2018 IL App (5th) 150231-U

NO. 5-15-0231

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Marion County.
	)	
v.	)	No. 07-CF-358
	)	
WILL E. WILLIAMS,	)	Honorable
	)	Mark W. Stedelin,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE OVERSTREET delivered the judgment of the court.
Justices Goldenhersh and Moore concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's denial of the defendant's amended petition for postconviction relief is affirmed where he failed to establish a substantial deprivation of his constitutional right to the effective assistance of counsel.

¶ 2 In October 2007, the State filed an information charging the defendant, Will E. Williams, with home invasion (720 ILCS 5/12-11(a) (West 2006)) and aggravated criminal sexual assault (*id.* § 12-14(a)). In July 2008, the cause proceeded to a jury trial, where the defendant was found guilty on the former charge and not guilty on the latter. In October 2010, the defendant's conviction was affirmed on direct appeal. The defendant

presently appeals from the trial court's judgment denying his amended petition for postconviction relief. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 On the night of October 20, 2007, the victim, C.L., was alone and asleep at Kay Matthews' house in Centralia. Around midnight, C.L. was awoken by the sound of the defendant kicking in the glass panel of the home's front door. When she went into the front room, the defendant reached in and unlocked the door from the outside and entered the home. The defendant was wearing black pants, dark shoes, a black leather jacket, gloves, and a ski mask. The defendant grabbed C.L., turned her around so that her "back was towards his face," and pushed her into the master bedroom, where she had been sleeping. In the master bedroom, the defendant repeatedly hit C.L. on the back of the head with a lamp and then wrapped the lamp's cord around her neck and choked her. In a muffled voice, "like [he was] trying to disguise his voice," the defendant told C.L. to be quiet. The defendant then threw C.L. on the bed, covered her head with the covers, and bound her wrists and ankles with duct tape. The defendant removed one of his gloves, inserted his fingers into C.L.'s vagina, and asked her "where the dope was at." C.L. advised the defendant that she did not know what he was talking about, that the house was not hers, and that he could search it. The defendant threatened to kill C.L., and she begged him not to.

¶ 5 After ransacking the master bedroom, the defendant grabbed C.L., forced her into a second bedroom, threw her on the bed, covered her head, and hit her again. When the defendant finished searching the second bedroom, he took C.L. back to the master

bedroom and put her over the front of the bed. He then placed a cover over her head and continued to search the house. C.L. realized that her cell phone was still in the bed. In her words: "I scooted my phone with my face and I lifted the phone up with my chin and I dialed 911 with my tongue." When the 911 dispatcher responded, C.L. acted as if she were talking to the defendant, stating, "Don't hurt me, please don't kill me." Trying to give the dispatcher clues as to her location, C.L. also referenced the nearby overpass and Farm Fresh store. The Centralia police department immediately responded to the dispatch of C.L.'s 911 call, and several officers were in the general area in less than a minute, "if not quicker."

¶ 6 Meanwhile, after returning to the master bedroom, the defendant moved C.L. into a room containing a deep freezer with bags on top of it and again threatened to kill her. While the defendant searched the bags, he lifted his ski mask up to his nose. C.L. told him that Matthews sometimes hid things under the heater behind the large-screen television in the front room. When the defendant left the room with the freezer, C.L. broke the duct tape off of her ankles and jumped headfirst through a glass window. She then ran to April and Adrienne Meyers' house across the street from the nearby Farm Fresh store and started busting the glass out of a front window in an attempt to get the Meyers to come outside. While she was breaking the glass, she noticed police cars coming around the corner. She ran off the porch and across the street to the Farm Fresh, where she collapsed. The police found her, bloody and beaten, lying on the parking lot. There was duct tape around her right wrist and left ankle. April and Adrienne came out of their house around the time the police arrived.

¶ 7 One of the officers responding to the scene saw the defendant running eastbound away from Matthews' house and reported his movement to the other units in the area. A second officer subsequently saw the defendant running up a driveway toward the back of two nearby residences. A perimeter was established around the residences, and the defendant was found hiding in a bush behind one of them. The defendant was dressed in black sweats and a black leather jacket. He had a roll of duct tape in his right jacket pocket and was sweating profusely. A ski mask and gloves were later retrieved from the same location. The responding officers did not see anyone else in the area. The police took the defendant to the Farm Fresh, where C.L. immediately identified him as her attacker. C.L. was then taken to the hospital, where she was actively treated by emergency room personnel.

¶ 8 At the defendant's trial, C.L. indicated that she knew the defendant and that everybody called him "Edward." She further indicated that no one else had been inside or outside the house during or immediately after the attack. C.L. testified that she had been able to identify the defendant by his clothes, his build, and the bottom of his face.

¶ 9 When cross-examined, C.L. acknowledged *inter alia* that while she was lying on the parking lot of the Farm Fresh, she might have told Adrienne that her attacker had sounded like Sam Jones. C.L. indicated that she had been scared at the time, that she had asked Adrienne not to leave her, and that she could not say "for sure" what else she might have said. When cross-examining one of the responding officers, trial counsel elicited testimony that Matthews' house "commonly had narcotics traffic" and that female drug dealers sometimes hide drugs in their vaginas.

¶ 10 For the defense, Sanetta Rudder testified that she and her three-year-old daughter had been with the defendant and the mother of his three boys, on October 20, 2007, from noon until approximately 9 p.m. Rudder testified that the defendant had not felt well and had coughed frequently throughout the day.

¶ 11 Janet McGee testified that the defendant had stopped by her house on October 20, 2007, around 9 p.m. The defendant drove her to work around 11 p.m., and she let him borrow her car for the night. McGee later learned that the defendant had been arrested and that her car was at the police station.

¶ 12 The defendant testified that after dropping McGee off at work, he had been stopped by two men from whom he had previously purchased cocaine. The defendant knew the men as "Snoop" and "Drey" and did not know their real names. The defendant testified that he had met the men through Matthews, who was his cousin. The men offered the defendant some cocaine in exchange for a ride, and the defendant agreed to take them to the west side of town. The defendant indicated that Snoop had been wearing black pants like his and had ridden in the backseat of the car. The defendant stated that he had been sick with a cold that night and had been coughing.

¶ 13 The defendant testified that he had dropped Snoop and Drey off down the street from Matthews' house and that Drey had given him two bags of crack cocaine. The defendant told the men that he would be back to get them, and he allowed Snoop to borrow a jacket that was in the backseat of McGee's car. The defendant testified that Snoop and Drey had told him that they were "going to collect on a gambling debt," but he

did not believe them. The defendant drove around the block a couple of times and then parked a street over from where he had dropped them off.

¶ 14 Shortly thereafter, Snoop appeared and handed the defendant the jacket that he had borrowed. The defendant noticed that a roll of duct tape that had been in the backseat of McGee's car was in the jacket. The defendant testified that the duct tape had been in McGee's car because he "was supposed to fix something on her car." The defendant asked Snoop why he had taken the tape. Snoop told the defendant that Drey wanted to see him and then left. As the defendant was walking down an alley looking for Drey, he saw police cars and "kind of froze." He then saw a screaming lady running towards him. When he asked her what was wrong, "she turned and ran the other way." At that point, the defendant became frightened. When he started running back to the car, the police started chasing him. The defendant testified that he had hidden in a nearby bush, where he swallowed the cocaine that Drey had given him. The defendant indicated that he had been sweating because he had not taken his hypertension medication in "a week or two." The defendant stated that in addition to the duct tape, there had also been a ski mask and a pair of gloves in the jacket that Snoop had borrowed. The defendant testified that he had never been inside Matthews' house and that he did not know that Snoop and Drey had planned on going there. Following his arrest, the defendant wrote Matthews a letter stating that he "felt responsible because [he] gave those guys a ride."

¶ 15 When cross-examined, the defendant testified that Matthews had introduced him to Snoop and Drey at the Outback Tavern in Centralia a few weeks before the incident in question. The defendant stated that he had purchased some cocaine from Drey and then

left. The defendant indicated that Snoop and Drey frequented the Outback and that "[p]robably half the town" knew them. The defendant testified that he did not otherwise know Snoop and Drey, however, and had not seen them again before they flagged him down for a ride. The defendant testified that the cocaine Drey had given him for the ride had been worth $20. The defendant acknowledged that he had been convicted of aggravated robbery in 1999.

¶ 16 In rebuttal, Matthews testified that she had never been at the Outback Tavern with the defendant as he had claimed and that she did not know anyone known as "Snoop" or "Drey." She further indicated that she and the defendant were not close and that she primarily just "knew of him."

¶ 17 In its closing arguments to the jury, the State maintained that the defendant was not credible and that his account of the night in question was a "well[-]crafted story" designed to explain away the overwhelming evidence of his guilt. The State emphasized that the police had responded to C.L.'s 911 call while the defendant was still in the house and that when they saw him fleeing the scene, no one else was around. The State conceded that the defendant might have inserted his fingers into C.L.'s vagina looking for drugs.

¶ 18 In response, trial counsel argued that C.L. and Matthews were not credible. Counsel suggested *inter alia* that if the defendant had committed the home invasion, then C.L. would have noticed that he had been coughing, and he would have ditched the duct tape while he was running from the police. Noting that C.L. had never described her

attacker's face, counsel argued that she had essentially identified him by the jacket he had been wearing.

¶ 19 During its deliberations, the jury sent six notes to the trial court, two of which referenced "sexual penetration" and one of which asked, "What do you do if you can't get a unanimous vote on one of the charges?" After receiving a *Prim* instruction (see *People v. Prim*, 53 Ill. 2d 62 (1972)), the jury ultimately found the defendant guilty of home invasion and not guilty of aggravated criminal sexual assault.

¶ 20 In August 2008, the trial court ordered the defendant to serve a 30-year sentence on his conviction for home invasion. When imposing sentence, the court stated *inter alia* that the evidence of the defendant's guilt was "overwhelming," that the defendant had "lied under oath," and that the jurors had obviously taken "their job seriously." In October 2010, the defendant's conviction and sentence were affirmed on direct appeal. See *People v. Williams*, No. 5-09-0194 (2010) (unpublished order under Supreme Court Rule 23).

¶ 21 In June 2011, the defendant filed a *pro se* petition for relief pursuant to the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2010)). The petition raised seven ineffective-assistance-of-appellate-counsel claims, one of which was that appellate counsel was ineffective for failing to argue that trial counsel was ineffective for failing to impeach C.L. with her statement to Adrienne that the attacker sounded like Jones. In September 2011, the trial court summarily dismissed the defendant's *pro se* petition, finding that it was "frivolous and patently without merit." In May 2013, that

judgment was reversed, and the cause was remanded for further proceedings. See *People v. Williams*, 2013 IL App (5th) 110426-U.

¶ 22 In February 2014, appointed counsel filed an amended postconviction petition on the defendant's behalf. The amended petition incorporated the defendant's previous claims by reference and specifically reiterated the allegations regarding C.L.'s statement to Adrienne. The petition alleged *inter alia* that trial counsel should have called Adrienne as a witness to perfect the defense's impeachment of C.L.

¶ 23 In March 2015, the trial court held an evidentiary hearing on the defendant's amended petition, and trial counsel was extensively questioned regarding her decision not to call Adrienne as a witness for the defense. It was noted that although Adrienne had been subpoenaed as a witness for the State, "she didn't testify[,] and she wasn't present during the trial." Trial counsel acknowledged that she had not requested a continuance to secure Adrienne's presence and had not attempted to have C.L.'s statement to Adrienne admitted by stipulation. Counsel acknowledged that anything that might have cast doubt on C.L.'s identification would have been important.

¶ 24 Trial counsel testified that her investigator had spoken to Adrienne and had attempted to locate Jones. Trial counsel recalled that Jones had an alibi for the night in question and might have been in a mental health facility at the time. Trial counsel further testified that when she met with the defendant following his arrest, he had relayed to her the version of events that he had testified to at trial, and Jones was never implicated as a possible suspect. Trial counsel testified that her investigator had attempted to identify and locate "Snoop" and "Drey" to no avail.

¶ 25 Trial counsel testified that although she had cross-examined C.L. about her statement to Adrienne to "shed some doubt" on the certainty of C.L.'s identification, she felt that "overemphasizing" the statement might have proven detrimental to the defense that Snoop and Drey were the perpetrators. Noting that the defendant and Jones are brothers, trial counsel testified that she had also been concerned that the jury might have "jump[ed] to the conclusion that because they are brothers[,] they sounded the same or had similar vocal tonal quality." Counsel explained, "And I feared that that could hurt us more than it could help us." Trial counsel indicated that she knew Jones and was familiar with the sound of his voice. Counsel further indicated that his voice was similar to the defendant's. Counsel testified, "So I, in my own head, compared their voices and believed that the jury could leap to that conclusion."

¶ 26 The State subsequently noted that it had intended to use C.L.'s statement to Adrienne as further evidence of the defendant's guilt. The State believed that the statement would have supported its case because the defendant and Jones had similar-sounding voices. The State argued that trial counsel's decision to not call Adrienne was strategic and that there was not a reasonable probability that the jury would have acquitted the defendant had she testified. In response, postconviction counsel maintained that trial counsel's failure to perfect the defense's impeachment of C.L. was unreasonable because it resulted in "no evidence to argue to the jury that [C.L.] had tentatively identified somebody else."

¶ 27 In May 2015, the trial court entered a written order denying the defendant's amended petition for postconviction relief. With respect to the defendant's claim that trial

counsel was ineffective for failing to call Adrienne as a witness for the defense, the court concluded that counsel's decision was a matter of trial strategy. The court specifically noted that counsel had explained,

> "[O]nce it was determined that Sam Jones, who happens to be [the] [d]efendant's brother, had an alibi for the night in question, she determined not to bring up the statement fearing the jury would be more likely to conclude that Sam Jones would sound more like the [d]efendant than the unknown and missing 'Snoop' and 'Drey.' "

The trial court thus determined that appellate counsel's failure to raise the issue on direct appeal was not "patently wrong." In June 2015, the defendant filed a timely notice of appeal.

¶ 28 DISCUSSION

¶ 29 The defendant argues that the trial court erred in denying his amended petition for postconviction relief. The defendant asserts that he demonstrated a substantial deprivation of his right to the effective assistance of counsel by establishing that counsel on direct appeal was ineffective for failing to argue that trial counsel was ineffective for failing to call Adrienne as a witness for the defense. We disagree and accordingly affirm the trial court's judgment.

¶ 30 The Post-Conviction Hearing Act

¶ 31 The Act sets forth a procedural mechanism through which a defendant can claim that "in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of

Illinois or both." 725 ILCS 5/122-1(a)(1) (West 2010). The Act provides a three-stage process for the adjudication of postconviction petitions. *People v. Boclair*, 202 Ill. 2d 89, 99 (2002).

¶ 32 At the first stage, the trial court independently assesses the defendant's petition, and if the court determines that the petition is "frivolous" or "patently without merit," the court can summarily dismiss it. 725 ILCS 5/122-2.1(a)(2) (West 2010); *People v. Edwards*, 197 Ill. 2d 239, 244 (2001). If a petition survives the first stage, it advances to the second stage, where an indigent petitioner can obtain appointed counsel and the State can move to dismiss the petition. 725 ILCS 5/122-2.1(b), 122-4, 122-5 (West 2010). At the second stage, if the trial court determines that the defendant has made a substantial showing of a constitutional violation, the petition proceeds to the third stage for an evidentiary hearing. *Edwards*, 197 Ill. 2d at 245. At the third stage, the trial court "serves as the fact finder" and "must determine whether the evidence introduced demonstrates that the petitioner is, in fact, entitled to relief." *People v. Domagala*, 2013 IL 113688, ¶ 34. At the third stage, "the burden is on the defendant to make a substantial showing of a deprivation of constitutional rights." *People v. Coleman*, 206 Ill. 2d 261, 277 (2002). After an evidentiary hearing, if fact-finding and credibility determinations are involved, the trial court's judgment on a postconviction petition "will not be reversed unless it is manifestly erroneous." *People v. English*, 2013 IL 112890, ¶ 23. If such determinations are not necessary, however, and the issue presented is a pure question of law, the trial court's judgment is reviewed *de novo*. *Id.*

¶ 33 Ineffective Assistance of Counsel

¶ 34 A criminal defendant is constitutionally guaranteed the right to the effective assistance of counsel. *People v. Mata*, 217 Ill. 2d 535, 554 (2005). To succeed on a claim of ineffective assistance of trial counsel, a defendant must satisfy the two-pronged test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), *i.e.*, a defendant must show that counsel's performance fell below an objective standard of reasonableness and that counsel's deficient performance resulted in prejudice. *People v. Shaw*, 186 Ill. 2d 301, 332 (1998). Courts "must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.' " *Strickland*, 466 U.S. at 689 (quoting *Michel v. Louisiana*, 350 U.S. 91, 101 (1955)). "Further, in order for a defendant to establish that he suffered prejudice, he must show a reasonable probability that, but for counsel's deficient performance, the result of the proceedings would have been different." *People v. Burt*, 205 Ill. 2d 28, 39 (2001). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id*. "Because a defendant must establish both a deficiency in counsel's performance and prejudice resulting from the alleged deficiency, failure to establish either proposition will be fatal to the claim." *People v. Sanchez*, 169 Ill. 2d 472, 487 (1996). "Neither mistakes in strategy nor the fact that another attorney with the benefit of hindsight would have proceeded differently is sufficient to establish ineffective assistance of counsel." *People v. Dobbs*, 353 Ill. App. 3d 817, 827 (2004).

¶ 35 Whether trial counsel's representation was constitutionally deficient "is a mixed question of law and fact." *Strickland*, 466 U.S. at 698. "When a trial court rules on issues which present a mixed question of law and fact, the reviewing court must afford deference to a trial court's factual findings." *People v. Crane*, 195 Ill. 2d 42, 51 (2001). "A reviewing court, however, remains free to engage in its own assessment of the facts in relation to the issues presented and may draw its own conclusions when deciding what relief should be granted." *Id.*

¶ 36 "The *Strickland* standard applies equally to claims of ineffective appellate counsel, and a defendant raising such a claim must show both that appellate counsel's performance was deficient and that, but for counsel's errors, there is a reasonable probability that the appeal would have been successful." *People v. Petrenko*, 237 Ill. 2d 490, 497 (2010). "Appellate counsel is not obligated to brief every conceivable issue on appeal, and it is not incompetence of counsel to refrain from raising issues which, in his or her judgment, are without merit, unless counsel's appraisal of the merits is patently wrong." *People v. Easley*, 192 Ill. 2d 307, 329 (2000). Accordingly, unless an underlying issue is meritorious, it cannot be said that the defendant suffered prejudice from counsel's failure to raise the issue on appeal. *Id.*

¶ 37 The Defendant's Claim

¶ 38 The defendant argues that trial counsel's failure to call Adrienne as a witness for the defense was unreasonable and prejudicial. The defendant maintains that it was unreasonable because C.L.'s statement to Adrienne cast doubt on C.L.'s identification and "implicated Sam Jones as the perpetrator." The defendant asserts that counsel's

failure to call Adrienne was prejudicial because had she testified, the jury would have acquitted him on the State's home invasion charge.

¶ 39 "It is well established that decisions concerning whether to call certain witnesses for the defense are matters of trial strategy left to the discretion of trial counsel." *People v. Banks*, 237 Ill. 2d 154, 215 (2010). Such decisions cannot form the basis of an ineffective-assistance-of-counsel claim unless trial counsel's strategy was "so unsound that counsel can be said to have entirely failed to conduct any meaningful adversarial testing." *People v. Negron*, 297 Ill. App. 3d 519, 538 (1998); see also *People v. Richardson*, 189 Ill. 2d 401, 414 (2000). Additionally, it is strategically sound for counsel not to call a witness whose testimony would be of "questionable value" (*People v. Guest*, 166 Ill. 2d 381, 400 (1995)) or whose testimony could potentially harm the defendant's case (*People v. Marshall*, 375 Ill. App. 3d 670, 677 (2007); *People v. Smado*, 322 Ill. App. 3d 329, 335 (2001); *People v. Peterson*, 248 Ill. App. 3d 28, 41 (1993)). Decisions regarding the impeachment of a witness are also matters of trial strategy that are generally unchallengeable. *People v. Pecoraro*, 175 Ill. 2d 294, 326-27 (1997). When considering prejudice under *Strickland*, the relative value of the potential impeachment must also "be placed in perspective." *People v. Jimerson*, 127 Ill. 2d 12, 33 (1989).

¶ 40 Here, trial counsel was fully aware that C.L.'s statement to Adrienne could have been used to implicate Jones. As counsel explained, however, Jones had an alibi for the night in question, and from the outset, the defendant maintained that Snoop and Drey were the perpetrators. It was thus objectively reasonable not to pursue a strategy implicating Jones.

¶ 41 On appeal, the defendant argues that "the defense at trial that Snoop and Drey were the offenders is not inconsistent with and does not harm the alternative theory that Sam Jones may have been involved in the crime." As the State suggests, however, inserting "yet another leather-jacketed attacker" into the defendant's already questionable scenario would have weakened the defense by making it appear as if the defendant were "grasping at straws." Moreover, given that Jones had an alibi for the night in question, counsel would have undoubtedly lost her credibility with the jury by arguing that he had also been involved. See *People v. Labosette*, 236 Ill. App. 3d 846, 855 (1992) (observing that where the evidence overwhelmingly established that the defendant had shot the victim, trial counsel would have lost all credibility with the jury by arguing otherwise).

¶ 42 Trial counsel was equally aware that C.L.'s statement to Adrienne could be used to challenge C.L.'s identification of the defendant. Trial counsel testified that she had questioned C.L. about the statement to "shed some doubt" on the certainty of her identification. Nevertheless, counsel believed that delving too far into the statement might have ultimately harmed the defendant's defense. Trial counsel indicated that she was aware that the defendant and Jones had similar-sounding voices, and she feared that the jury might have concluded the same had the matter been further explored. Notably, the State indicated that because the defendant and Jones had similar-sounding voices, it had subpoenaed Adrienne because it intended to use C.L.'s statement as additional evidence of the defendant's guilt. As it stood, however, Jones was only mentioned when trial counsel cross-examined C.L. about her statement; the jury was never informed that the defendant and Jones were brothers; and the State did not attempt to establish that their

voices were similar. Under the circumstances, it was clearly reasonable to conclude that Adrienne's presence at trial would have ultimately harmed the defendant's case more than it would have helped it. As the State notes on appeal, counsel's decision not to call Adrienne as a witness for the defense was "pure trial strategy, and well reasoned, at that." The defendant's ineffective-assistance-of-trial-counsel claim accordingly fails, and the trial court properly determined that appellate counsel was not ineffective for failing to raise the issue on direct appeal.

¶ 43 Although we need not specifically address it (see *Sanchez*, 169 Ill. 2d at 487), the defendant's claim that he was prejudiced by trial counsel's decision not to call Adrienne as a witness for the defense is also without merit. As indicated, Adrienne's presence at trial would have ultimately harmed the defendant's case more than it would have helped it. Regardless of whether C.L. believed that her attacker had sounded like Jones, Jones had an alibi; C.L. testified that the defendant had spoken as if he were trying to disguise his voice; and the State intended to prove that the defendant and Jones had similar-sounding voices. Moreover, C.L. never denied telling Adrienne that her attacker sounded like Jones; she merely indicated that she could not recall saying it. C.L. also identified the defendant by his clothes, his build, and the bottom of his face.

¶ 44 C.L.'s identification aside, the police responded to her 911 call while the home invasion was still in progress. When the defendant was subsequently observed fleeing the scene, no one else was around. When the defendant was found hiding in a nearby bush moments later, he was sweating profusely and had a roll of duct tape in his jacket. A ski mask and gloves were later retrieved from the same location. The defendant's claim that

"Snoop" and "Drey" were the perpetrators strained credulity. The jury could have readily concluded that Snoop and Drey were fictional characters and that the defendant's version of events was a "well[-]crafted story," as the State suggested. Viewing the evidence adduced at trial in the light most favorable to the State (see *People v. Wheeler*, 226 Ill. 2d 92, 117 (2007)), the evidence of the defendant's guilt was overwhelming.

¶ 45 On appeal, the defendant suggests that the jury "apparently had trouble with [C.L.'s] credibility," because it found him not guilty of aggravated criminal sexual assault. However, a defendant cannot challenge his conviction on the basis that it is inconsistent with his acquittal on another charge. *People v. Suarez*, 224 Ill. 2d 37, 51 (2007); *People v. Pelt*, 207 Ill. 2d 434, 440 (2003); *People v. Jones*, 207 Ill. 2d 122, 134-35 (2003); *People v. Reed*, 396 Ill. App. 3d 636, 649 (2009). Moreover, we cannot simply interpret a jury's split verdict as an indication that the jurors questioned the victim's version of events. See *People v. Westpfahl*, 295 Ill. App. 3d 327, 332 (1998). It is not "[our] function to enter the minds of the jurors" (*People v. Griffin*, 375 Ill. App. 3d 564, 572 (2007)), but we do note that the State conceded that the defendant might have inserted his fingers into C.L.'s vagina looking for drugs and that the defendant's claim on appeal ignores the possibility that there was a holdout juror on the sexual assault charge who was unconvinced that the defendant's act constituted sexual penetration. In any event, while we can only speculate as to why the jury did what it did (*People v. Peoples*, 2015 IL App (1st) 121717, ¶ 106), we ultimately agree with the trial court's observation that the jurors obviously took "their job seriously" (see *People v. Cowan*, 105 Ill. 2d 324, 329 (1985); *People v. Minniweather*, 301 Ill. App. 3d 574, 580 (1998)).

¶ 46 Because the defendant is unable to satisfy either of *Strickland*'s propositions with respect to his claim that trial counsel was ineffective for failing to call Adrienne as a witness for the defense, he is likewise unable to establish that appellate counsel was ineffective for not raising the issue on direct appeal. Unless an underlying issue is meritorious, a defendant suffers no prejudice from appellate counsel's failure to raise it. *People v. Smith*, 195 Ill. 2d 179, 190 (2000). We therefore conclude that the trial court properly denied the defendant's amended petition for postconviction relief.

¶ 47 CONCLUSION

¶ 48 For the foregoing reasons, the trial court's judgment denying the defendant's amended petition for postconviction relief is hereby affirmed.

¶ 49 Affirmed.