in its brief, for this transfer other than that the petition was transferred at the request of Judge North, who was the Anne Arundel County judge assigned to this matter. Tate also fails to provide any explanation in his brief, but, in his motion to reopen, filed below, he asserted that the reason for the transfer was because “a conflict of interest prevented any judge in Anne Arundel County from hearing the matter.”

the nature and elements of premeditated first-degree murder and of how that crime was distinguishable from first-degree felony murder. The circuit court added that its ruling was “bolster[ed]” by the testimony of one of the psychologists presented at Tate’s sentencing hearing that Tate “had some diminished capacity at the time of the murder,” which “continued to the time of the plea.” The Howard County circuit court therefore granted Tate’s post-conviction petition, vacated Tate’s guilty plea, and ordered the case be “[r]emanded back” to the Anne Arundel County circuit court for “further proceedings consistent with [its] Order.”

Challenging that decision, the State filed an application for leave to appeal in the Circuit Court for Anne Arundel County. And, Tate, in turn, filed an “Opposition to the State’s Application for Leave to Appeal and Request to Dismiss Application as Untimely and Improperly Filed,” in which he sought, among other things, dismissal of the State’s appeal, as the application, he claimed, had not been filed in the proper circuit court. This Court thereafter granted the State’s application but left the motion to dismiss to be decided by the panel that would hear the State’s appeal.

Motion to Dismiss

Tate requests that the State’s appeal be dismissed on the grounds that the State filed its application for leave to appeal in the wrong court, that is, the State filed its application in the Anne Arundel County circuit court, where Tate entered his plea, instead of the Howard County circuit court, where Tate’s plea was set aside, and thus, according to Tate, this Court did not acquire jurisdiction over the State’s application for leave to appeal. Tate further maintains that the State’s decision to file its application in the Anne Arundel County

circuit court caused a delay in the transmission of the record, and, consequently, the application should also be dismissed under Maryland Rule 8-602(a)(5), which provides that this Court may dismiss an application for leave to appeal when an appellate record was not timely transmitted, unless the delay is attributable to a party other than the appellant.³

The Howard County circuit court’s order, granting Tate post-conviction relief, directed that the case be “[r]emanded back” to the Anne Arundel County circuit court for “further proceedings consistent with [its] Order.” When a case is transferred from one circuit court to another circuit court, rulings made by the transferor court may generally be challenged by filing a motion or an appeal in the transferee court. *See Pantazes v. State*, 376 Md. 661, 677 (2003). Indeed, the effect of such a transfer “is to remove the cause absolutely from the jurisdiction of the court granting the change,” and further filings must be made in the court to which the case was removed. *Id.* It was therefore appropriate for the State to file its application in the circuit court to which the case was transferred, that is, the Anne Arundel County circuit court.⁴

³ Maryland Rule 8-602(a)(5) provides that “[o]n motion or on its own initiative, the [appellate] Court may dismiss an appeal . . . [when] the record was not transmitted within the time prescribed by Rule 8-412, unless the court finds that the failure to transmit the record was caused by the act or omission of a judge, a clerk of court, the court reporter, or the appellee.”

⁴ In support of his contention that the transferor court, that is, the Howard County circuit court, was the only proper court in which to file the application at issue, Tate also cites a notation made by the Clerk’s Office of the Anne Arundel County circuit court, when it docketed the State’s appeal in his case file. The clerk’s office notation stated: “[a]ppeals should have been filed in Howard County where order granting re-opening of post conviction pleadings, vacating petitioner’s guilty plea and granting a new trial was issued.” But that specification carries no legal weight or significance.

As for Tate’s claim that the State’s application should be dismissed because there was a delay in transmitting the record to this Court, we note that, pursuant to Maryland Rule 8-602(a)(5), an application for leave to appeal may not be dismissed for a delay in transmitting the record to the appeal that was caused by the “act or omission of . . . a clerk of court.”⁵ While it is unclear from the record precisely why the delay in transmitting the record to this Court occurred, it is clear that, once the State filed its application in the Anne Arundel circuit court, the matter lay entirely in the hands of that court. Consequently, a subsequent delay in its transmission, even if not wholly attributable to the Anne Arundel circuit court, is certainly not attributable to the State. Consequently, we deny Tate’s Motion to Dismiss on those grounds as well.

Discussion

The Howard County circuit court, relying principally on *Daughtry*, found that Tate’s guilty plea was not knowingly and voluntarily entered, because Tate was not sufficiently advised, on the record, of the nature and elements of premeditated first-degree murder, as purportedly required by *Daughtry*, and, furthermore, he was not informed as to how premeditated first-degree murder differed from first-degree felony murder. The circuit court then added that its ruling was “bolster[ed]” by the testimony of a psychologist

⁵ Maryland Rule 8-602(a)(5) provides: “On motion or on its own initiative, the Court may dismiss an appeal . . . [when] the record was not transmitted within the time prescribed by Rule 8-412, unless the court finds that the failure to transmit the record was caused by the act or omission of a judge, a clerk of court, the court reporter, or the appellee.”

presented at Tate’s sentencing hearing, that Tate “had some diminished capacity at the time of the murder,” which “continued to the time of the plea.”

The State contends that the post-conviction court erred in vacating Tate’s guilty plea to premeditated first-degree murder.⁶ *Daughtry*, the State points out, did not establish, as maintained by the court below, a requirement that a defendant must be expressly advised, on the record, of the elements of the charges against him, at his plea hearing, for his plea to be valid under Rule 4-242(c). Rather, *Daughtry* merely reiterated, asserts the State, the well-settled standard that the validity of a guilty plea is assessed under a totality of the circumstances test.

Indeed, the record of the guilty plea hearing shows, as the State notes, that Tate informed the court that he had read and discussed the charges with counsel, that he apprised the court that he understood what he was charged with, and that the State then proffered a detailed statement of facts, which supported every element of the charge of premeditated first-degree murder, in support of the plea. The State therefore requests that we reverse the post-conviction court’s setting aside of Tate’s guilty plea. After reviewing the factual

⁶ Tate alleges that the only claim that the State has raised, on appeal, is that the post-conviction court erred in concluding that it was “compelled” by *State v. Daughtry*, 419 Md. 35 (2011) to vacate Tate’s guilty plea. Although that claim is the only one the State raised in the “Question Presented” section of its brief, the State also raised, in the “Argument” section of the State’s brief, the additional claim that Tate’s plea was valid under the totality of the circumstances test. The Court of Appeals has held that “when the party fails to separately state the issue in the questions presented section of its brief, but raises the issue in the argument section of its opening brief[,]” the issue may be considered by this Court, *Simmons v. State*, 392 Md. 279, 292 n. 1 (2006) (citing *Langworthy v. State*, 284 Md. 588 (1979)), and we shall do so here.

findings of the post-conviction court for “clear[] erro[r],” but “mak[ing] an independent determination of relevant law and its application to the facts,” *Arrington v. State*, 411 Md. 524, 551 (2009) (internal citations and quotation marks omitted), we conclude that the State is correct and shall reverse.⁷

I.

Under Maryland Rule 4-242(c), a trial court may accept a guilty plea but only after the defendant is examined “on the record in court” by “the court, the State’s Attorney, the attorney for the defendant, or any combination thereof,” and the court “determines and announces on the record” that the defendant “is pleading voluntarily, with understanding of the nature of the charge and the consequences of the plea.” *State v. Priet*, 289 Md. at 288 (citation omitted). And, “the test,” in “determining whether a guilty plea is voluntary under . . . Rule 4-242(c) is whether the totality of the circumstances reflects that a defendant knowingly and voluntarily entered into the plea.” *Daughtry v. State*, 419 Md. 35, 71 (2011).

Moreover, in *Daughtry*, the Court declared that “Rule 4-242(c) and the caselaw require on-the-record, in open court, evidence from the plea colloquy that the defendant is aware of the nature of the charges against him,” *id.* at 74, but, explained the Court, “the source or speaker from which such evidence emanates is immaterial,” and, in fact, the

⁷ The Uniform Postconviction Procedure Act gives a post-conviction court the discretion to reopen a post-conviction proceeding if doing so is “in the interests of justice.” Maryland Code, Criminal Procedure Article § 7-104. Appellate courts generally review a circuit court’s decision as to whether or not to reopen a post-conviction proceeding under an abuse of discretion standard. *State v. Adams-Bey*, 449 Md. 690, 701-702 (2016). However, the State is not contending that the post-conviction court erred in reopening the post-conviction proceeding under the interests of justice standard, and therefore the abuse of discretion standard of review does not apply here.

defendant may demonstrate that he is aware of the nature of the charge by informing the trial court, on the record, “that either he understands personally or was made aware by, or discussed with, his attorney the nature of the charges against him.” *Id.* at 74-75. This “scenario” is, avowed the Court, “strong evidence, absent other circumstances tending to negate a finding of voluntariness (*e.g.*, mental incapacity, lack of grasp of English language, etc.), that the defendant entered the guilty plea knowingly and voluntarily.” *Id.*⁸

At his plea hearing, Tate stated that he had read “a copy of the charges,” discussed them with his counsel, and understood them:

[Court]: Were you given a copy of the charges?

Tate: Yes, I have.

[Court]: Have you read it and discussed it with your attorney?

Tate: Yes, I have.

[Court]: Do you understand what you are charged with?

Tate: Yes, I do.

[Court]: Do you understand what you are pleading guilty to?

Tate: Yes, I do.

⁸ In addition to the scenario present in the instant matter, that is, when a defendant informs “the trial court that he that either he understands personally or was made aware by, or discussed with, his attorney the nature of the changes against him,” the Court of Appeals, in *Daughtry*, also detailed two equivalent scenarios: Where “the attorney informs the trial court that he informed his client of the charges against the client”; or “the trial court itself informs the defendant of the charges against the defendant.” *Daughtry*, 419 Md. at 74-75.

Then, later at that hearing, Tate’s defense counsel asked Tate a series of questions, which revealed the extent to which he, Tate’s counsel, had discussed the plea agreement with Tate:

Defense Counsel: Mr. Tate, you are under 18, is that correct?

Tate: Yes, sir.

Defense Counsel: And when we began to discuss the possibility of this plea, and once it reached the form that you have heard given to the Court, [Defense co-counsel] and I have met with you in the Anne Arundel County Detention center in the company of both of your parents, is that correct?

Tate: Yes, sir, it is.

Defense Counsel: And that was in person, and not through windows, and we discussed for over an hour this plea negotiation, is that correct?

Tate: Yes.

Tate’s confirmation to the court that he understood what he was charged with as well as what he was pleading guilty to, that he had been given a copy of the charges and had read it and that he had discussed those charges with his attorney, is, declared the *Daughtry* Court, “strong evidence” that he had the requisite understanding of the nature of the charges at the time of his plea and was pleading guilty knowingly and voluntarily. 419 Md. at 74-75. What is more, the colloquies conducted by counsel and the court below were far more extensive and comprehensive than the one determined to be insufficient by the Court of Appeals in *Daughtry*, where “the only portion of the plea colloquy” that related to “ascertaining whether the plea was knowing and voluntary was [the defendant]’s

affirmative response to the trial judge’s question, ‘Have you talked over your plea with your lawyer?’” *Id.* at 42.

Moreover, “the factual basis proffered to support the court’s acceptance of the plea,” instructed the Court of Appeals, “may describe the offenses charged in sufficient detail to pass muster under [Maryland Rule 4-242(c)].” *Daughtry*, 419 Md. at 71, 73-74 (citation, brackets, footnote, and internal quotation marks omitted). And that is what occurred here.

The State’s proffer in support of Tate’s guilty plea to premeditated first-degree murder described, in great detail, the steps Tate took in planning and committing the murder of the victim. At Tate’s plea hearing, the State proffered that Tate “had made several threats against the life of the victim, [Haines], because [Haines] had been dating Tate’s former girlfriend, Tammy Heath,” and that a witness, Brian Hannon, “would testify [Tate] told him he was going to dress up in dark clothing and ambush [Haines] at his residence. He told Brian he would stab [Haines] and cut his throat, and that after he was dead he would physically assault and batter him. Tate told Hannon that he had been sharpening the knife all week long.”

Furthermore, the State asserted that Sandra Eastwood and Joseph Allen “would both testify they were told by the Defendant that he intended to kill [Haines],” and that another witness, Amanda Jones, “would testify that she was in the bedroom of the Defendant prior to the homicide, and observed a sharp knife, approximately 10 inches long, and a sharpening stone under his bed.”

The State further proffered that, on the night of February 24, 1992, a neighbor of the victim “heard what she described to be as fighting sounds outside [her] residence.”

That neighbor then saw the victim, Mr. Haines, “who lived across the street,” approached by a stranger, after which a struggle, between the two, ensued. According to the State, that eyewitness then observed “the stranger standing next to [Haines], beating and kicking him in the area of the face,” and “heard [Haines] calling for help, and begging his assailant to stop.” Then, after asking another resident of her home to call the police, the neighbor “observed the stranger drag the body of [Haines] . . . to the rear of [a nearby home], and hide the body behind a shed. She then observed the stranger walk back to the street, look around, and walk away[.]”

A subsequent autopsy, the State informed the court, “revealed that the victim had suffered 24 stab and cutting wounds to his body, including 14 stab wounds to the back; both lungs; liver; bilateral hemothoraces; six wounds to the neck; two to the upper right and one to the upper left arm; one to the left hand; and multiple cutting wounds to the neck, hands and right forearm. In addition he suffered blunt force trauma to the head, including multiple facial lacerations, and fractures of the nasal and right maxillary bones.” And, officers found, at the crime scene, “a handle and partial blade of a broken knife, which was believed to be used to inflict the stab and cutting wounds sustained by the victim.”

Finally, the State proffered that a search and seizure warrant executed at the home of appellee “produced a bloodstained black ski jacket, owned by [Tate], which revealed the presence of human blood on the right cuff.” That blood, the State maintained, “was compared by Cell Mark Laboratories with the blood of the victim, [Haines] by DNA profiling, and found to be a positive match.” And, during a “subsequent search of the

[Tate’s] bathroom,” officers recovered “the victim’s wallet, which contained his personal papers and identification.”

In sum, the State proffered that multiple witnesses would testify that Tate had described to them how he planned to kill the victim, and one witness, who actually observed the victim’s murder, described how the murder was committed and that description mirrored his homicidal plans. Moreover, Haines’s wallet was found at Tate’s home, and his DNA was recovered from a blood stain on Tate’s jacket. Accordingly, the detailed factual recitation made by the State at the plea hearing described the offense to which Tate was pleading guilty, premeditated first-degree murder, in substantial and significant detail.

Furthermore, the State’s rendition of the facts, supporting the charge of premeditated first-degree murder, nullifies the circuit court’s concern that there was “[n]o expressed differentiation of **premeditated** first-degree murder versus first-degree felony murder.” (emphasis in original) The court below speculated that, because Tate’s indictment used the short form language for first-degree murder, and, because the indictment also included a separate robbery count, which, as previously mentioned, was *nolle prossed* by the State, Tate may not have understood that he was pleading guilty to premeditated first-degree murder as opposed to first-degree felony murder, and therefore his plea was involuntary.

The “short form language” of the indictment here⁹ did charge Tate with premeditated first-degree murder, but also, arguably, charged him with first-degree felony murder. *See Robinson v. State*, 298 Md. 193, 202 (1983) (holding that the statutory short-form murder indictment was sufficient to charge felony-murder).¹⁰ But, regardless of the imprecision of the language of the indictment, given the detailed recitation of facts proffered by the State, in which the State asserted that at least two witnesses would testify that Tate had described to them how he planned to kill the victim and the evidence recovered at both the site of the murder and at Tate’s home was consistent with that plan, any imprecision in the indictment was remedied by the State’s factual proffer at the plea hearing.

Admittedly, the circuit court stated, as Tate points out, that it believed its ruling was “bolstered” by the fact that Tate, in its words, had “some diminished capacity” when he entered his plea. The court cited the fact that he was only 17 years old at that time, and that

⁹ Specifically, the charge in the indictment to which Tate pleaded guilty was:

THE GRAND JURY charges that the aforesaid defendant, on or about the aforesaid date, feloniously, willfully, and of deliberately premeditated malice aforethought did kill and murder Jerry Lee Haines. (Article 27, Section 407-411) (Murder-First Degree: 27/407)

¹⁰ Specifically, in *Robinson*, the indictment charged the defendant as follows:

The Grand Jurors of the State of Maryland, for the body of Prince George’s County, on their oath do present that [Robinson], feloniously, wilfully and of deliberately premeditated malice aforethought, did kill and murder [the victim], in violation of the Common Law of Maryland, and against the peace, government and dignity of the State.

a psychologist had testified at his sentencing hearing, that, as the post-conviction court put it, “Tate’s capacity to specially decide what to do under certain circumstances was impaired.” As the *Daughtry* Court stated, the “personal characteristics of the accused” should be considered in evaluating the validity of his guilty plea. *See Daughtry* at 53-54 (citations omitted).

But the testimony of the psychologist relied upon by the post-conviction court was given at Tate’s sentencing hearing, months after his plea hearing and was merely intended to provide support to the defense’s assertion that Tate would benefit from treatment at Patuxent, not to cast doubt on the validity of Tate’s plea. As summarized by defense counsel, near the end of that hearing: “In this particular case [the court] ha[s] heard from . . . [psychologists] . . . all of whom seem to come up with a remarkably similar recommendation with regard to time and treatment.” Counsel continued: “[Tate] is amenable to treatment. He can be treated. . . . As the Court knows, one who is facing a life sentence, who was tried for murder, cannot be accepted by Patuxent itself unless recommended by the sentencing Judge or State’s attorney.” And, the sentencing court, apparently convinced that Tate was amenable to some form of treatment, recommended that he be treated at Patuxent.

But, the post-conviction court did not hold that Tate’s capacity was so diminished that he was incapable of understanding the nature of the charges against him or the rights he was waiving or the consequences of his plea, nor did the psychologists presented by the defense at the sentencing hearing, nor did Tate or his counsel at the plea hearing, suggest

that he lacked the capacity to plead guilty. In fact, Tate and his counsel assured the trial court of the contrary.

Indeed, Tate’s defense counsel assured the court that, although Tate had undergone counseling with “a social worker,”¹¹ and nothing in that counseling “indicate[d] that [Tate] did not understand the nature of the proceedings before the [c]ourt today.” The trial court then asked Tate if his counsel’s statement was correct, and Tate asserted that it was.

Moreover, the post-conviction court never found that Tate’s putative diminished capacity constituted an independent ground for its ruling but only that it lent support or, in the court’s words, “bolstered” its conclusion that Tate’s plea was not voluntary. In any event, the court relied on testimony which never directly addressed the issue of the voluntariness of Tate’s plea but, in fact, was only presented to provide support for Tate’s admission to Patuxent.

In sum, the post-conviction court erred in vacating Tate’s guilty plea to premeditated first-degree murder. At his plea hearing, Tate confirmed that he had read and discussed with his counsel a copy of his charges, Tate confirmed that he understood what he was charged with and what he was pleading guilty to, and the prosecutor’s statement of facts in support of that plea described in detail Tate’s advanced planning and execution of the murder. Therefore, we conclude that Tate’s 1992 guilty plea proceedings did not violate his rights under either Maryland Rule 4-242(c) or the Federal Constitution.

¹¹ Specifically, defense counsel asserted that, “some months before the incident in question,” Tate “was presented by his parents in the offices of a Dr. Steven Lasht, who I believe is a licensed social worker, perhaps psychologist, for some counseling sessions.” Dr. Lasht, however, did not testify at either the plea or sentencing hearings.

Consequently, we hold that the Howard County circuit court erred in granting Tate post-conviction relief and reverse the judgment of that court. But, as this appeal was filed in the Anne Arundel County circuit court, which is also the court in which Tate's guilty plea was entered and which sentenced him, we shall remand the case to the Anne Arundel County circuit court for further proceedings consistent with this opinion.

APPELLEE'S MOTION TO DISMISS DENIED. JUDGMENT OF THE CIRCUIT COURT FOR HOWARD COUNTY REVERSED AND THIS CASE IS REMANDED TO THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY FOR PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.