

We affirm.

¶ 3

FACTS

¶ 4 Defendant was charged with cannabis trafficking (720 ILCS 550/5.1 (West 2008)), unlawful possession of cannabis with intent to deliver (720 ILCS 550/5(g) (West 2008)), and unlawful possession of cannabis (720 ILCS 550/4(g) (West 2008)). During pretrial proceedings, private attorney Robert Parchem represented defendant. On July 26, 2010, defendant entered a negotiated plea agreement where he admitted guilt to unlawful possession of cannabis with intent to deliver and was sentenced to 10 years in prison. The factual basis for the plea alleged that defendant was riding in a car driven by his brother, Bernard Noble, when they were stopped for speeding by Sergeant Floyd Blanks. Blanks detected the faint odor of cannabis coming from the interior of the vehicle and conducted a search that uncovered approximately 50 pounds of cannabis. Defendant told police that he was approached by a man who had offered him \$2,000 to drive "something" to Chicago. Defendant did not ask what "something" meant. Defendant went to California, where he was given a bag, placed the bag in a car, and drove back to Illinois with Bernard.

¶ 5 Before accepting the plea, the trial court asked defendant if he had enough time to speak with Parchem and if he was satisfied with his services. Defendant responded in the affirmative and agreed that it was in his best interest to enter the plea agreement. Defendant told the court that it was his decision to plead guilty, and that he entered the plea freely and of his own volition.

¶ 6 On December 15, 2010, attorney Bruce Carmen filed a postconviction petition on defendant's behalf. The petition alleged that defendant had received ineffective assistance of trial counsel. At the evidentiary hearing on the petition, defendant testified that he met with Parchem once before he pled guilty. Parchem purportedly advocated that defendant settle the case, despite

defendant's assertion that the drugs were not his and that he had confessed to ownership because he was trying to protect Bernard. Parchem purportedly told defendant that he could not win the case and that he had to plead guilty to ensure that his brother received a sentence of four years in prison. Defendant alleged that Parchem told him that he would serve 1½ years of the 10-year sentence. Defendant stated that Parchem's representation was hindered by a conflict of interest. Defendant alleged that Parchem had an interest in Bernard's case because Bernard had paid for defendant's representation. During cross-examination, defendant admitted that he lied when he told the court that he was satisfied with Parchem's representation.

¶ 7 Parchem testified that defendant never told him that he had lied to police. Parchem also asked defendant to meet with him on several occasions to prepare for trial, but defendant allegedly responded that he did not want a trial. He also denied instructing defendant to take the plea agreement, but admitted that defendant's case was difficult. Parchem stated that although Bernard's attorney, Tammy Wendt, had contacted him to ask if he would represent defendant, he did not share office space or fees with Wendt.

¶ 8 Defendant's fiancée, Tracy Taylor, testified that Parchem called her to contact defendant. Taylor recalled that Parchem repeatedly told defendant that he did not want a trial because defendant would lose. Taylor felt that Parchem was not working for defendant.

¶ 9 The court dismissed defendant's postconviction petition, finding that defendant's ineffective assistance of counsel claims were not credible because he admitted that he lied to the police and to the court. The court found that Parchem was "incredibly credible," and that Parchem had looked at the case, testified to the actions he took and had made repeated attempts to contact defendant. The court found no credible evidence that Parchem had told defendant that

he would be out of prison in 1½ years. The court further reasoned that if defendant's case had gone to trial he would have been found guilty of the charged offenses and received a minimum sentence of 12 years in prison. The court concluded that counsel had acted reasonably and there was no probability that the outcome would have been different. Defendant appealed the court's dismissal.

¶ 10

ANALYSIS

¶ 11 Defendant argues that the trial court abused its discretion when it dismissed his postconviction petition.

¶ 12 We review the trial court's dismissal of a postconviction petition, after an evidentiary hearing, for manifest error. *People v. Coleman*, 183 Ill. 2d 366 (1998). The postconviction trial court is in a position to observe and hear witnesses testify, and therefore has an advantage in determining the credibility of the witnesses and the weight to be given to the evidence. *Id.*

¶ 13 When a postconviction defendant asserts a claim of ineffective assistance of counsel, a court of review asks whether: (1) counsel's performance fell below an objective standard of reasonableness; and (2) counsel's shortcomings deprived defendant of a fair trial. *People v. Albanese*, 104 Ill. 2d 504 (1984). A defendant must also establish that there is a reasonable probability that the outcome of the proceeding would have been different if not for counsel's unprofessional errors. *Id.*

¶ 14 Defendant has not established that the trial court manifestly erred when it denied his postconviction petition after an evidentiary hearing. The evidence from the hearing presented a credibility determination, which the trial court decided after considering the evidence.

Defendant's testimony was discredited by his admitted lies to the police and trial court, while

Parchem's testimony supported the conclusion that he acted reasonably and that the outcome of the proceedings would not have been different if he had altered his representation. Therefore, we find that the trial court did not err in dismissing defendant's postconviction petition.

¶ 15

CONCLUSION

¶ 16 For the foregoing reasons, the judgment of the circuit court of Henry County is affirmed.

¶ 17 Affirmed.