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2011 IL App (3d) 100419-U

Order filed August 25, 2011

IN THE

APPELLATE COURT OF ILLINOIS

THIRD JUDICIAL DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Plaintiff-Appellee,	)	Peoria County, Illinois,
	)	
	)	Appeal No. 3–10–0419
v.	)	Circuit No. 94–CF–764
	)	
CHRISTOPHER L. COLEMAN,	)	Honorable
	)	Michael E. Brandt,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Justices Holdridge and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's denial of defendant's postconviction petition following an evidentiary hearing was not manifestly erroneous because the newly discovered evidence was not likely to change the outcome of a new trial. The court's order dismissing the successive postconviction petition after a third stage hearing is affirmed.

¶ 2 Following a trial, a jury found defendant guilty of the offenses of armed robbery, home invasion, residential burglary and aggravated criminal sexual assault. This court affirmed defendant's conviction and sentence on direct appeal and later affirmed the dismissal of

defendant's original postconviction petition. Defendant filed a motion for leave to file a second successive postconviction petition on May 6, 2009, based on newly discovered evidence supporting a claim of actual innocence. Following an evidentiary hearing, the trial court denied defendant's second successive postconviction petition. On appeal, defendant claims that the trial court's findings and conclusions were manifestly erroneous and that defendant is entitled to a new trial based upon newly discovered evidence. We affirm the trial court's decision to deny the successive postconviction petition.

¶ 3 FACTS

¶ 4 On September 13, 1994, a Peoria County grand jury issued a four-count bill of indictment against defendant and other named co-defendants, charging each defendant with the offenses of armed robbery, aggravated criminal sexual assault, home invasion, and residential burglary. At trial, the State's evidence included the testimony of witnesses who established that multiple masked persons entered a residence occupied by Bertha Miller, Tequilla Miller, Tekelia Miller and other friends and family members on August 22, 1994. The State's evidence showed that the intruders forced the occupants of the home to the floor and held them at gunpoint. The evidence revealed the some of the occupants of the home were either beaten and/or stabbed by the intruders and one young female was sexually assaulted.

¶ 5 At trial, defendant was identified as one of the intruders by Tequilla Miller who testified that she recognized defendant when he removed his mask while inside the home. She also testified that defendant was the leader of the group of men which included a young boy who acted as lookout. Bertha Miller, Tequilla's mother, testified that she recognized defendant's voice and recognized defendant's unusual walk during the home invasion.

¶ 6 During trial, the State called Anthony Brooks as a State's witness. Brooks, a juvenile at the time of this offense, was apprehended by the police shortly after the crime and prosecuted for his participation as a juvenile. Brooks testified that he was on juvenile probation for his involvement in the Miller home invasion. Brooks told the jury that defendant did not participate in the home invasion, but Brooks admitted that he falsely accused defendant of being present at the home invasion because he was pressured by the police.

¶ 7 Robert Nixon, who previously plead guilty to committing this home invasion, testified for the defense. Nixon told the jury that defendant was not present during the home invasion and that only "Merk [Robert McKay], Lamont [Lamont Lee], Bug [James Coats], Drey [Deondre Coleman] and Rob [Robert Coats]" were participants with Nixon during the home invasion. He stated that even though he plead guilty to this offense, he did not inform the police that these individuals also participated in the home invasion. Nixon acknowledged having prior convictions for retail theft and unlawful possession of a controlled substance.

¶ 8 Shondra Dunn testified that defendant was her boyfriend for the previous 13 months and that she was with him on the night of August 21, 1994, and the morning of August 22, 1994, when the police arrived at Renetta Rettig's apartment. Tamika Young testified that she knew defendant for five years and saw defendant at Rettig's apartment in the Warner Homes during the late night hours of August 21, 1994, and the early morning hours of August 22, 1994.

¶ 9 Defendant testified on his own behalf. Defendant said that on the night in question, he was with his girlfriend, Shondra, at Rettig's apartment. He told the jury that he was sleeping when the police came to the apartment. Defendant denied participating in the home invasion on Millman.

¶ 10 In rebuttal, the State presented the testimony of Peg Buel, Pat Rabe and Tequilla Miller. Buel, a court security officer, testified that during the trial, she heard defendant tell Brooks, " 'Just tell them he wasn't there. Don't let all the talking bother – don't let all the talking that they are doing bother you.' " Tequila Miller testified she identified Elbert Nickerson as a suspect shortly after the home invasion, but later came forward to tell the police she identified the wrong person in the photo lineup. Tequilla advised the jury that she did not have any doubts regarding her identification of defendant as one of the intruders.

¶ 11 Following deliberations on April 6, 1995, a jury found defendant guilty of all four charges contained in the indictment.

¶ 12 Defendant filed a posttrial motion, and the trial court conducted a hearing on defendant's motion on August 4, 1995. James Coats testified for defendant during this posttrial hearing. Coats told the court that he committed the home invasion with "Robert Nickerson [Nixon], Robert McKay, Lamont Lee, some guy named Dray," but defendant was not present during the crime. Coats testified that he plead guilty in this case, but Coats' attorney told him to not get involved with defendant's defense because Coats was considering withdrawing his guilty plea.

¶ 13 When ruling on defendant's posttrial motion for new trial, the court stated that "the acts of the victims misidentifying people was thoroughly placed before the jury." The court stated that the case was not "particularly unique" because the outcome of the trial hinged on whether the jury found either the State's witnesses or defendant's witnesses credible. The trial court denied defendant's motion for new trial and then sentenced defendant to 30 years imprisonment for the offense of armed robbery and 30 years imprisonment for the offense of aggravated criminal sexual assault, to run consecutively. Defendant appealed. On November 7, 1997, this

court issued an order in *People v. Coleman*, No. 3–95–0576 (Nov. 7, 1997) (unpublished order under Rule 23) affirming defendant's convictions and sentence.

¶ 14 On August 17, 1998, defendant filed a petition for postconviction relief claiming that the appellate defender's office failed to raise various issues on appeal, including a contention that the State presented false testimony to the jury and failed to correct perjured testimony. On May 27, 1999, the trial court granted the State's motion to dismiss defendant's petition for postconviction relief, and this decision was upheld in *People v. Coleman*, No. 3–99–0414 (Mar. 16, 2001) (unpublished order under Rule 23).

¶ 15 On April 22, 2002, defendant filed his first successive petition for postconviction relief. On April 23, 2002, the court *sua sponte* dismissed defendant's first successive petition for postconviction relief. Defendant appealed, but later this court dismissed the appeal on May 7, 2003, at defendant's request.

¶ 16 Six years later on May 6, 2009, defense counsel filed a motion for leave to file successive postconviction petition claiming actual innocence based, in part, on affidavits prepared by four uncharged individuals identifying themselves as the perpetrators of the Miller home invasion. Defendant's second successive post conviction petition alleged the four uncharged offenders and two convicted offenders agreed that defendant was not involved in the crimes at issue.

¶ 17 Defendant asserted this new evidence, demonstrating his actual innocence, was unknown or unavailable to him at trial, was material, non-cumulative, and would likely change the result of a new trial. The verified petition for postconviction relief included 15 exhibits containing affidavits from Robert McKay, Deondre "Dre" Coleman, Robert Coats, Mark Roberson, Robert Nixon, James Coats, Elbert Nickerson, Anthony Brooks, and Audrey Yang, a second year law

student at Northwestern University who interviewed Lamont Lee on February 24, 2007, at the Logan Correctional Center. The exhibits also included a copy of the court order in Peoria County case No. 94–CF–764, People v. Robert Nixon, showing Nixon's plea agreement to home invasion entered on January 17, 1995, and a copy of the court order in Peoria County case No. 94–CF–764, People v. James Coats, showing Coats' plea agreement to only the offense of armed robbery entered on April 3, 1995, and his sentence of 15 years imprisonment.

¶ 18 On October 29, 2009, the trial court began a hearing on defendant's second successive postconviction petition. Defendant called James Coats as his first witness. Coats said he plead guilty to armed robbery and was sentenced to 15 years imprisonment. He told the court that he was offered a lesser sentence if he would testify that defendant was involved in the armed robbery, but he did not accept the offer because defendant was not involved. Coats testified that he was currently in the custody of the Illinois Department of Corrections.

¶ 19 Coats testified that defendant was not with him on August 22, 1994, at the time he, his brother Robert Coats, and his friends, Lamont Lee, Robert McKay, Robert Nixon and "a homie named Dre," whom he understood was defendant's brother, entered a home on Millman to look for drugs and money. Prior to going to the Millman address, he said that he was "partying," drinking and "smoking weed." He testified that when the police arrived at the home during the home invasion, he ran upstairs with Lee and Robert Coats. All three jumped out the window. Coats said he injured his ankle, and the police arrested him at the scene. Nixon was found inside the house by the police and was arrested, but the others successfully evaded the police.

¶ 20 Coats testified that Rabe interviewed him, "trying to find out who else was involved," but Coats did not provide this information to Rabe and provided a different story to Rabe about what

happened. Coats said that he later signed an affidavit after two law students contacted him in 2006 or 2007, but did not prepare the affidavit. Coats stated that he did not include his brother's name in the affidavit, as a person who was involved, because he did not want his brother to get into trouble. Coats did not discuss the fact that his DNA was linked to the victim of the sexual assault. Coats said that defendant and McKay both walked with a limp. On cross-examination, he stated that he was serving a sentence for unlawful possession of a controlled substance committed in 2007. Further, he acknowledged committing another unlawful possession of a controlled substance offense in 2005.

¶ 21 Lamont Lee testified that he was currently incarcerated in prison for the offense of armed robbery. Lee told the court that on August 22, 1994, he entered the house on Millman with James Coats, Rob Coats, Nixon, and McKay. Before going to the Millman address, he smoked marijuana. Lee described the incident as an "armed robbery in process," but the police arrived and caught two of the people there. According to Lee, Deondre Coleman and defendant were not involved in this crime. When he heard the police knocking on the door, Lee jumped out of an upstairs window and escaped. When Lee returned to Warner Homes, the police were arresting defendant.

¶ 22 Lee said that law students contacted him in 2007. He testified that he would not have told the truth to anyone in 1995 " 'cause I been hanging myself." On cross-examination, he stated that he was serving a sentence for an armed robbery which he committed in 2005. In addition, he had convictions for unlawful possession of firearm ammunition by a felon in 2005 and unlawful delivery of a controlled substance in 1997.

¶ 23 On January 27, 2010, the hearing continued. Deondre Coleman appeared and testified for

defendant. He stated that defendant was his brother. On August 22, 1994, he spoke to defendant at his home in Warner Homes. When he left defendant's residence, Coleman was with Nixon, McKay, James Coats, Rob Coats, and someone he could not remember. He denied that he and the others were drinking alcohol or using drugs that day. Coleman testified that McKay suggested robbing a house. Coleman said that he did not enter the house, had no idea who went into the house, or what happened inside because he went across the street. He also said that defendant was not with the group at the time. He learned defendant was arrested for the robbery, and he intended to testify, but he was shot a few days later and did not know that defendant was convicted of the home invasion until Coleman returned to Peoria in 2003. Later during his testimony, Coleman said that he learned about his brother's conviction in 1999. He did not call the police or tell anyone that his brother was innocent at the time. He said that attorneys contacted him in 2007, and met with him in Peoria. Coleman said that the attorneys already had an affidavit prepared, and he signed it during the first meeting.

¶ 24 Anthony Brooks testified he was currently incarcerated in prison. On August 22, 1994, Brooks was arrested by the police for a home invasion and armed robbery when he was 12 years old. After being arrested, the police questioned him and wanted him to identify defendant as participating in the home invasion and armed robbery. Brooks said that he initially told the police that defendant was not there, but after the police threatened him, he told the police what they wanted to hear. Brooks said he told the police that defendant participated in the home invasion and that he acted as the lookout, but Brooks explained that he lied because he was not there. Brooks said he plead guilty, was placed on probation, and released from detention. Brooks said that he testified at defendant's trial, and Brooks explained that he told the jury that

he participated in the home invasion.

¶ 25 On cross-examination, he stated that he was serving a sentence in prison for aggravated unlawful use of weapons. Further, he had convictions for unlawful possession of a controlled substance in 2001 and 2004.

¶ 26 Elbert Nickerson testified that he was currently incarcerated in prison. In August 1994, the police arrested him for home invasion. However, he testified that he did not participate in a home invasion on Millman in August 1994. Nickerson said that just prior to trial, the State dismissed the charges against him.

¶ 27 On March 24, 2010, defendant's hearing continued. Robert Coats testified that he was the younger brother of James Coats. Coats stated that he recalled an incident involving the home located at 1540 Millman on August 22, 1994. Prior to going to the Millman residence, Coats said he was with his brother, James Coats, and Lamont Lee, Robert Nixon, Robert McKay, and Deondre Coleman. He stated that defendant was not with them when the men entered the house on Millman. Coats testified that the men covered their faces with bandanas or other materials once inside the house, where they collected money and drugs. At some point, the police arrived, and Coats said he jumped from an upstairs window, along with James Coats and Lamont Lee. Coats said that he would not have testified at defendant's trial, if it meant he would have gone to jail. On cross-examination, he testified that prior to going to the Millman residence, he spent the whole day at Warner Homes. He described smoking "weed" all day with "the fellas" and acknowledged being under the influence of drugs when he went to the Millman address.

¶ 28 On April 13, 2010, defendant's hearing continued. Robert McKay testified that he was currently incarcerated in the Department of Corrections and used the nickname Merk. On

August 22, 1994, he lived in Peoria. In the early morning hours of that day, he went to 1540 Millman, along with Lamont Lee, Deondre Coleman, Robert Nixon, James Coats, and Robert Coats. McKay said they went to the house to "purchase some weed." He explained that he had a permanent injury and walked with a limp. Before going to the Millman address, he was hanging out in Warner Homes with Lee, Coleman, Nixon and Robert Coats and acknowledged being under the influence of drugs when he went to the Millman address. On the way to the house, according to McKay, it was Lee who suggested that they rob the house. McKay testified that defendant was with them at Warner Homes, but then went to his girlfriend's apartment in Warner Homes and that defendant did not go to the Millman address.

¶ 29 After arriving at the Millman address, McKay said that they all went inside the house, "[g]ot the reefer and money and left." After finding the marijuana and money, he and Deondre Coleman left. Later, when he returned to Warner Homes, McKay saw the police arresting defendant, but did not know why. He told the court that defendant used the nickname Fats, but that Mark Roberson also used the same nickname. McKay said that Roberson did not participate in the robbery. A few days after August 22, 1994, McKay said that he was arrested for another crime and spent one year in jail. He said that he would not have testified at defendant's original trial because it would have implicated him.

¶ 30 Mark Roberson testified that in October or November 1994, the police arrested him and charged him with armed robbery, home invasion and rape. In August 1994 he lived in the Chicago area and was working at the time of the crime. He gave this information to the police. After the police checked the information, he said he was released from jail. After admitting the various additional stipulations and exhibits into evidence, defendant rested.

¶ 31 The State called Pat Rabe who testified that on August 22, 1994, he worked as a detective with the Peoria police department and investigated the armed robbery and home invasion at 1540 Millman in Peoria, Illinois. As part of this investigation, he interviewed Anthony Brooks who identified himself as the lookout in the front of the house, while five others entered the house. Brooks also told Rabe that defendant instructed Brooks to notify them when the police were coming. When Brooks saw the police coming, he and defendant left the house. Rabe acknowledged that when he interviewed Brooks, Brooks identified Nickerson and Roberson as participants in the crime. During his investigation, Rabe interviewed James Coats who would not provide any details as to what happened at the Millman address. Likewise, Robert Nixon did not acknowledge any participation in the crime when Rabe interviewed him.

¶ 32 The State asked the court to take judicial notice of the common law record and all transcripts of prior proceedings. The trial court heard arguments from counsel and took the matter under advisement.

¶ 33 On April 26, 2010, the court issued a detailed, written decision which noted defendant had the burden of showing that the evidence was newly discovered, material, not cumulative and of such a conclusive nature that it would likely change the outcome of a new trial. The relevant portions of that order will be detailed in the analysis below. The trial court denied defendant's second successive postconviction petition. Defendant filed a timely notice of appeal.

¶ 34 ANALYSIS

¶ 35 A criminal defendant bears the burden of establishing a substantial deprivation of his constitutional rights in a hearing conducted pursuant to the Post-Conviction Hearing Act (725 ILCS 5/122-1 *et seq.* (West 2008)). *People v. Griffin*, 109 Ill. 2d 293, 303 (1985). A trial court's

determination denying a postconviction petition following an evidentiary hearing will not be disturbed on appeal unless the decision is manifestly erroneous. *People v. Silagy,* 116 Ill. 2d 357, 365 (1987); *People v. Griffin*, 109 Ill. 2d at 303.

¶ 36 The manifestly erroneous standard represents the typical appellate standard of review where a trial judge has made findings of fact. *People v. Coleman* 183 Ill. 2d 366, 383 (1998). Manifestly erroneous means error which is "clearly evident, plain, and indisputable." (Internal quotation marks omitted.) *People v. Morgan,* 212 Ill. 2d 148, 155 (2004) (quoting *People v. Johnson,* 206 Ill. 2d 348, 357-60 (2002), quoting *People v. Ruiz,* 177 Ill. 2d 368, 384-85 (1997)). The credibility of the witnesses at a postconviction hearing is a matter for the trial judge to determine, and unless something appears to show that the determination by the trial judge was manifestly erroneous, the trial judge's determinations will be upheld. *People v. Coleman,* 183 Ill. 2d at 384.

¶ 37 Due process allows a criminal defendant to raise a freestanding claim of actual innocence based on newly discovered evidence in a successive postconviction petition. *People v. Morgan,* 212 Ill. 2d at 154; *People v. Washington,* 171 Ill. 2d 475, 489 (1996). In order for a defendant to be entitled to a new trial based upon a claim of actual innocence, the evidence in support of that claim "must be newly discovered; material and not merely cumulative; and 'of such conclusive character that it would probably change the result on retrial.' " *People v. Ortiz*, 235 Ill. 2d 319, 333 (2009) (quoting *People v. Morgan,* 212 Ill. 2d at 154, citing *People v. Barrow,* 195 Ill. 2d 506, 540-41 (2001)). "Evidence is considered cumulative when it adds nothing to what was already before the jury." *People v. Ortiz* 235 Ill. 2d at 335. "Newly discovered evidence is evidence that was unavailable at trial and could not have been discovered sooner through due

diligence." *People v. Harris*, 206 Ill. 2d 293, 301 (2002) (citing *People v. Burrows*, 172 Ill. 2d 169, 180 (1996)).

¶ 38 Defendant contends that he is entitled to a new trial because the trial court's findings and conclusions were manifestly erroneous. The State responds that the trial court correctly denied defendant's successive petition for postconviction relief and that the trial court's ruling after a full evidentiary hearing was not manifestly erroneous.

¶ 39 Newly Discovered Evidence

¶ 40 We first address the court's findings regarding whether the uncharged individuals provided newly discovered evidence for the court to consider. The trial court found that the testimony of Nickeron, Roberson, Rob Coats, Deondre Coleman, McKay, and Lee constituted newly discovered evidence because these individuals did not testify at defendant's original trial, and defendant could not have compelled them to testify at trial. Defendant does not contest this finding on appeal.

¶ 41 However, the trial court also found that the testimony of Brooks and James Coats did not constitute newly discovered evidence since Brooks testified at defendant's original trial and James Coats testified during defendant's posttrial motion hearing. On appeal, defendant claims that although Brooks testified at defendant's trial, his testimony constitutes newly discovered evidence because he retracted a portion of his prior trial testimony during the successive postconviction proceedings resulting in newly discovered evidence We disagree.

¶ 42 It is undisputed that the State called Brooks as a witness at defendant's original trial. During his testimony before the jury, Brooks recanted that portion of his statement to the police identifying defendant as a participant in the home invasion and the acting ring leader. Brooks

told the jury that, in fact, defendant was not present during the home invasion and that Brooks lied to police because the police pressured him to implicate defendant. The only deviation between Brooks' trial testimony and the testimony which Brooks provided to the court during the hearing on the successive postconviction petition involved Brooks' new claim that he also falsely implicated himself as the lookout when speaking to the police shortly after the incident. Therefore, we conclude Brooks' testimony regarding his false implication of defendant and defendant's non-involvement was consistent with his trial testimony and did not constitute newly discovered evidence.

¶ 43 Next, we consider defendant's contention that the testimony of James Coats should have been considered by the court as newly discovered evidence for purposes of the successive postconviction petition. Defendant argues that James Coats was not called by the defense to testify during defendant's jury trial. The State acknowledges that defendant could not have compelled James Coats' testimony at defendant's original trial due to valid concerns that Coats, originally charged with aggravated criminal sexual assault, home invasion, armed robbery and residential burglary, before the plea agreement with the State, would have asserted his fifth amendment privilege at trial because his conviction was not final at the time defendant was facing trial. See *People v. Ousley*, 235 Ill. 2d 299 (2009). The State seems to concede the trial court erred in finding that James Coats' testimony was not newly discovered because James Coats testified at defendant's posttrial motion. See *People v. Molstad*, 101 Ill. 2d 128 (1984). Unlike the trial court, we conclude James Coats' testimony qualified as newly discovered evidence.

¶ 44 However, as the State points out, even though the court did not properly characterize

James Coats' testimony as newly discovered evidence, the trial court actually considered the content of James Coats' testimony when concluding James Coats' testimony and the testimony of the other uncharged offenders would not be likely to change the result following a new trial. Thus, this error, regarding whether James Coats' testimony constituted newly discovered evidence, did not affect the court's ultimate decision in this case.

¶ 45 Material Evidence

¶ 46 The court found the testimony of Nickerson and Roberson would not be material because their testimony was not relevant to the issue of whether defendant had been misidentified. The court said that it was suggested that since these two persons were initially identified as suspects but later found to not be involved, the identification of defendant was tainted. However, the court said that it was "equally arguable that the witness's [*sic*] positive identification is bolstered by the circumspective process; that is, the witness is positive of the person identified and unwilling to misidentify others." Therefore, according to the court, Nickerson and Roberson did not contribute to defendant's claim of actual innocence. We agree.

¶ 47 We note the misidentification of Nickerson was presented to the jury during Tequilla Miller's testimony at defendant's trial. Since neither Nickerson nor Roberson participated in the home invasion on August 22, 1994, they cannot testify whether defendant did or did not participate in the offense. Evidence which serves to impeach or discredit the State's evidence, but does not establish a defendant's innocence, does not serve as the basis for the granting of a new trial. *People v. Smith* , 177 Ill. 2d 53, 82-83 (1997) (citing *People v. Holtzman,* 1 Ill. 2d 562, 568 (1953)); *People v. Coleman*, 381 Ill. App. 3d 561, 568 (2008). Therefore, the court's observations and written findings in this case were not against the manifest weight of the

evidence.

¶ 48 Non-Cumulative Evidence and
¶ 49 Conclusive Character as to Likely Affect the Outcome on Retrial

¶ 50 The court found the testimony of Lee, Deondre Coleman, Robert Coats, and McKay would be cumulative because Nixon presented the jury with similar testimony that defendant was not present during the offense. However, when thoroughly examining the allegations of the successive postconviction petition, the court adopted the assumption, for the sake of argument, that the testimony of the uncharged offenders and James Coats would not be cumulative of Nixon's testimony at trial and then went on to consider whether this new testimony would likely change the outcome of a new trial.[1] The court also carefully considered the evidence presented at trial, which included the testimony of the defense witnesses, and compared this trial evidence to the evidence presented to the court 15 years later during the hearing on the successive postconviction petition.

¶ 51 After making this comparison, the court found the testimony of the witnesses who came forward after defendant's trial was not of such a conclusive nature as to likely change the outcome following a new trial. The court's order focused on the fact that each witness was in prison at the time of their testimony, had extensive criminal records, and were admittedly consuming alcohol and illegal substances prior to the incident.

¶ 52 The court also noted the admitted accomplices "gave significantly conflicting accounts on what happened and who was present" during their testimony before the court on the

[1]We do not reach the question of whether the trial court committed manifest error by ruling that the evidence was cumulative because the court went on to rule, assuming that the evidence was not cumulative.

postconviction petition. In the written order, the court stated that although James Coats claimed that "Dray" [*sic*] was present at the crime, James Coats did not know that "Dray" was defendant's brother. In contrast, the judge observed in the written order that Lee and Robert Coats testified that Deondre Coleman was not present, but Deondre Coleman testified that he acted as lookout from across the street for a few minutes before leaving. Moreover, according to the judge's written order, Deondre Coleman first testified during the hearing on the successive postconviction petition that Brooks was present on the day in question. Later in his testimony, Coleman testified that Brooks was not present during the home invasion. According to McKay's testimony, Deondre Coleman was present in the house which directly conflicted with the testimony of Lee and Roberts Coats that indicated Coleman was not present. Finally, the court was troubled by the fact that not one of the accomplices testified that a female was sexually assaulted during the home invasion.

¶ 53 Based on these considerations, the court found the four uncharged offenders and James Coats may not be viewed as credible witnesses during a new trial, and therefore, their testimony was not of such a conclusive nature as to likely change the result of a new trial. The record supports the trial court's concerns regarding the weakened credibility of the four uncharged offenders and co-defendant James Coats, as well as the inconsistencies in the new evidence presented during their testimony and their admitted self-intoxication from alcohol or illegal substances.

¶ 54 We also note that Deondre Coleman testified that McKay suggested to the others to commit the home invasion while McKay testified that Lee made the suggestion to commit the home invasion on Millman. Further, the postconviction testimony of Nixon and James Coats

was inconsistent with the information they provided to Detective Rabe shortly after the crime. Under the circumstances, we cannot conclude that the trial court committed manifest error in denying defendant's second successive postconviction petition. See *People v. Gonzalez*, 407 Ill. App. 3d 1026, 1034-35 (2011); *People v. Williams*, 295 Ill. App. 3d 456, 464-65 (1998).

¶ 55 Based upon our careful review of the record including both the trial transcript and the hearing regarding the successive postconviction petition, we conclude that the trial court's well reasoned decision, finding the information provided to the court during the postconviction hearing would not be likely to affect the outcome of a new trial, was not against the manifest weight of the evidence, for the reasons set out by the trial court in the written order.

¶ 56 CONCLUSION

¶ 57 The judgment of the circuit court of Peoria County is affirmed.

¶ 58 Affirmed.