

NOTICE

Decision filed 10/26/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 240867-U

NO. 5-24-0867

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE

This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Vermilion County.
	)	
v.	)	No. 21-MR-516
	)	
J. YUNIOR SANCHEZ-PEREZ,	)	Honorable
	)	Charles D. Mockbee IV,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BOIE delivered the judgment of the court.
Justices Barberis and Vaughan concurred in the judgment.

ORDER

- ¶ 1 *Held:* We affirm the judgment of the circuit court denying the defendant's petition for a certificate of innocence where the defendant failed to prove that he was innocent of the offenses charged in the information.
- ¶ 2 On November 15, 2021, the defendant, J. Yunior Sanchez-Perez, through counsel, filed a petition for a certificate of innocence pursuant to section 2-702 of the Code of Civil Procedure (Code) (735 ILCS 5/2-702 (West 2020)). Following an evidentiary hearing, the circuit court found that the totality of the evidence demonstrated that the defendant was criminally involved in the drug transaction for which he had been tried and convicted. As such, on June 28, 2024, by written order, the circuit court denied the defendant's petition. For the following reasons, we affirm the judgment of the circuit court.

¶ 3

I. BACKGROUND

¶ 4 We first note that this court may, *sua sponte*, take judicial notice of a record in another case concerning the same party if doing so would aid in its analysis of the appeal at bar. *People v. Ferguson*, 2021 IL App (3d) 200041, ¶ 16. The records on appeal filed in *People v. J. Yunior Sanchez-Perez*, No. 4-18-0055 (2019) (unpublished summary order under Illinois Supreme Court Rule 23(c)) and *People v. J. Yunior Sanchez-Perez*, No. 5-22-0285 (2023) (unpublished summary order under Illinois Supreme Court Rule 23(c)), provide factual background that will aid us in our analysis of the defendant's present appeal. Thus, we take judicial notice of these records and state that some of the following background information was obtained or verified through these records.

¶ 5 The defendant was charged by information on September 25, 2015, with one count of methamphetamine possession (720 ILCS 646/60(b)(3) (West 2014)) and one count of methamphetamine delivery (*id.* § 55(a)(2)(C)). The charges stemmed from the defendant's actions on September 23, 2015, and asserted that the defendant possessed or delivered more than 15 grams but less than 100 grams of methamphetamine. The defendant's codefendant, Emilio Solis, was also charged with the same two counts. After a joint trial with Solis, the jury found the defendant guilty of possession of methamphetamine, and not guilty of delivery of methamphetamine. He was subsequently sentenced to nine years' imprisonment. The defendant appealed his conviction.

¶ 6 On direct appeal, the defendant alleged that the State failed to prove him guilty of the possession of methamphetamine beyond a reasonable doubt, and the State conceded that the evidence was insufficient. The reviewing court accepted the State's concession and by summary order, reversed the defendant's conviction. *Sanchez-Perez*, No. 4-18-0055 (2019). On December 14, 2019, the mandate of the reviewing court was issued, and the defendant was released from incarceration.

¶ 7 On November 15, 2021, the defendant filed a petition for a certificate of innocence pursuant to section 702 of the Code (735 ILCS 5/2-702 (West 2020)). The petition alleged that the defendant was innocent of the charge, did not voluntarily cause or bring about his conviction, and requested an evidentiary hearing. The circuit court dismissed the defendant's petition without conducting an evidentiary hearing and the defendant appealed. On appeal, both parties agreed that the circuit court had erred in dismissing the petition without an evidentiary hearing. Thus, on November 21, 2023, this court remanded the case for an evidentiary hearing on the defendant's petition for a certificate of innocence. *Sanchez-Perez*, No. 5-22-0285 (2023).

¶ 8 Upon remand, the circuit court conducted an evidentiary hearing on May 22, 2024. At the hearing, the defense called Emilio Solis, the defendant's codefendant at trial. Solis admitted that he was guilty of knowingly possessing methamphetamine on September 23, 2015, but testified that the defendant had not been involved in helping to commit that offense. Solis stated that he had never seen the defendant possess methamphetamine nor had he ever witnessed the defendant deliver methamphetamine.

¶ 9 On cross-examination, Solis stated that he was tried along with the defendant and that he had informed his trial attorney that the defendant was not involved in the methamphetamine transaction. According to Solis, the defendant only provided a ride to the individual who had the methamphetamine. Solis admitted, however, that he never informed the circuit court during the trial, sentencing, or postconviction proceedings, that the defendant was not involved.

¶ 10 Next, the defense called Agent Patrick Alblinger with the Vermilion County Sheriff's Department. Agent Alblinger testified that he had participated in the arrest of the defendant and that the defendant did not possess any drugs at the time of his arrest. Agent Alblinger stated that he interviewed the defendant and that the defendant initially denied any involvement in the drug

transaction that occurred on September 23, 2015. However, Agent Alblinger further testified that after being confronted with the activities that law enforcement had observed the defendant engaging in that day, the defendant admitted to participating in the drug transaction. The parties then stipulated, since Agent Alblinger could not recall, that Agent Alblinger did not testify to the defendant's admission at trial. Agent Alblinger stated that he had informed the State of the defendant's admission, but that the State did not elicit any testimony regarding the admission at trial. Agent Alblinger further testified that he had documented the fact that the defendant had taken responsibility for the drug transaction in his report, and a copy of that report was admitted as an exhibit at the hearing.

¶ 11 On cross-examination, the State introduced, as an exhibit, the pretrial motion for joinder of the related prosecutions of the defendant and Solis. In that motion, it was stated that

“[The defendant] was interviewed on said date. He admitted to buying and selling methamphetamine. He advised he ‘had been selling’ methamphetamine to Solis and within the past week, ‘fronted’ a couple of ounces of methamphetamine to Solis.’ He admitted to providing methamphetamine to Solis for the controlled purchase.”

¶ 12 The motion went on to state that if the cases were joined, the State would limit the defendant's statement to admitting “to buying and selling methamphetamine; he paid \$1,000 per ounce and sold it for \$1,200; and he admitted to being involved in the transaction on September 23, 2015.” Agent Alblinger testified that once the cases were joined, his testimony was limited by the prosecution at trial. Agent Alblinger further testified that the defendant had specifically stated that he had supplied the drugs that were used in the controlled buy on September 23, 2015.

¶ 13 No other witnesses were called, and upon motion, the circuit court agreed to take judicial notice of the entirety of the defendant’s criminal case. The parties then gave closing arguments, and the circuit court took the matter under advisement. On June 28, 2024, the circuit court entered a written order stating that it did not find Solis’s testimony credible and that the “totality of the evidence presented at the evidentiary hearing shows that the defendant was criminally involved in a drug transaction on or about September 23, 2015.” Thus, the circuit court denied the defendant’s petition for a certificate of innocence, and the defendant timely appealed.

¶ 14 II. ANALYSIS

¶ 15 The defendant raises three issues on appeal. The first issue brought before this court is the question of the appropriate standard of review to be applied to the denial of a petition for a certificate of innocence. The second issue is whether the defendant proved his innocence by a preponderance of the evidence, and the third issue is whether the defendant proved by a preponderance of the evidence that he did not voluntarily bring about his own conviction. We will address these issues in the order raised.

¶ 16 Concerning the appropriate standard of review for a petition for a certificate of innocence, the defendant correctly states that there is a split of authority in the appellate court on the issue of whether the circuit court’s judgment should be reviewed under an abuse of discretion standard or under the manifest weight of the evidence standard. The defendant notes that in *People v. Washington*, 2023 IL 127952, ¶ 47 (Rochford, J., specially concurring, joined by Theis and Overstreet), our supreme court acknowledged the split of authority regarding the proper standard of review to be applied. The *Washington* court, however, declined to resolve the split because the issue had not been briefed by the parties and because, under either standard, it found that the defendant in that matter was entitled to a certificate of innocence. *Id.*

¶ 17 Justice Rochford, joined by Chief Justice Theis and Justice Overstreet, specially concurred in the *Washington* decision asserting that the standard of review should be addressed, and that it should be determined to be the manifest weight of the evidence standard. *Id.* ¶ 70. Justice Rochford noted that section 2-702 provides the factors that must be proven by a preponderance of the evidence and states that if a defendant proves his case by a preponderance of the evidence, the trial court has no discretion to deny the certificate. *Id.* ¶ 73. Justice Rochford therefore concludes that an abuse of discretion standard on review would be inappropriate, and where a party's burden is a preponderance of the evidence, the standard of review is manifest weight. *Id.*

¶ 18 The majority in *Washington* did not establish *stare decisis* concerning the appropriate standard of review. *Id.* ¶ 75. Thus, we have considered the arguments of the parties, the cases cited, and the analysis set forth in the special concurrence. We agree with the rationale set forth in the special concurrence and find that the appropriate standard of review to be applied to a circuit court's ruling on a petition for a certificate of innocence is the manifest weight of the evidence. Accordingly, we will proceed with our below analysis under a manifest weight of the evidence standard.

¶ 19 The defendant bears the burden of proving by a preponderance of the evidence that he is entitled to a certificate of innocence. *People v. Rodriguez*, 2021 IL App (1st) 200173, ¶ 45. "A proposition is proved by a preponderance of the evidence when the proposition is more probably true than not true." *People v. Love*, 404 Ill. App. 3d 784, 787 (2010). In order to be entitled to a certificate of innocence, section 2-702(g) of the Code (735 ILCS 5/2-702(g) (West 2020)), lists the following four requirements that a defendant must prove by a preponderance of the evidence:

“(1) the petitioner was convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;

(2)(A) the judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either the petitioner was found not guilty at the new trial or the petitioner was not retried and the indictment or information dismissed; or (B) the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois;

(3) the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State; and

(4) the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction.” *Id.* § 2-702(g)(1)-(4).

Each element of this section must be satisfied for the petitioner to meet his burden of proof. *People v. Moore*, 2020 IL App (1st) 190435, ¶ 21.

¶ 20 Here, there is no dispute that the defendant met his burden regarding the first two requirements that he was convicted of a felony, had been incarcerated, and the judgment of conviction had been reversed. The defendant asserts, however, that he also met his burden to prove by a preponderance of the evidence that he was innocent of the charge and that he did not voluntarily bring about his own conviction. The defendant argues that the circuit court’s rejection of Solis’s testimony, which if believed would establish the defendant’s innocence, was not well

founded since the only impeachment to his testimony was his failure to volunteer the information at trial, sentencing, or during any postconviction proceedings.

¶ 21 The defendant further argues that his statements to Agent Albinger were never brought up at trial. The defendant states that although the State's failure to elicit that evidence may be explained by a fear of bringing out a statement from the defendant that would have implicated Solis and violated Solis's right to confront his accusers, the fact remains that the defendant was convicted without the admissions and thus, the statements could not have brought about the defendant's conviction.

¶ 22 The circuit court, as the fact finder, is required to exercise its discretion regarding the weight and admissibility of the evidence submitted in determining whether the defendant has met his burden. *Love*, 404 Ill. App. 3d at 787; 735 ILCS 5/2-702(a) (West 2020). Concerning the element of innocence, the defendant was required to show not merely that he could be innocent of the crimes charged, but rather that it was more probably true than not that he was innocent of the crime. *People v. Terrell*, 2022 IL App (1st) 192184, ¶ 46. The circuit court must consider the evidence supporting the petition regardless of whether the evidence was previously admitted at the defendant's trial. *Id.* ¶ 55. Thus, the circuit court in this matter was required to consider both Solis's testimony that the defendant was not involved in the commission of the crime on September 23, 2015, and Agent Albinger's testimony that the defendant admitted to being involved in the drug transaction on September 23, 2015. After doing so, the circuit court found that Solis's testimony lacked credibility and that the totality of the evidence indicated that defendant was criminally involved in the drug transaction on September 23, 2015.

¶ 23 Although the defendant argues that the circuit court's finding that Solis's testimony lacked credibility was unreasonable, the fact that Solis failed to bring the defendant's alleged innocence

to the attention of the circuit court throughout the trial, sentencing, postconviction proceedings, or during the time that the defendant was incarcerated reasonably calls into question the accuracy and credibility of Solis's account of the events nine years later. Further, the circuit court was in a superior position to observe the demeanor of the witnesses while testifying and thus, judge their credibility. "It is well settled that it is the function of the trier of fact to determine the credibility of the witnesses and the weight to be given their testimony." *People v. Davidson*, 235 Ill. App. 3d 605, 609 (1992). Where the evidence is in conflict, this court will not substitute its judgment for that of the fact finder. *Id.*

¶ 24 The determination of innocence in this matter rested on the credibility of the witnesses and the circuit court did not find the defendant's witness to be credible. Thus, the defendant failed to meet his burden of demonstrating by a preponderance of the evidence that it was more probably true than not that he was innocent of the crimes charged.

¶ 25 A finding is against the manifest weight of the evidence only when an opposite conclusion is apparent or when the findings appear to be unreasonable, arbitrary, or not based on evidence. *Lawlor v. North American Corp. of Illinois*, 2012 IL 112530, ¶ 70. Here, the circuit court had before it the testimony of Agent Albinger along with an exhibit demonstrating that the defendant had admitted to being involved in the drug transaction on September 23, 2015. Thus, we find that the circuit court's judgment was not unreasonable or arbitrary, but was based on the evidence presented at the hearing. Accordingly, we find that the circuit court did not err in denying the defendant's petition for a certificate of innocence.

¶ 26 As previously stated, each of the four elements was required to be proven by the defendant to demonstrate that he was entitled to a certificate of innocence. As such, we need not address the

defendant's remaining issue that he did not by his own conduct voluntarily cause or bring about his conviction.

¶ 27

III. CONCLUSION

¶ 28 We affirm the judgment of the circuit court denying the defendant's petition for a certificate of innocence where the defendant failed to prove that he was innocent of the offenses charged in the information.

¶ 29 Affirmed.