

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-CP-00925-COA

**TAIRUS HURD A/K/A TAIRUS J. HURD A/K/A
TAIRUS JAMILLE HURD**

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF JUDGMENT:	06/30/2025
TRIAL JUDGE:	HON. KELLY LEE MIMS
COURT FROM WHICH APPEALED:	ALCORN COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	TAIRUS HURD (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: SCOTT STUART
NATURE OF THE CASE:	CIVIL - POST-CONVICTION RELIEF
DISPOSITION:	AFFIRMED - 10/13/2026
MOTION FOR REHEARING FILED:	

BEFORE BARNES, C.J., McDONALD AND EMFINGER, JJ.

McDONALD, J., FOR THE COURT:

¶1. Tairus Hurd appeals the Alcorn County Circuit Court’s denial of his motion for post-conviction relief. Hurd was convicted of possession of methamphetamine (between ten and thirty grams) with intent to distribute or transfer and possession of a firearm by a felon. The court sentenced him as a habitual offender to serve ten years in the custody of the Mississippi Department of Corrections for his drug conviction and to a consecutive suspended sentence of ten years in custody for the firearm conviction, followed by five years of post-release supervision.

¶2. He filed a motion for post-conviction relief (PCR) pursuant to Mississippi Code Annotated section 99-39-5 (Rev. 2020), claiming that the State did not prove the elements

of his alleged habitual-offender status. The circuit court held that the State presented sufficient proof to establish that Hurd was a habitual offender. On appeal, Hurd argues that he did not serve the sentences he received for his prior convictions and thus was not a habitual offender. Having reviewed the arguments of the parties and the relevant precedent, we affirm the circuit court's order denying Hurd's PCR motion.

Facts

¶3. In 2022, an Alcorn County grand jury indicted Hurd for one count of possession of methamphetamine with intent to distribute or transfer and one count of possession of a firearm by a felon and charged him as a habitual offender because Hurd had previously been convicted of two separate felony offenses.¹ Hurd pled guilty to both charges on March 3, 2025, and he was sentenced as a habitual offender pursuant to Mississippi Code Annotated section 99-19-81 (Rev. 2020).²

¹ The indictment reflected that Hurd had previously been convicted on June 29, 2020, of two separate felony offenses that occurred at different times. He was sentenced to a term of more than one year for each of these felony offenses of "Possession of Methamphetamine with Intent to Sell (Cause No. CR-16-145)" and "Possession of Methamphetamine (Cause No. 18-237)."

² Section 99-19-81 provides:

Every person convicted in this state of a felony who shall have been convicted twice previously of any felony or federal crime upon charges separately brought and arising out of separate incidents at different times and who shall have been sentenced to separate terms of one (1) year or more in any state and/or federal penal institution, whether in this state or elsewhere, shall be sentenced to the maximum term of imprisonment prescribed for such felony unless the court provides an explanation in its sentencing order setting forth the cause for deviating from the maximum sentence, and such sentence shall not be reduced or suspended nor shall such person be eligible for parole or probation.

¶4. On June 10, 2025, Hurd filed his PCR motion in the Alcorn County Circuit Court pursuant to section 99-39-5, which allows sentenced defendants to file a PCR motion to vacate, set aside, or correct their judgment or sentence under certain circumstances. Hurd asserted that he was improperly sentenced as a habitual offender or, alternatively, that he was denied due process of law or that his conviction was the result of “harmful” error. Hurd argued that section 99-19-81 required proof of two prior felony convictions and that the State did not prove the time was actually served. The circuit court summarily denied his motion pursuant to Mississippi Code Annotated section 99-39-11(2) (Rev. 2020),³ finding from its review of the record and transcript in Hurd’s criminal case (CR22-167(KM)(A)) that the State had met the burden to prove habitual-offender status and that Hurd’s argument lacked merit.

¶5. Hurd has appealed and asserts one issue on appeal: whether the circuit court erred in denying his PCR motion because the State failed to prove the length of the sentence actually served for his prior convictions.

Standard of Review

¶6. “When reviewing a circuit court’s denial or dismissal of a PCR motion, we will reverse the judgment of the circuit court only if its factual findings are clearly erroneous; however, we review the circuit court’s legal conclusions under a de novo standard of

³ Section 99-39-11(2) provides:

If it plainly appears from the face of the motion, any annexed exhibits and the prior proceedings in the case that the movant is not entitled to any relief, the judge may make an order for its dismissal and cause the petitioner to be notified.

review.” *Hays v. State*, 282 So. 3d 714, 716-17 (¶5) (Miss. Ct. App. 2019).

Discussion

¶7. When Hurd pled guilty to his two substantive charges, he also accepted his habitual-offender status under section 99-19-81:

The Court: Do you understand if you were found guilty by a jury at a trial, you could appeal that conviction to the Supreme Court, but if you enter a plea of guilty here this morning and say *I did it* on the record, you’ll have little or no right to appeal whatsoever? Hurd?

Hurd: Yes, sir.

The Court: Mr. Tairus Jamille Hurd, in Alcorn 22-167 in Count I, the State alleges that you did feloniously possess with intent to sell, barter, or transfer a Schedule II controlled substance, methamphetamine, the quantity greater than ten grams, on March 8, 2021, in violation of law. *This is also enhanced by habitual offender Section 99-19-81.* Do you understand that charge?

Hurd: Yes, sir.

The Court: In Count II of that same indictment, the State alleges that you in county and state March 8, 2021, did feloniously possess a weapon, a 9 millimeter handgun, you being previously convicted of possession of methamphetamine in Alcorn Cause 18-237 on June 29, 2020. *This is also enhanced by that of habitual offender.* Do you understand that charge?

Hurd: Yes, sir.

(Emphasis added).

¶8. “When a defendant pleads guilty, he waives any argument against habitual-offender status if he fails to challenge the sufficiency or validity of prior felony convictions and sentences.” *Hays v. State*, 321 So. 3d 1208, 1215 (¶19) (Miss. Ct. App. 2021); *see also*

Martin v. State, 214 So. 3d 217, 220 (¶6) (Miss. 2017) (“[F]ailure to object to a habitual-offender enhancement during sentencing procedurally bars a defendant from raising that issue on appeal.”). Here, Hurd was indicted as a habitual offender, and at his plea hearing, the State provided evidence of the prior convictions needed to establish the basis for enhancing Hurd’s sentence. The record reflects that Hurd knowingly, intelligently, and voluntarily pled guilty to each indicted charge, raised no objections to the prior felony convictions used by the State to prove his habitual-offender status, and did not object to the habitual-offender enhancement itself. We conclude that Hurd has waived his argument regarding the State’s failure to prove his habitual-offender status, and the argument is therefore procedurally barred.

¶9. Waiver notwithstanding, we address the merits of Hurd’s argument. On appeal, Hurd contends that the State failed to prove that he actually served the length of each prior sentence in order for the court to sentence him as a habitual offender pursuant to section 99-19-81. Section 99-19-81 reads in part:

Every person convicted in this state of a felony who shall have been convicted twice previously of any felony or federal crime upon charges separately brought and arising out of separate incidents at different times and **who shall have been sentenced** to separate terms of one (1) year or more in any state and/or federal penal institution, whether in this state or elsewhere, shall be sentenced to the maximum term of imprisonment prescribed for such felony
....

The language of the statute does not require the State to prove that a defendant has served the ordered sentence, only that his sentence exceeded more than a year. The Mississippi Supreme Court has specifically held that the State is not required to prove that a defendant

has “actually served time in prison for [s]ection 99-19-81 to apply.” *Thomas v. State*, 247 So. 3d 1252, 1257-58 (¶15) (Miss. 2018); *Smith v. State*, 291 So. 3d 1140, 1142 (¶6) (Miss. Ct. App. 2020) (“Applying this statute, our Supreme Court has held that whether the defendant “actually served time in prison for . . . prior offenses is irrelevant.”); *Bradley v. State*, 224 So. 3d 1267, 1272 (¶20) (Miss. Ct. App. 2017) (“[Section 99-19-81] requires only that [the defendant] have been sentenced to a year or more; the length of the sentence controls, not how much of it is actually served.”). “Rather, the relevant inquiry is whether the defendant was *sentenced* to a term of imprisonment of one year or more for two prior felony convictions.” *Thomas*, 247 So. 3d at 1258 (¶15) (emphasis in original).

¶10. Here Hurd does not challenge that he had been *sentenced* to terms of more than one year for two or more previous convictions at the time he was sentenced for the convictions at hand. On June 29, 2020, Hurd pled guilty to possessing methamphetamine on March 12, 2016, with intent to sell (Cause No. CR2016-145). Hurd was sentenced to thirty years in MDOC custody, which the court suspended and placed Hurd on post-release supervision. On that same day, June 29, 2020, Hurd pled guilty to another felony, the possession of methamphetamine (more than two but less than ten grams) on April 28, 2018 (Cause No. CR18-237). Hurd was sentenced to eight years in MDOC custody to be served in a house-arrest program. Hurd was clearly sentenced to more than one year of incarceration for two prior felonies, which occurred on different dates, thereby establishing his habitual-offender status. Thus, we find no merit to Hurd’s argument and no error by the circuit court in summarily denying Hurd’s PCR motion.

Conclusion

¶11. For these reasons, we affirm the circuit court's order denying Hurd's motion for post-conviction relief.

¶12. **AFFIRMED.**

BARNES, C.J., CARLTON AND WILSON, P.JJ., WESTBROOKS, LAWRENCE, McCARTY, EMFINGER AND LASSITTER ST. PÉ, JJ., CONCUR. WEDDLE, J., NOT PARTICIPATING.