2019 IL App (2d) 180487-U
No. 2-18-0487
Order filed October 1, 2019

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Du Page County.
Plaintiff-Appellee,	)	
v.	)	No. 13-CF-85
MATTHEW HUDAK,	)	Honorable Liam C. Brennan,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices Schostok and Hudson concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court did not err in dismissing defendant's post-conviction petition at the first stage as his petition has no arguable basis in law or fact. We affirm.

¶ 2 Defendant, Matthew Hudak, appeals from the first stage dismissal of his petition for post-conviction relief pursuant to 725 ILCS 5/122-1. Because there is no right in the United States or Illinois Constitutions to the disclosure of impeachment evidence prior to a guilty plea, we affirm.

¶ 3 I. BACKGROUND

¶ 4 On January 13, 2013, defendant and two co-defendants were indicted for delivery of controlled substance, armed violence, calculated criminal drug conspiracy, official misconduct,

theft, and burglary. On February 1, 2013, defendant filed a motion for discovery requesting that the State disclose:

> "[A]ny material or information that tends to negate the guilt of the accused as the offense charged or would tend to reduce his punishment therefore, including the names and addresses of any witnesses who may be favorable to the defense."

Additionally, defendant's motion included a request that the State provide:

> "[T]he criminal background of each and every witness listed or disclosed to the defense ***. All reports of prior criminal convictions and juvenile adjudications, which may be used in impeachment of persons whom the State intends to call as witnesses at hearing or trial."

The motion also provided that the State

> "[S]hall provide a list of any and all confidential informants and transactional confidential informants utilized by law enforcement agencies during the course of the actions for which the defendant is alleged to have violated the laws of the State of Illinois in the case before the Court as well as any and all incidents in which the confidential informant was directly involved with the defendant in the commission, planning, execution, or involvement of any crime alleged to have been committed by the defendant before this Court."

¶ 5 On February 18, 2014, the State disclosed information regarding a confidential informant (CI) to defendant along with a source of information (SOI) packet from the Carol Stream Police Department. The State's disclosure stated that:

> "At no time did the informant sign any documents or contract agreements or have any written plea agreements, offers of consideration or oral representations of any benefits

regarding this investigation; however, upon the Carol Stream Police Department locating the narcotics in the SOI's residence which began this investigation, the SOI was never and will not be charged with possession of those narcotics."

Further, regarding the confidential informant's criminal history, the State disclosed that:

"The SOI has been previously convicted of the following offenses:

a. Unlawful Possession of less than 30 grams of Cannabis, an ordinance violation, which is still pending;

b. Unlawful Possession of a Controlled Substance (15-100g), a class 1 felony wherein he was sentenced to 2 years probation and 4 days jail, which was satisfactorily terminated;

c. Unlawful Possession of Anabolic Steroid, a class C misdemeanor, wherein he was sentenced to two months court supervision, which was satisfactorily terminated;

d. Unlawful Possession of less than 2.5 grams of Cannabis, a class C misdemeanor, wherein he was sentenced to one year court supervision, which was satisfactorily terminated."

The State made no further disclosures regarding the CI's criminal activities.

¶ 6 On April 29, 2014, defendant pled guilty to armed violence, burglary, official misconduct, and delivery of a controlled substance. Defendant indicated that he understood his guilty plea resulted in his giving up a right to a trial by jury, trial by judge, and the right to call witnesses and question State's witnesses. The stipulated factual basis for each charge was then given to the court.

¶ 7 The stipulated factual basis recounted that, had the matter proceeded to trial, agents from the Carol Stream Police Department, the Du Page Metropolitan Enforcement Group, and the DEA would testify that on January 2, 2013, agents arrived at a location in Du Page County and

recovered approximately 275 grams of cocaine in the storage locker of the CI's residence. The CI admitted to agents that he was involved in obtaining cocaine and other narcotics from several Schaumburg police officers, including defendant. The CI explained that he had met defendant and his co-defendants who had given him drugs to sell. This prompted the agents to conduct an approximately two-week investigation wherein the CI and his apartment were wired for both audio and video recording.

¶ 8 On January 3, 2013, the CI met with defendant inside the CI's apartment. The CI provided $1,000 in marked bills advanced by the agents to defendant. On that same day, the CI and defendant discussed stealing money or drugs from a friend of the CI. They discussed setting upon the CI's friend, throwing him in a car, taking his keys, keeping him in the dark so as to keep him ignorant as to whether police were involved, and stealing his money or drugs. Defendant further admitted on recording that he had three to four ounces of cocaine for the CI to sell.

¶ 9 On January 8, 2013, inside the CI's apartment, the CI gave defendant $5,000. Defendant again asked informant whether he needed the three to four ounces of cocaine to sell and that he would be able to bring it to him in the near future. Agents overheard wiretaps between defendant and one of his co-defendants discussing how to retrieve the cocaine and give it to the CI. Defendant was then heard on calls discussing with the CI that he wanted to meet at a halfway point to justify his having to disappear for forty minutes while supposedly conducting his duty as a police officer.

¶ 10 Defendant was heard on a call with the CI that he was coming to the CI's residence. He told the CI to run downstairs to the parking lot because he and his co-defendants were on duty wearing tactical vests and weapons. Defendant, along with one of his co-defendants, arrived at

the CI's residence whereupon defendant reached inside his vest and handed the CI what turned out to be more than 100 grams but less than 400 grams of cocaine. On January 10, 2013, defendant met the CI whereupon defendant was given $5,000 in official marked funds. Defendant further discussed ripping off drugs from one of the CI's friends by feigning an FBI investigation. They discussed how they would obtain the drugs from the friend and keep them in a storage locker.

¶ 11 On January 13, 2013, defendant and the CI met again to discuss stealing the drugs from a storage locker. Defendant encouraged the CI to look for surveillance cameras on the property where the storage locker would be located. Defendant said that he and one of his co-defendants would be wearing hoods and have a fake Florida driver's license plate to cover the vehicle registration when arriving to steal the drugs from the storage locker. Later that day, defendant and one of his co-defendants were heard on a call indicating that they preferred the stolen drugs to be stored at a facility in Roselle as it had no cameras. Defendant texted the address of the storage facility to the CI.

¶ 12 Agents had set up surveillance at the Roselle storage unit and observed defendant and his two co-defendants come to the storage locker where they opened the items and took everything from inside, left a piece of paper, closed the storage unit door and left. A short time later, agents observed defendant and his two co-defendants return to the storage locker, drop some items, and remove the piece of paper. Later, they returned and took everything and left again. Defendant texted the CI later that night indicating that he and his co-defendants had recovered $20,000 from the storage locker. The $20,000 was made up of official marked funds by the investigating agents.

¶ 13 On January 16, 2013, as a result of executed search warrants, agents recovered $5,000 of the marked funds from the storage locker at each of the co-defenants' residences. The remaining $10,000 was recovered from defendant's residence as well as other items that were inside the storage locker. Defendant was taken into custody on that same day and admitted to FBI and DEA agents that he was involved in everything captured on audio and video including the taking of the marked $20,000. He further admitted that he had contacted the CI 18 months before his arrest in order to get the CI to work for him. Defendant admitted that he gave the CI $23,000 to purchase drugs from various individuals. Defendant said that he got a half brick of cocaine and 112 grams of heroin from a search warrant executed in Streamwood. He turned the heroin over to authorities but kept the most of the cocaine which he gave to the CI to sell and split the profits. He admitted that he did this while on duty as a Schaumburg police officer.

¶ 14 Defendant further admitted that on January 3, 2013, he received money from the CI while on duty. He admitted that on January 11, 2013, he executed a search warrant at a Wheeling address and recovered three grams of cocaine and five 8-pound bags of cannabis. He gave one gram of the cocaine to the CI to sell while on duty. He admitted that he and his co-defendants had been involved in these actions for approximately six months.

¶ 15 Defendant was sentenced to 21 years for armed violence with a consecutive five year sentence for burglary and concurrent sentences on the remaining charges. Defendant did not file a direct appeal.

¶ 16 On March 5, 2018, defendant filed a petition for post-conviction relief pursuant to 725 ILCS 5/122-1. The petition alleged that the State violated defendant's due process under the United States and Illinois Constitution when it withheld exculpatory evidence from the defendant and his counsel despite written requests and the trial court's order for the State to comply with

discovery. Specifically, defendant averred that the CI was being investigated for theft on March 12, 2013, for stealing a treadmill valued at $3,500 from the gym where he was employed and selling that treadmill to the target of another narcotics investigation. In May 2013, the CI admitted to the Carol Stream Police Department that he had stolen the treadmill and sold it to the other person. The CI was not prosecuted for the theft and the investigation and information regarding the CI's actions were not tendered to the defense during the course of the prosecution until February 20, 2018.

¶ 17 Defendant's post-conviction petition further alleged that the CI was being investigated for wire fraud in May 2013. The CI had allegedly collected credit card information from members of the gym at which he was employed and set up false accounts with banking institutions and transferred money into his own accounts. The State declined prosecution of the CI for wire fraud. The information regarding the CI's alleged wire fraud was not tendered to the defense until February 20, 2018.

¶ 18 Defendant claimed in his post-conviction petition that this newly-discovered evidence regarding the undisclosed criminal acts of the CI "show that the defendant['s] claim of innocence[,] because of the entrapment defense[,] has merit." Defendant further claimed that he "did not have evidence at the time of the prosecution to demonstrate that the CI was untruthful in the investigation and prosecution of the defendant."

¶ 19 The trial court dismissed defendant's petition at the first stage of post-conviction proceedings. In dismissing defendant's petition, the trial court found that under *U.S. v. Ruiz*, 536 U.S. 622, 628-29 (2002), "when a defendant knowingly and voluntarily pleads guilty, he waives the right to a fair trial and other constitutional rights. In *Ruiz*, the issue was whether the Constitution requires preguilty plea disclosure of impeachment information and the Court

concluded that it did not. *** [T]he [*Ruiz*] Court concluded that the failure to disclose otherwise required impeachment evidence before a plea did not run afoul of the due process clause."

¶ 20 The trial court went on to find that defendant's characterization of the CI's criminal history as "exculpatory" was of no event in articulating that:

> "In the instant case Defendant seeks to escape the otherwise fatal application of *Ruiz* by characterizing the undisclosed informant evidence as exculpatory in nature: i.e., though it may be impeachment evidence, it is impeachment evidence that relates to the affirmative defense of entrapment such that it properly constitutes exculpatory evidence. Initially the Court notes that no affirmative defense of entrapment was ever filed in this case and no affidavits or records filed set forth the basis for an entrapment defense. Furthermore, this Court's research has failed to disclose a single case suggesting that impeachment evidence of an entrapment informant is exculpatory for purposes of a *Brady/Ruiz* analysis. Nor would this *** seem logical in the instant circumstance where the Defendant was uninvolved in the undisclosed criminal conduct of the informant and it occurred long after the interactions between the Defendant and the informant concluded. That having been said, even if impeachment evidence that relates to an affirmative defense was exculpatory, and thus not strictly governed by *Ruiz*, our appellate court noted in *People v. Gray*, 2016 IL App (2d) 140002 ¶ 27, that the United States Supreme Court has consistently treated exculpatory and impeachment evidence in the same way in addressing Brady claims (citing with approval the Wisconsin Supreme Court in *State v. Harris*, 2004 WI 64 (2004)). Accordingly, in either event Defendant's pleas would seem to foreclose his post conviction due process claims."

¶ 21 Defendant timely appealed.

¶ 22 II. ANALYSIS

¶ 23 On appeal, defendant raises two contentions. First, that the trial court erred in dismissing his post-conviction petition at the first stage because his federal right to due process was violated by the State's suppression of favorable exculpatory evidence. Second, defendant contends that the due process clause of the Illinois Constitution precludes the State from suppressing exculpatory evidence prior to a guilty plea.

¶ 24 As an initial matter, defendant argues that the trial court erred in dismissing his petition for failing to cite relevant authority concerning his allegation that the State's violation of the discovery rules prevented him from withdrawing his guilty plea. Defendant takes issue with the trial court's finding that:

> "While the State arguably engaged in skullduggery when it failed to disclose the *** evidence in violation of its continuing duty to disclose (IL S.Ct. R. 415(b)), this Court has found no reported decision where a violation of our discovery rules, standing alone, would allow a defendant to withdraw an otherwise voluntary plea of guilty. Indeed, IL. S. Ct. R. 415(g), which authorized sanctions for our discovery rule violations, presumes a pending proceeding. Nor does the defendant cite to any cases holding otherwise."

Defendant argues that section 2 of the Post-Conviction Hearing Act (725 ILCS 5/122-2) provides that "[a]rgument and citations and discussion of authorities shall be omitted from the petition," and therefore the trial court's ruling should be reversed for that reason alone. We disagree.

¶ 25 The trial court's written order dismissing defendant's post-conviction petition was not based on defendant's failure to cite relevant authority supporting his claims of due process violations of the U.S. and Illinois Constitutions. Although it's true that the trial court did point

out defendant's lack of citation to cases in support of his arguments, the order finding that the petition lacks merit was based on an analysis of *Brady*, *Ruiz*, and this court's holding in *Gray*. Therefore, because the trial court's dismissal was not due to a lack of case citation, we will confine our analysis to whether the trial court erred in dismissing defendant's petition at first stage based on the due process claims raised in his petition.

¶ 26 The Post-Conviction Hearing Act creates a three-stage process for the adjudication of post-conviction petitions in non-capital cases. *People v. Harris*, 224 Ill. 2d 115, 125 (2007). At the first stage, the circuit court must review the petition within 90 days of its filing and determine whether it is "frivolous or is patently without merit." 725 ILCS 5/122-2.1(a)(2) (West 2016); see also *People v. Allen*, 2015 IL 113135, ¶ 24 (explaining that a first-stage dismissal is inappropriate if a petition alleges sufficient facts to state the "gist of a constitutional claim"). If the petition is not summarily dismissed at the first stage, it advances to the second stage, where an indigent petitioner is entitled to appointed counsel, the petition may be amended, and the State may answer or move to dismiss the petition. 725 ILCS 5/122-4 (West 2012). At the second stage, the petitioner bears the burden of making a "substantial showing of a constitutional violation." *People v. Domagala*, 2013 IL 113688, ¶ 35. In other words, the petitioner must show that he would be entitled to relief if his well-pleaded allegations of a constitutional violation were proved true.

¶ 27 A petition will be dismissed at the first stage, as frivolous or patently without merit, if the petition has no arguable basis either in law or in fact. *People v. Hodges*, 234 Ill. 2d 1, 12 (2009). That is the case when a petition "is based on an indisputably meritless legal theory or a fanciful factual allegation." *Id.* at 16. When a post-conviction petition is dismissed without an evidentiary hearing, we apply a *de novo* standard of review. *People v. Sanders*, 2016 IL 118123, ¶ 31.

¶ 28 Defendant's first contention is that the trial court erred in dismissing his petition as the facts in *Ruiz* are distinguishable from the present case and do not render his claim for a due process violation frivolous or patently without merit.

¶ 29 Before delving into our analysis on this contention we must point out that defendant attempts here to frame the State's failure to disclose the CI's criminal activities subsequent to defendant's arrest as exculpatory evidence. Further, defendant's petition alleges that the CI's undisclosed information was generally exculpatory for an affirmative defense of entrapment. This is wrong for two reasons. First, defendant never filed an affirmative defense of entrapment during the pendency of his criminal proceedings before ultimately pleading guilty. And even if the undisclosed subsequent criminal activities of the CI had been disclosed prior to his guilty plea, it would be irrelevant to any hypothetical entrapment defense as the only information relating to the drug offenses for which the CI was being investigated when he provided information about defendant and his co-defendants had been disclosed on February 18, 2014. Second, as the undisclosed CI information did not involve the facts of the present case or any conduct in which defendant participated, the undisclosed evidence was impeaching and not otherwise exculpatory. See *People v. Gray*, 2016 Il App (2d) 140002, ¶ 28. Thus, defendant's due process claims made in his post-conviction petition must be analyzed under the constitutionality of the State's duty to disclose material impeachment evidence prior to entering a plea agreement with a criminal defendant.

¶ 30 In *Ruiz*, the defendant was charged with a drug offense under which the government offered her a "fast track" plea bargain to which she would waive an indictment, trial, and appeal in exchange for a downward departure from otherwise applicable sentencing guidelines. The government also insisted that the defendant agree to waive her right to impeaching information

related to informants or other witnesses. Defendant refused to agree to this waiver and the government's "fast track" offer was withdrawn. Defendant pleaded guilty and was sentenced under the standard guidelines and defendant appealed. *U.S. v. Ruiz*, 536 U.S. 622, 625-26 (2002). The Supreme Court, in finding the "fast track" agreement lawful, noted that, when a defendant knowingly and voluntarily pleads guilty, he or she waives the right to a fair trial and other constitutional rights. *Ruiz*, 536 U.S. at 628-29. The Supreme Court analyzed the issue as "whether the Constitution requires preguilty plea disclosure of impeachment information." *Id.* The Court found that the U.S. Constitution does not require any such disclosure. *Id.*

¶ 31 The Supreme Court emphasized the difference between a trial, to which *Brady* applies, and a guilty plea. The Court found that *Brady* is concerned with the "fairness of a trial" which is not equivalent to "whether a plea is voluntary." *Id.* "[T]he Constitution does not require the prosecutor to share all useful information with the defendant." *Id.* Further, the Court explained that the Constitution "does not require complete knowledge of the relevant circumstances," and a defendant's ignorance of the possible grounds on which to impeach potential witnesses at a possible trial was "difficult to distinguish from many other "forms of misapprehension" that would not prevent him from entering a valid guilty plea. *Id.*

¶ 32 The Court found that due process considerations were not a conclusive factor in favor of recognizing a defendant's right to be told of potentially impeaching evidence before pleading guilty because the value of "a constitutional obligation to provide impeachment information during plea bargaining, prior to the entry of a guilty plea," would be limited and could interfere with the government's ability to a secure guilty plea that is factually justified, conducive to judicial efficiency, and desired by the defendant himself. *Id.* at 631. The Court went on to ultimately hold:

> "These considerations, taken together, lead us to conclude that the Constitution does not require the Government to disclose material impeachment evidence prior to entering a plea agreement with a criminal defendant." *Id*. at 633.

¶ 33 This court adopted the *Ruiz* Court's holding in *Gray*. In *Gray*, the defendant was indicted for (1) possession of cocaine with intent to deliver; and (2) possession of cannabis with intent to deliver. *People v. Gray*, 2016 IL App (2d) 140002 ¶ 2. The indicted offenses occurred when police executed a search warrant on defendant's apartment based on information received from a confidential informant. *Id*. Oddly, or perhaps ironically, the warrant was supported by a complaint by our present defendant, Matthew Hudak. *Id*. On August 2, 2012, following defendant's motions to quash his arrest and suppress evidence, the State entered an agreement with defendant under which defendant would plead guilty to a single amended count of possession of cocaine with intent to deliver in exchange for a recommended 12-year prison term. *Id*. at ¶ 6. Defendant pleaded guilty and did not file a direct appeal. *Id*.

¶ 34 On May 20, 2013, defendant filed a post-conviction petition alleging that he pleaded guilty despite his belief that his pretrial motions had a reasonable chance of success, because he thought the three police officers would be deemed more credible than he at trial. *Id*. at ¶ 8. Defendant alleged that he later discovered while serving his sentence that the three officers had each been indicted for the crimes detailed in the present case. *Id*. Defendant's petition alleged that the officers "committed and/or were committing the *** offenses during their investigation of [defendant]." Id. He further alleged that, had he been aware of these offenses, he would have moved forward with his pretrial motions and not pleaded guilty. *Id*.

¶ 35 In upholding the dismissal of defendant's post-conviction petition, this court held that: "under *Ruiz*, *Brady* does not require the disclosure of potential impeachment evidence before a

defendant pleads guilty. Thus, with no *Brady* violation, defendant's plea was not tainted and the petition was insufficient." This court concluded that:

> "*Ruiz* controls this case and *** defendant's *Brady* claim is legally baseless. Without a doubt, the evidence at issue was impeaching and not otherwise exculpatory: the alleged misdeeds of the three police officers did not involve the facts of this case or any conduct in which defendant participated. Defendant's attempt to limit *Ruiz* to the validity of a waiver of *Brady* rights as part of a plea bargain is unavailing ***. Moreover, as we read *Ruiz*, the primary reason that the Court saw no constitutional infirmity in requiring a waiver of the *Brady* right there was that the purported right did not really exist: *Brady* did not require the State to disclose the impeachment information at issue, so the alleged "waiver" was illusory." *Id*. at ¶ 28.

¶ 36 Defendant in the present appeal seems to be asking this court to reject our own reasoning in *Gray*. Defendant argues that the defendants in *Gray* and *Ruiz* limited their claims to the contention that the evidence should have been disclosed for impeachment evidence. Whereas here, the disclosure of CI's subsequent crimes were relevant for not only impeachment, but were generally exculpatory to establish an entrapment defense. We have already rejected this argument and will not belabor this point. See *supra* ¶ 29. However, even if we were to accept defendant's erroneous characterization of the undisclosed information as exculpatory, this court in *Gray* already foreclosed any success for that contention in holding:

> "[E]ven were the evidence considered 'exculpatory' and not merely 'impeaching,' it would not help *** because 'the Supreme Court has consistently treated exculpatory and impeachment evidence in the same way' in addressing *Brady* claims.' " *Gray* at ¶ 27, quoting *Friedman v. Rehal*, 618 F. 3d 142, 154 (7th Cir. 2003).

As articulated above, the issue of whether defendant's federal right to due process was violated by the State's suppression of favorable exculpatory evidence has already been articulated by this court's application of *Ruiz* in *Gray*. The doctrine of *stare decisis* expresses the policy of courts to stand by precedent and to avoid disturbing settled points. *People v. Sharpe*, 216 Ill. 2d 481, 519 (2005). A question once examined and decided should be considered as settled and closed to further argument. *Wakulich v. Mraz*, 203 Ill. 2d 223, 230 (2003). Therefore, defendant's post-conviction contention on this issue has no arguable basis either in law or in fact, and its first stage dismissal was not in error.

¶ 37 Defendant's second contention in this appeal is that the due process clause of the Illinois Constitution precludes the State from suppressing exculpatory evidence prior to a guilty plea. Defendant points this court to *People v. Washington*, 171 Ill. 2d 475 (1996), to support his argument that the due process clause of the Illinois Constitution compels reversal of the dismissal of his post-conviction petition.

¶ 38 In *Washington*, our supreme court held that the due process clause of the Illinois Constitution permitted a defendant to raise a free-standing claim of actual innocence, despite the U.S. Supreme Court's rejection of identical claims under the fourteenth amendment's due process clause in *Herrera v. Collins*, 506 U.S. 390 (1993). Our supreme court held "as a matter of Illinois constitutional jurisprudence that a claim of newly discovered evidence showing a defendant to be actually innocent of the crime for which he was convicted is cognizable as a matter of due process." *Washington*, 171 Ill. 2d at 489. The court went on to say that

> "That only means, of course, that there is footing in the Illinois constitution for asserting freestanding innocence claims based upon newly discovered evidence under the Post-Conviction Hearing Act. Procedurally, such claims should be resolved as any other

brought under the Act. Substantively, relief has been held to require that the supporting evidence be new, material, noncumulative and, most importantly, of such conclusive character as would probably change the result on retrial." *Id.*

¶ 39 Constitutional jurisprudence under the Illinois Constitution follows the limited lock step doctrine. *People v. Caballes*, 221 Ill. 2d 282, 310 (2006). Under this approach, our supreme court will "look first to the federal constitution, and only if federal law provides no relief turn to the state constitution to determine whether a specific criterion-for example, unique state history or state experience-justifies departure from federal precedent. *Caballes*, 221 Ill. 2d at 309.

¶ 40 Defendant argues that the *Washington* holding applies to his due process claims in the instant appeal. But again, he frames his argument as one that applies to the State concealing exculpatory information from a criminal defendant prior to a guilty plea. Those are not the facts of this case. On February 18, 2014, the State disclosed all of the CI's information relevant to his dealings with defendant as they pertain to the charges against him. See *supra* ¶ 5. The evidence the State failed to disclose to defendant prior to his guilty plea dealt entirely with activities the CI engaged in well after any dealings with defendant. The evidence was impeachment evidence. As noted above, this issue was decided by this court's application of *Ruiz* in *Gray*. We can find no unique state history or state experience that justifies a departure from that precedent nor does defendant offer an example as it pertains to the State's failure to disclose impeachment evidence prior his voluntary guilty plea.

¶ 41 III. CONCLUSION

¶ 42 For the reasons stated, we affirm the judgment of the circuit court of Du Page County.

¶ 43 Affirmed.