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2019 IL App (3d) 170027-U

Order filed December 20, 2019

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-17-0027
MAURICE S. JOHNSON,	)	Circuit No. 02-CF-1519
Defendant-Appellant.	)	Honorable Daniel J. Rozak, Judge, Presiding.

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JUSTICE WRIGHT delivered the judgment of the court.  
Justices Carter and O'Brien concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The circuit court did not err by denying defendant's motion for leave to file a successive postconviction petition because defendant failed to show that he suffered prejudice.

¶ 2 Defendant, Maurice S. Johnson, appeals the denial of his motion for leave to file a successive postconviction petition. Specifically, defendant contends that he met the requisite cause and prejudice standard because he showed that one of the State's witnesses testified under a false name and had several pending cases that were not disclosed to defendant. We affirm.

I. BACKGROUND

¶ 3

Defendant was charged with two counts of first degree murder (720 ILCS 5/9-1(a)(1), (a)(2) (West 2002)) for causing the death of Darryl C. Chandler.

¶ 5

Prior to the trial, the State submitted a list of witnesses. “Carlton Williams” was listed as a witness. The State filed a “Record of Prior Convictions of State Witnesses,” which indicated that “Carlton Williams” had prior convictions for aggravated battery and unlawful use of weapons by a felon in Will County case Nos. 97-CF-4782 and 98-CF-527, respectively.

¶ 6

The court issued subpoenas for Williams to appear in court on two occasions, but Williams failed to appear both times. The court issued a warrant for Williams’s arrest. While in custody, Williams appeared in court at one of defendant’s pretrial hearings and stated: “I don’t know what happened with this man, when it happened, how it happened. I got a job, too, at home.” The court ordered that Williams remain in custody until defendant’s trial. Williams stated that he had been arrested on another matter and was currently in custody for that as well.

¶ 7

A jury trial was held. Williams testified at the trial. He stated that his name was “Carleton Aaron Wesley Williams.” He spelled out “Carleton.” Williams stated that he had been previously convicted of aggravated battery and unlawful use of a firearm. Williams stated that he also had an aggravated battery case pending against him. Williams indicated that he had not been promised anything regarding his pending case.

¶ 8

Williams testified that he encountered defendant at approximately 10:30 a.m. on the day of the incident. Defendant told Williams that he had “hit a lick” on Chandler. Williams testified that this meant defendant obtained drugs, likely cocaine, from Chandler. Williams testified that the type of drug that defendant obtained from Chandler was likely cocaine. Defendant also told

Williams that he shot Chandler. Defendant walked to the residence of Williams's mother, which was nearby. Williams walked away in a different direction.

¶ 9 Williams testified that he talked to police officers about the incident on several occasions. Williams acknowledged that he had previously told an officer that he encountered defendant at 8:30 or 9 a.m. Williams stated that he lied to the officer because he "really could care less" and "didn't want nothing to do with" the case. Williams acknowledged that he had previously stated in court that he did not know what happened with defendant, when it happened, or how it happened.

¶ 10 In defendant's direct appeal, we summarized the remaining trial evidence as follows:

"The evidence showed that Darryl Chandler was shot to death in his car sometime between 10:30 a.m. and 11 a.m. on January 12, 2002. Joliet police officers subsequently arrived at the scene and discovered Chandler's body in the driver's seat of the car. He had one gunshot wound to the right side of his neck and another to the back of his head. A silver handgun with a wooden grip was found on the seat next to his body.

Serena Fort testified that Chandler visited her house at 10 a.m. on the day in question. He was driving his car, and there was a black man in the front passenger seat. Chandler stayed at Fort's house for 15 to 20 minutes and then left in the car with his passenger.

Gregory Thompson testified that he saw Chandler parked outside Fort's house on the day in question. He leaned into the car and spoke with Chandler about an accident he (Thompson) had been in the night before. During this conversation, Thompson noticed that defendant was sitting in the front passenger

seat of the car. Defendant, who was wearing a blue jacket, stared straight ahead the entire time Thompson spoke with Chandler.

[Jaime Snider] testified that he lived approximately one block from the murder scene. In the morning hours of January 12, 2002, [Snider] saw an unidentified black man run past his house.

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Willie Thigpen testified that he was engaged to marry Carleton Williams' mother, with whom he shared an apartment. According to Thigpen, defendant came to the apartment on the day in question and offered \$5 to be driven somewhere. At first defendant wanted to go to Herkimer Street, but he changed his mind and asked to be driven home. Accordingly, Thigpen drove defendant to his (defendant's) apartment building and dropped him off there.

Nicole Fielder testified that she spent the night of January 11, 2002, at defendant's apartment. At some point during that evening, defendant showed her a silver handgun with a wooden grip. He also left the apartment that evening and did not return until midnight. When he returned, he told Fielder he had been out so late because he lost his gun. He said he planned to retrieve the gun the next day.

Fielder also testified that in the late morning of January 12, 2002, defendant called her asking for help to rent a car. Fielder did not help defendant rent a car, but she visited his apartment that day. She and defendant ran errands, one of which was to buy laundry detergent for Fielder's grandmother.

Detective Brian Lewis testified that in the late afternoon of January 12, 2002, he searched defendant's apartment with permission from defendant's mother. On defendant's bed Lewis found a jacket that was wet and smelled of laundry detergent.

Katherine Davis, a police forensic biologist, testified that she found a spot of blood on the sleeve of the jacket. DNA analysis established that the blood came from the victim, Darryl Chandler." *People v. Johnson*, No. 3-04-0894 (2006) (unpublished order under Illinois Supreme Court Rule 23).

¶ 11 During closing argument, defense counsel stated that the State's theory of the case was "based upon the statement \*\*\* made by a convicted felon, Carleton Williams." Defense counsel noted that the State had no eyewitnesses. Defense counsel argued that Williams's testimony was not credible, in part, because of his prior convictions. Defense counsel also noted that Williams admitted that he had lied to an investigator.

¶ 12 The jury found defendant guilty of first degree murder, and the court sentenced him to 80 years' imprisonment.

¶ 13 On appeal, defendant raised arguments relating to the propriety of having to wear an electronic security belt during his jury trial. We affirmed defendant's conviction. *Id.*

¶ 14 On February 26, 2007, defendant filed a *pro se* postconviction petition, which the court summarily dismissed. On appeal, this court affirmed the summary dismissal. *People v. Johnson*, No. 3-07-0303 (2009) (unpublished order under Illinois Supreme Court Rule 23).

¶ 15 On December 3, 2009, defendant filed a motion for leave to file a successive postconviction petition seeking to raise a claim that his appellate counsel failed to provide adequate representation during the proceedings on his initial *pro se* postconviction petition. The

circuit court denied defendant's motion for leave to file a successive postconviction petition. On appeal, we affirmed the judgment of the circuit court. *People v. Johnson*, No. 3-10-0093 (2011) (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 16 On December 21, 2016, defendant filed a second motion for leave to file a successive postconviction petition, which is the subject of the instant appeal. In his motion, defendant sought to raise several claims, including the claim that Williams's true name was "Carl'e'ton 'Edward' Williams," and he testified under the false name of "Carlton 'Aaron Wesley' Williams."<sup>1</sup> Defendant alleged that the State knew that Williams was testifying falsely regarding his name, but it failed to correct him. Defendant alleged that there was cause for failing to raise this claim in his initial postconviction petition because he was unaware that Williams had used a false name at the time of trial. Defendant also alleged that the prosecutor failed to disclose all of Williams's prior criminal convictions and pending charges, which were under Williams's correct name. Defendant alleged that he was prejudiced in that he was unable to cross-examine Williams regarding any ulterior motive Williams may have had concerning the resolution of his pending criminal cases when he testified for the State.

¶ 17 Defendant attached to his motion the successive postconviction petition he sought leave to file. The motion alleged that the State failed to disclose to defense counsel many of Williams's prior criminal convictions. The petition listed several misdemeanor, traffic, and order of protection cases that were not disclosed. The petition also alleged that several undisclosed cases were pending against Williams at the time of defendant's trial, including two domestic battery cases and an assault case. The petition alleged that Williams was on conditional discharge in

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<sup>1</sup>Defendant asserts in his petition that Williams testified under the name "Carlton" without an "E." However, the record shows that Williams spelled his name with an "E" ("Carleton") during his trial testimony.

several cases. Defendant argued that he was prejudiced because his trial attorney was not able to cross-examine Williams regarding any concessions Williams may have been expecting in the pending cases against him in exchange for his testimony. Defendant also alleged that if he had known about Williams's criminal history, he would have chosen a bench trial and testified on his own behalf that he did not tell Williams that he shot and robbed the victim. Defendant alleged that he "had to go through a great deal of requests through the Will County Circuit Court Clerk and Freedom of Information requests through a various [sic] of agencies to obtain Williams['s] correct name and undisclosed prior convictions, pending cases, conditional discharge status, and petitions to revoke \*\*\*."

¶ 18 Defendant attached the notarized affidavit of Danisha Williams as an exhibit. The affidavit was dated February 13, 2016. The affidavit stated: "That the name of Carlton Aaron Wesley Williams that my brother Carlton 'Edward' Williams provided [in] his testimony under oath \*\*\* was not his correct name. That the name of Carlton Aaron Wesley Williams is the name of my brother Carlton 'Edward' Williams [sic] biological father."

¶ 19 Defendant also attached several docket sheets and other documents from the Will County circuit clerk's office as exhibits. These documents showed that "Carleton E. Williams" had convictions for aggravated battery in Will County case No. 97-CF-4782 and unlawful use or possession of a weapon by a felon in Will County case No. 98-CF-527. "Carleton E. Williams" had pending charges for aggravated battery (a Class 3 felony) and domestic battery (a Class A misdemeanor) in Will County case No. 03-CF-1729 and a charge for assault (a Class A misdemeanor) in Will County case No. 02-CM-3765.

¶ 20 The documents also showed that, at the time of defendant's trial, "Carleton E. Williams" was serving terms of conditional discharge on a conviction for driving on a suspended license in

Will County case No. 01-TR-114536 and convictions for criminal trespass to land in Will County case Nos. 02-CM-4192 and 02-CM-3764. At the time of the trial, petitions to revoke conditional discharge were pending in Will County case Nos. 01-TR-114536 and 02-CM-4192. The documentation also showed that “Carliton E. Williams” was serving a term of conditional discharge in Will County case No. 01-TR-64291 for the offense of driving on a suspended license, and a petition to revoke was pending in that case at the time of defendant’s trial.<sup>2</sup>

¶ 21 Defendant also attached copies of requests for information regarding Williams that he had sent to the Joliet Police Department and the Will County circuit court clerk’s office pursuant to the Freedom of Information Act.

¶ 22 The court denied defendant’s motion for leave to file a successive postconviction petition.

¶ 23 II. ANALYSIS

¶ 24 Defendant argues that the circuit court erred by denying him leave to file a successive postconviction petition because he established the requisite cause and prejudice regarding his claim that the State violated his right to due process by failing to (1) correct Williams when he testified falsely as to his middle name and (2) disclose additional cases that were pending against Williams at the time of the trial. These additional pending matters included a domestic battery charge (which was charged in the same case as the aggravated battery charge that was disclosed), a misdemeanor assault charge, and three petitions to revoke court supervision on convictions for driving on a suspended license and criminal trespass to land.

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<sup>2</sup>The documents defendant attached concerning Will County case No. 01-TR-64291 indicated that the defendant in that case was “Carliton E. Williams” (spelled with an “I”) rather than “Carleton E. Williams” (spelled with an “E”). For purposes of this appeal, we accept defendant’s assertion that Williams was the defendant in that case.



¶ 25 Section 122-1(f) of the Post-Conviction Hearing Act (725 ILCS 5/122-1(f) (West 2016))

provides:

“Only one petition may be filed by a petitioner under this Article without leave of the court. Leave of court may be granted only if a petitioner demonstrates cause for his or her failure to bring the claim in his or her initial post-conviction proceedings and prejudice results from that failure. For purposes of this subsection (f): (1) a prisoner shows cause by identifying an objective factor that impeded his or her ability to raise a specific claim during his or her initial post-conviction proceedings; and (2) a prisoner shows prejudice by demonstrating that the claim not raised during his or her initial post-conviction proceedings so infected the trial that the resulting conviction or sentence violated due process.”

The circuit court’s ruling on a motion for leave to file a successive petition is “a preliminary screening to determine whether defendant’s *pro se* motion for leave to file a successive postconviction petition adequately alleges facts demonstrating cause and prejudice.” *People v. Bailey*, 2017 IL 121450, ¶ 24. “[T]he cause and prejudice determination is a question of law to be decided on the pleadings and supporting documentation submitted to the court by the defendant-petitioner.” *Id.* Our supreme court has held:

“[L]eave of court to file a successive postconviction petition should be denied when it is clear, from a review of the successive petition and the documentation submitted by the petitioner, that the claims alleged by the petitioner fail as a matter of law or where the successive petition with supporting documentation is insufficient to justify further proceedings.” *People v. Smith*, 2014 IL 115946, ¶ 35.

¶ 26 In the instant case, the State concedes that, taking as true the allegations in the motion for leave to file a successive petition, defendant has established cause for failing to raise his claim in earlier proceedings. The State’s concession is supported by the record. Defendant alleged in his motion for leave that he recently discovered that Williams had testified under a false name when Williams’s sister provided an affidavit stating that Williams used his father’s name during the trial. Defendant attached this affidavit—which is dated February 13, 2016—to his motion for leave. Defendant also attached numerous exhibits documenting his requests for information regarding Williams’s criminal history.

¶ 27 Accepting the State’s concession that defendant has established cause, we consider whether defendant has shown prejudice. In order to show that he was prejudiced by his failure to raise his claim in the initial postconviction proceedings, defendant must demonstrate that the claimed error “so infected the trial that the resulting conviction or sentence violated due process.” 725 ILCS 5/122-1(f) (West 2016). Defendant argues that his right to due process was violated when the State failed to correct Williams when he testified falsely regarding his middle name and when the State failed to disclose additional pending cases against Williams. See *People v. Olinger*, 176 Ill. 2d 326, 345 (1997); *People v. Beaman*, 229 Ill. 2d 56, 73 (2008).

¶ 28 We find that the State’s alleged failure to correct Williams regarding his middle name and to disclose Williams’s pending cases for domestic battery and assault or the petitions to revoke his conditional discharge on convictions for driving on a suspended license and criminal trespass to land did not so infect defendant’s trial that his conviction violated due process. Extensive evidence casting doubt upon Williams’s credibility was presented to the jury. Specifically, Williams testified that he had prior convictions for aggravated battery and unlawful use of a firearm. Williams also testified that he had a pending case for aggravated battery and

that the State had not promised him anything in his pending case in exchange for his testimony. Williams also admitted that he had lied to a police officer about the time he encountered defendant and had previously stated in court that he did not know what happened with defendant, when it happened, or how it happened. During closing argument, defense counsel argued that Williams was not a credible witness, in part, because he was a convicted felon and had admitted that he lied to the police. Given the considerable evidence at trial challenging Williams's credibility, any error resulting from the State's failure to correct Williams's testimony regarding his middle name or disclose his additional pending criminal matters did not so infect the trial that defendant's conviction violated due process. We note that the undisclosed pending criminal matters were all for less serious offenses than the aggravated battery charge, which was disclosed to the jury.

¶ 29 In reaching our holding, we find the decision in *People v. Love*, 285 Ill. App. 3d 784 (1996) to be instructive. In *Love*, an eyewitness who testified for the State admitted that there was a drug case pending against him during his trial testimony. *Id.* at 787. On appeal, the defendant argued that he was prejudiced when the State failed to reveal that there was also a second drug case pending against the witness at the time of the trial, as required under Illinois Supreme Court Rule 412 (eff. July 1, 1985). The *Love* court held that the State's failure to disclose the other drug case was "improper and inexcusable," but the defendant did not suffer prejudice. *Id.* at 794. The court noted that a new trial was not warranted based on a violation of Rule 412 "unless the violation was 'material,' meaning it might have affected the outcome of the trial." *Id.* The court reasoned that the jury had been told that the witness had one pending case, had been convicted of other crimes, and had been sentenced to prison twice. *Id.* at 794-75. The court also noted that the jury heard the witness deny that he had made any deals with the State

and heard defense counsel argue that the witness was testifying for the State because he was afraid of what would happen in his pending case. *Id.* at 795. The *Love* court concluded that it was “difficult to imagine that the jury, having heard so much about [the witness’s] checkered career, would have arrived at a different verdict had it been aware of the second charge.” *Id.*

¶ 30 Here, as in *Love*, extensive evidence was presented at trial to challenge Williams’s credibility, including two prior felony convictions, a pending felony case, and prior false or inconsistent statements. Like in *Love*, it is difficult to imagine that the jury would have reached a different result if the State had corrected Williams’s testimony regarding his middle name and disclosed Williams’s pending misdemeanor charges and petitions to revoke conditional discharge.

¶ 31 We reject defendant’s argument that *Love* is distinguishable in that (1) Williams was a more important witness in the State’s case against defendant than the eyewitness in *Love*, (2) the State failed to disclose four pending proceedings against Williams versus one in *Love*, and (3) there was evidence in the record that Williams was influenced by self-interest or bias. Admittedly, Williams was a very important State witness, and we take as true defendant’s allegation that multiple cases were pending against Williams at the time of the trial. However, extensive evidence challenging Williams’s credibility was presented at the trial, and we reassert that it is difficult to imagine that the result of the trial would have been different if the State had corrected Williams’s middle name and disclosed the additional pending criminal matters. Also, the evidence of Williams self-interest and bias to which defendant refers—namely, the fact that Williams lied to a police officer and previously stated in court that he knew nothing about defendant’s case—was presented to the jury.

¶ 32 In arguing that Williams’s testimony was crucial evidence in this case, defendant sets forth extensive arguments regarding alleged deficiencies in the other evidence presented at trial, including the manner in which the DNA evidence was presented to the jury and possible mishandling and/or contamination of the jacket containing DNA consistent with that of the victim. We do not specifically address these arguments, but we note that these arguments were or could have been presented to the jury at the time of trial. We do not dispute that Williams was a key State witness. However, given the extensive evidence challenging Williams’s credibility that was presented to the jury at trial, defendant has not shown that he was prejudiced by the State’s failure to further impeach Williams’s credibility by correcting Williams’s testimony regarding his middle name and disclosing his additional pending criminal matters.

¶ 33 Finally, we are not persuaded by defendant’s argument that Williams may have provided a false middle name to avoid disclosing his additional pending cases to the jury. This argument is speculative, as the record provides no indication as to why Williams may have lied about his middle name. It is not clear based on this record that Williams would have had any reason to believe that the parties were unaware of his middle name or that he could conceal his additional pending cases by lying about his middle name. The documentation attached to the motion for leave to file a successive petition indicates that Williams’s pending aggravated battery case—which the parties were aware of—was charged against “Carleton E. Williams,” his correct name. Also, it is difficult to see what benefit Williams would receive personally from concealing his additional pending cases from the jury, as Williams was not on trial in this case.

¶ 34 III. CONCLUSION

¶ 35 The judgment of the circuit court of Will County is affirmed.

¶ 36 Affirmed.