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2026 IL App (3d) 240442-U

Order filed September 14, 2026

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2026

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 13th Judicial Circuit,
	)	La Salle County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-24-0442
v.	)	Circuit No. 08-CF-213
	)	
CALVIN MERRITTE,	)	Honorable
	)	Michael C. Jansz,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE DAVENPORT delivered the judgment of the court.
Justices Holdridge and Peterson concurred in the judgment.

ORDER

¶ 1 *Held:* Evidence at issue is not materially relevant to defendant's actual innocence claim.

¶ 2 Defendant, Calvin Merritte, appeals the denial of his motion for postconviction forensic testing, arguing his identity was at issue at trial and the evidence subject to testing was materially relevant to his claim of actual innocence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 At the outset, we note the facts of this case were previously set forth in detail in defendant’s prior postconviction appeals (*People v. Merritte*, 2013 IL App (3d) 110640-U; *People v. Merritte*, 2016 IL App (3d) 140314-U; *People v. Merritte*, 2016 IL App (3d) 150677-U). We relied on those cases, in conjunction with the record, and discuss here only the facts relevant to this appeal.

¶ 5 Following a bench trial in June 2008, defendant was convicted of criminal drug conspiracy (720 ILCS 570/405.1(a) (West 2006)) and sentenced to 20 years’ imprisonment. The indictment alleged defendant and 12 codefendants—which included Clarence Merritte, Michael Goldsmith, Paul Forbes, and Aaron Flex—were part of a group known as “Da Hittaz” that (1) agreed to commit unlawful possession of controlled substances containing heroin and/or cocaine, (2) engaged in the distribution of cocaine and heroin in La Salle County, and (3) used women to transport heroin and cocaine from Chicago to La Salle County by having the women conceal the drugs in their vaginas.

¶ 6 At trial, Lindsay Lavalley, Dierdre Sinkler, Rendelle Farrell, and Brooke Henry all testified they either drove, carried, packaged, or sold drugs for defendant and other members of “Da Hittaz.” Lavalley and Sinkler were arrested on separate occasions after being found in possession of drugs during a traffic stop. Lavalley testified the drugs were obtained from a house in Ottawa and defendant previously told her she could pick up drugs at that location. Sinkler testified she was pulled over while driving Clarence and Flex to Naplate and Clarence had given her heroin and crack cocaine to hold during the drive. Earlier that day, Sinkler helped defendant package the heroin at her parent’s house. Farrell and Henry testified they were arrested during a police raid after accompanying defendant and Forbes to pick up drugs. Forbes gave Farrell and Henry the drugs, which were concealed in Farrell’s underwear and Henry’s pants at the time of their arrests.

¶ 7 Tara Morgan testified she was instructed by defendant to conceal drugs in her vagina while driving “his boys” to the locations of drug transactions. On one occasion, a bag of drugs Morgan was concealing became stuck inside her vagina and defendant removed the bag. The incident, which was video recorded, was admitted into evidence.

¶ 8 Mary Beth Morelli testified she found a plastic bag containing what appeared to be drugs across the street from her house after seeing Goldsmith remove something from his pocket, drop it on the ground, and cover it with leaves in the same location. Morelli took the bag to the police station. When Goldsmith returned to the area later that day where he had dropped the bag, Morelli called the police.

¶ 9 Defendant did not testify or present any evidence. Defense counsel argued the State failed to prove defendant was involved in any transactions connected to the alleged criminal drug conspiracy. Counsel asserted none of the physical evidence admitted was recovered directly from defendant and it did not contain his fingerprints. Counsel further challenged the credibility of the State’s witnesses by emphasizing their impaired recollection of the events due to drug use and presumed willingness to lie in exchange for more favorable outcomes in their own criminal cases. Defendant’s conviction and sentence were affirmed on direct appeal. *People v. Merritte*, No. 3-08-0677 (2010) (unpublished summary order under Illinois Supreme Court Rule 23(c)(2)).

¶ 10 Defendant then filed three unsuccessful collateral petitions that were affirmed on appeal. *Merritte*, 2013 IL App (3d) 110640-U, ¶ 2 (affirming the trial court’s first-stage dismissal of defendant’s initial 2011 postconviction petition claiming ineffective assistance of trial and appellate counsel); *Merritte*, 2016 IL App (3d) 140314-U, ¶¶ 55-56 (affirming the trial court’s denial of defendant’s motion for leave to file a successive postconviction petition presenting a claim of actual innocence because the supporting affidavits did not refute the evidence connecting

defendant to the criminal drug conspiracy and would not cause the factfinder to reconsider its verdict); *Merritte*, 2016 IL App (3d) 150677-U, ¶ 50 (affirming the denial of defendant’s section 2-1401 petition, finding that a laboratory report indicating the plastic bag recovered by Morelli contained no latent prints suitable for comparison and would have no impact on the trial outcome because it was inconclusive as to whether Goldsmith touched or possessed the bag that was tested).

¶ 11 On July 24, 2023, defendant filed a *pro se* motion for forensic DNA testing, which is the subject of this appeal. The motion argued that: (1) defendant’s identity was an issue at trial; (2) fingerprint and DNA testing of the packaging from the heroin and cocaine seized during the arrests of Lavalley, Sinkler, Farrell, and Henry would “raise[] doubt about [defendant’s] guilt under the common design and accountability theories and as a principal offender under a constructive possession theory advanced by the State at trial to convict [him]”; and (3) fingerprint and DNA testing of the heroin packaging found by Morelli was “necessary to exclude Goldsmith as the person that dropped it” and could potentially “provide third-party guilt evidence.” The motion acknowledged no physical or forensic evidence seized during the arrests of Lavalley, Sinkler, Farrell, and Henry implicated defendant.

¶ 12 The court denied defendant’s motion for failing to meet the statutory requirements for forensic testing pursuant to section 116-3 of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/116-3 (West 2022)). The court noted there was no dispute that the evidence was secured and not subject to the requested testing at the time of trial. In determining identity was not at issue at trial, the court found the central issue was whether the State could prove defendant’s guilt. The court stated that although he had contested his guilt, defendant had not put his identity at issue because he had not testified at trial. The court further concluded the absence of defendant’s DNA or fingerprints, “or that of anyone else, on the items of evidence would be immaterial where he

was convicted of drug conspiracy and was shown to have other people handle the contraband at his request.” The court also held defendant failed to show the evidence found by Morelli, which was “previously subjected to testing, can be subjected to additional testing utilizing a method that was not scientifically available at the time of trial that provides a reasonable likelihood of more probative results.”

¶ 13 Defendant filed a motion to reconsider. In denying the motion, the court clarified it had “commented on the defendant’s decision not to testify to illustrate that one of the means by which identity could be made an issue, as set forth in *People v. Grant*, 2016 IL App (3d) 140211, was not applicable in this case.” The court explained it determined identity was not at issue based on the totality of the evidence presented at trial establishing defendant’s involvement in the criminal drug conspiracy and was not holding defendant’s decision not to testify against him. This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, defendant argues the trial court erred in denying his section 116-3 motion because he satisfied the statutory requirements for obtaining postconviction forensic testing. Specifically, defendant argues the court erred in determining (1) his identity was not at issue at trial and (2) the evidence he sought to have tested would not materially advance his actual innocence claim.

¶ 16 Section 116-3 authorizes postconviction forensic testing that was not available at trial if a defendant establishes “that identity was the central issue at trial and that the evidence to be tested was subject to a sufficiently secure chain of custody.” *People v. Johnson*, 205 Ill. 2d 381, 393 (2002); 725 ILCS 5/116-3(b)(1)-(2) (West 2022). If a defendant makes a *prima facie* case for testing, the trial court must then determine whether the testing will potentially produce new,

noncumulative evidence that is materially relevant to defendant's assertion of actual innocence. 725 ILCS 5/116-3(c) (West 2022). Whether the evidence at issue is materially relevant "requires a consideration of the evidence introduced at trial, as well as an assessment of the evidence defendant is seeking to test." *People v. Savory*, 197 Ill. 2d 203, 214 (2001). Evidence is materially relevant if it tends to prove or disprove a matter at issue to a significant degree. *People v. Price*, 345 Ill. App. 3d 129, 134 (2003). We review the denial of a section 116-3 motion *de novo*. *People v. Gawlak*, 2019 IL 123182, ¶ 25.

¶ 17 Even if we assume, for argument's sake, identity was a central issue at trial, defendant's section 116-3 motion ultimately fails because the results of the requested testing would not significantly advance his claim of actual innocence. The evidence presented at trial demonstrated defendant relied on other individuals to transport, carry, and sell drugs for him. We have previously held this evidence readily established defendant's guilt. *Merritte*, 2016 IL App (3d) 140314-U, ¶ 54. As defendant's conviction was not dependent on any physical evidence seized from Lavalley, Sinkler, Farrell, or Henry during their arrests or the evidence found by Morelli, any testing showing the absence of defendant's DNA or fingerprints or the presence of another individual's DNA or fingerprints on those items would not be materially relevant to prove or disprove defendant's guilt. Notably, we have held that previous fingerprint testing conducted on the bag found by Morelli "would have had no effect on the outcome of trial as it neither proved nor disproved that Goldsmith touched or possessed the bag that was tested." *Merritte*, 2016 IL App (3d) 150677-U, ¶ 50. Even assuming defendant presented a *prima facie* case showing identity was a central issue at trial, the court did not err in denying his section 116-3 motion because the evidence defendant seeks to test

is not materially relevant to his claim of actual innocence.¹ See *People v. Barrow*, 2011 IL App (3d) 100086, ¶¶ 26, 32 (denial of a section 116-3 motion is appropriate where evidence would not materially advance defendant’s actual innocence claim despite a *prima facie* showing that identity was at issue).

¶ 18 In coming to this conclusion, we reject defendant’s contention that section 116-3 of the Code is facially unconstitutional because permitting the trial court to weigh the evidence presented at trial against the potential impact of forensic testing invades the province of the jury. Defendant failed to adequately develop this argument with citation to relevant authority, as he relies upon authorities that are inapplicable and do not provide any support for his claim. Consequently, defendant has forfeited this argument. See *Dibenedetto v. Dibenedetto*, 2019 IL App (3d) 180761, ¶ 20 (failure to present a cohesive argument with citations to pertinent authority warrants forfeiture as the appellant may not foist upon the appellate court the burden of argument and research). We further decline to address defendant’s additional claims regarding the sufficiency of the evidence at trial, judicial bias, and lack of jurisdiction as those issues were adjudicated in a prior appeal and are barred from further consideration under the doctrine of *res judicata*. See *Merritte*, 2016 IL App (3d) 150677-U, ¶¶ 36, 39-40, 51.

¶ 19 As a final matter, we reject defendant contention that the court erroneously construed his motion as a civil action even though section 116-3 is codified under the Code. “[A] section 116-3 action is civil in nature and independent from any other type of collateral postconviction action.” *People v. Gawlak*, 2019 IL 123182, ¶ 32.

¹To the extent that defendant asserts the requested testing would substantiate affidavits he previously submitted as exhibits to his motion, we reiterate our previous holding that these affidavits were not of such a conclusive character they would likely change the outcome of the proceedings. *Merritte*, 2016 IL App (3d) 140314-U, ¶ 51.

¶ 20

III. CONCLUSION

¶ 21

For the reasons stated, we affirm the judgment of the circuit court of La Salle County.

¶ 22

Affirmed.