

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
LASALLE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)
Plaintiff-Respondent,)
VS.)
CHESTER O. WEGER,)
Defendant-Petitioner.)

13TH JUDICIAL CIRCUIT
LA SALLE COUNTY
FILED JUN 18 2025
Guy Vaccaro
CIRCUIT CLERK
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No. 1960-CF-753

ORDER

On March 14, 1960, Lillian Oetting, Francis Murphy, and Mildred Lindquist were murdered, and their bodies were discovered in a cave in St. Louis Canyon at Starved Rock State Park on March 16, 1960. Chester Weger (defendant), who was employed as a dishwasher in the lodge at the park, was charged with their murders on November 17, 1960. The State elected to proceed to trial for the death of Mrs. Oetting. The selection of jurors began on January 30, 1961, the State began presenting evidence at the trial on February 12th, and on March 3rd a jury of 12 men and women found the defendant guilty of the murder of Mrs. Oetting. He was subsequently sentenced to life in prison.

A direct appeal was taken to the Illinois Supreme Court, which affirmed the conviction in 1962. (*People v. Weger*, 25 Ill.2d 370 (1962)) On December 29, 1967, defendant filed a *pro se* post-conviction petition. Attorney John McNamara, who was an Assistant Public Defender at the time and was defendant's privately retained counsel for the trial, was appointed by the court to represent him in the post-conviction proceeding. After a hearing, the post-conviction petition was denied, and the denial was affirmed on appeal. (*People v. Weger*, No. 43641 (September 30, 1971)).

A federal habeas corpus petition was filed by defendant alleging certain errors in his murder trial. The federal court denied his petition. (*United States ex rel. Weger v. Brierton*, 414 F. Supp. 1150 (N.D.IL 1976). On September 10, 2001, defendant prepared and filed a second *pro se* post-conviction petition. He was appointed counsel, who filed an amended petition on his behalf. The trial court dismissed the petition, and the dismissal was affirmed on appeal.

On October 19, 2023, the defendant filed a Successive Petition for Post Conviction Relief based upon claims of actual innocence and various constitutional violations pursuant to 725 ILCS 5/122-1. The court declined to advance the constitutional claims to second-stage proceedings, but did allow the freestanding claim of actual innocence to proceed. The State filed a Motion to Dismiss that claim, which the court denied on November 22, 2024. The State filed an answer, and the third-stage evidentiary hearing took place on May 12, 13, and 14, 2025.

LEGAL STANDARD

The Post-Conviction Hearing Act (725 ILCS 5/122-1 *et seq.* (West 2022)) “provides a statutory remedy to criminal defendants who claim that substantial violations of their constitutional rights occurred at trial.” *People v. Edwards*, 2012 IL 111711, ¶ 21. “The Act is not a substitute for an appeal, but rather, is a collateral attack on a final judgment.” *Edwards* ¶ 21. Under the Act “individuals convicted of criminal offenses may challenge their convictions based on constitutional violations. [cite omitted]. Such violations include freestanding claims of actual innocence, based on newly discovered evidence.” *People v. Carter*, 2013 IL App (2d) 110703, ¶ 74. “ ‘An allegation of newly discovered evidence of innocence is not intended to question the strength of the State’s

case. An allegation of newly discovered evidence of innocence seeks to establish the defendant's actual innocence of the crimes for which he has been tried and convicted.' *People v. Washington*, 171 Ill.2d 475, 495 (1996) (McMorrow, J., specially concurring)."
People v. Gonzalez, 407 Ill. App. 3d 1026, 1037 (2nd Dist., 2011).

"A claim of actual innocence is not the same as a claim of insufficiency of the evidence or reasonable doubt or mere impeachment of trial witnesses, but a claim of vindication or exoneration." *People v. Gonzalez*, 2016 IL App (1st) 141660, ¶ 28.

"Substantively, in order to succeed on a claim of actual innocence, the defendant must present new, material, noncumulative evidence that is so conclusive it would probably change the result on retrial." *People v. Coleman*, 2013 IL 113307, ¶ 96. "New means the evidence was discovered after trial and could not have been discovered earlier through the exercise of due diligence." *Coleman*, ¶ 96. "Material means the evidence is relevant and probative of the petitioner's innocence." *Coleman*, ¶ 96. "Noncumulative means the evidence adds to what the jury heard." *Coleman*, ¶ 96. "And conclusive means the evidence, when considered along with the trial evidence, would probably lead to a different result." *Coleman*, ¶ 96.

"The conclusive character of the new evidence is the most important element of an actual innocence claim." *People v. Robinson*, 2020 IL 123849, ¶ 47. Therefore, for the petitioner to prevail the court "must be able to find that petitioner's new evidence is so conclusive that it is more likely true than not that no reasonable juror would find him guilty beyond a reasonable doubt." *People v. Sanders*, 2016 IL 118123, ¶ 47.

"Probability, rather than certainty, is the key in considering whether the fact finder would reach a different result after considering the prior evidence along with the new evidence."

Robinson, ¶ 48. “Requests for a new trial based on newly discovered evidence are not looked upon with favor by the courts and must be closely scrutinized.” *Carter*, ¶ 75.

“[T]he primary purpose of a third-stage hearing is to test the reliability, credibility, or veracity of the new evidence and determine whether the new evidence is compelling enough to place the trial evidence in a new light and undermine confidence in the finding of guilt.” *People v. House*, 2023 IL App (4th) 220891, ¶ 94. “At the third stage, a defendant has the burden of proving a substantial constitutional violation.”

People v. Brooks, 2021 Ill App (4th) 200573, ¶ 47. “[T]he circuit court serves as the fact finder, and, therefore, it is the court’s function to determine witness credibility, decide the weight to be given testimony and evidence, and resolve any evidentiary conflicts.”

People v. Domagala, 2013 IL 113688, ¶ 34. “In determining the weight to be given the new evidence and whether all the evidence, new and old, is so conclusive that it is more likely than not that no reasonable juror would find defendant guilty beyond a reasonable doubt on retrial, the court at the third stage must necessarily consider whether the new evidence would ultimately be admissible at a retrial.” *People v. Velasco*, 2018 IL App (1st) 161683, ¶ 118.

It is undisputed that Illinois Rule of Evidence 1101(b)(3) “provides that the rules of evidence do not apply to postconviction hearings.” *Robinson*, ¶ 78. “That means, for instance, that hearsay evidence ... is not *per se* inadmissible because it fails to meet the reliability criteria that would be required for admissibility at trial.” *Brooks*, ¶ 55.

However, “part of a trial court’s discretion at a third-stage evidentiary hearing includes the authority to *admit* questionable evidence and then to *disregard* it because, in the court’s judgment, it is unreliable.” *Brooks*, ¶ 58.

Once the testimony and exhibits have been admitted at the third-stage hearing, then ‘[i]n practice, the trial court typically will review the evidence presented at the evidentiary hearing to determine first whether it was new, material, and noncumulative.’ *Coleman*, ¶ 97. It is only after the court finds favorably for the defendant on this issue that the court will consider “whether that evidence places the evidence presented at trial in a different light and undercuts the court’s confidence in the factual correctness of the guilty verdict.” *Coleman*, ¶ 97. “This is a comprehensive approach and involves credibility determinations that are uniquely appropriate for trial judges to make.” *Coleman*, ¶ 97. However, “the trial court should not redecide the defendant’s guilt in deciding whether to grant relief.” *Coleman*, ¶ 97.

The defendant called 11 witnesses to testify at the third-stage hearing, and offered 37 items of evidence which were admitted by the court. The State called one witness and offered two exhibits. The Court’s first responsibility is to determine whether the evidence presented is new, material, and noncumulative. The court makes that finding with regard to the witness testimony. Of the 37 items admitted into evidence, 20 had previously been considered by the court at the second-stage hearing and were allowed to move through to the third-stage hearing because they could potentially corroborate witness testimony. The third-stage hearing exhibit numbers for those items are: 1, 7, 9, 11, 12, 13, 14, 15, 19, 20, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, and 34, and the court finds that they meet the criteria and will be considered at this third-stage hearing.

The remaining exhibits offered by the defendant are exhibits 2, 3, 4, 5, 6, 8, 10, 14a, 16, 17, 18, 21, 24, 25, 35, and 36. Some of these exhibits are in the nature of substantive evidence, while others are not, such as the curriculum vitae of their various

experts. The court will consider all of these exhibits in making its determination about third-stage relief. Additionally, the two exhibits offered by the State, exhibits 2 and 3, and the testimony of their witness will also be allowed.

One preliminary issue the court wishes to address is its perception that the defendant and the State have different views on how evidence, that would be inadmissible on a re-trial, should be viewed by the court for purposes of making third-stage determinations. It seems to be the State's position, based on its reading of *People v. Velasco*, that any item of evidence that would not be admissible in a subsequent trial should not be considered by the court. The defendant, relying on Rule of Evidence 1101(b)(3) seems to suggest that the court need not consider admissibility issues because the rules of evidence do not apply at post-conviction proceedings.

In making its earlier decisions about the items of evidence that should be allowed to advance to this third-stage proceeding, this court has exercised its discretion in favor of allowing the evidence to be considered, rather than excluded, from consideration. This approach by the court seems consistent with the intent of Rule of Evidence 1101(b)(3). “[P]art of a trial court’s discretion at a third-stage evidentiary hearing includes the authority to *admit* questionable evidence and then to *disregard* it because, in the court’s judgment, it is unreliable.” *Brooks*, ¶ 58. The view of how evidence should be treated, as expressed in *Brooks*, is the approach the court is taking in this case. Therefore, the court will not reject any evidence simply because it would be inadmissible at a subsequent trial, but the court will consider its admissibility when deciding what weight to give the evidence.

The court, having allowed the testimony and exhibits to be presented at the third-stage hearing, must now determine whether the new “evidence places the evidence presented at trial in a different light and undercuts the court’s confidence in the factual correctness of the guilty verdict.” *Coleman*, ¶ 97. The court believes it prudent to mention at this juncture that a third-stage evidentiary hearing is not a re-trial of the case, nor is it a chance for the court to re-weigh the evidence and substitute its judgment for that of the original jury. The 12 men and women who decided this case in 1961 had the ability to observe the demeanor of the witnesses and their manner of testifying, and reached their verdict after considering all the evidence presented. The purpose of a third-stage hearing is to allow the court to decide whether the new evidence places the evidence presented at trial in a different light, not decide whether the decision of the original jury was correct.

To make the appropriate factual determinations, the court must be familiar with the evidence that was presented during the original trial. Therefore, the court affirmatively states that it has read the entire 1961 trial transcript, consisting more than 2,500 pages, in preparation for this hearing.

EVIDENCE AND EXHIBITS PRESENTED AT THE THIRD-STAGE HEARING

There were 12 witnesses who testified at the third-stage hearing and 39 exhibits that were admitted into evidence. Many of the exhibits are directly related to witness testimony, so they will be discussed together when appropriate.

ROY TYSON

The testimony of Roy Tyson was offered to establish a conversation he had with Harold “Smokey” Wrona in 1996 about the Starved Rock murders. In that conversation, Wrona stated that he was paid to plan the murders of three women, and that Chester

Weger was not involved. Tyson's testimony was lengthy, but a brief summary will be useful.

According to Wrona, in 1960 he received a telephone call from a man who knew Wrona's name, but the man did not reveal his identity. Wrona was offered the opportunity to make \$1,000 by finding a place where three bodies could be disposed and never found. Wrona agreed to the proposal, but struggled to find a location that suited the request. He was taking a walk on a trail in Starved Rock State Park, when he came across someone he described as a young kid. He decided to ask this young kid if he knew of a good place to hide three large bags of money. The young kid took him to end of St. Louis Canyon, which Wrona determined was an acceptable place to hide the bodies.

Wrona subsequently showed the location he selected in St. Louis Canyon to the man he spoke with previously on the phone. The man agreed to the location, then asked Wrona if he would be willing to plan the murders of three women for \$30,000. Wrona was told that one of the husbands wanted his wife killed, and, since the women were always together, the other two husbands agreed that their wives could be killed as well. Wrona accepted the offer and began to plan the murders.

Wrona decided the women should be strangled then beaten, so he secured some string and bags from a butcher shop in DePue, IL. A few days later he was walking near his home in La Salle, when he came across a large log that was frozen. He decided it would make an acceptable club to beat the women, so he placed it in his car trunk. After gathering all of these items, Wrona was informed that the three women had a trip planned to Starved Rock in the upcoming days, and they intended to go bird watching in St. Louis Canyon, the same location he had previously selected to hide their bodies.

Wrona told Tyson that he planned the details about how the women would be killed, he gave explicit instructions on how to kill the women to the men who were selected to commit the murders, and he required that the getaway drivers keep the cars running with a full tank of gas. It was his intention that the women be strangled to death with the string, then severely beaten with the log to erase any evidence of the strangulation. Wrona did not witness the murders, instead staying near his car in a parking lot. He subsequently learned what happened in St. Louis Canyon by talking to the three men who committed the murders. Wrona said he was responsible for disposing of the clothes and other items used in the murder, and he accomplished the task by taking them to a community burn pile in Bureau County.

There are significant evidentiary issues presented by Tyson's testimony since he is testifying to both what he remembers and what he was told by Wrona. His testimony contains multiple layers of hearsay with imprecise information. The name of the man who initially contacted Wrona is unknown. The names of the men who committed the murders are unknown. The names of the men who drove the getaway vehicles are unknown.

There are a number of questions raised by Wrona's story that do not make sense. Why would the mob need to hire someone from La Salle County to select a location to hide three bodies in a place where they would never be found? Why would Wrona ask a kid - - someone he said he did not know - - for a good place to hide three bags of money? Why would Wrona, a person who acted very carefully, take the chance of creating a new witness by asking for the kid's assistance? When originally telling the story, why didn't Wrona tell Tyson that he actually knew the kid was Chester Weger because he previously

dated Weger's sister? If Wrona needed to hide three bodies in a place they would never be found, why did he pick a popular State Park? Why would the mob, on seeing his choice of location, agree that a State Park would be a good place to hide three bodies? Why would the mob ask someone from La Salle County to plan three murders before they were aware the victims intended visit Starved Rock? How was Wrona able to decide what would be needed for the murders before knowing when or where they would occur? What is the likelihood that the three women Wrona was planning to kill would decide to come to the exact State Park and walk down the exact trail that he had previously selected to hide their bodies? These unanswered questions lead the court to doubt the credibility of the story that Wrona told Tyson.

The court also finds, after observing Tyson's demeanor and manner of testifying, that the testimony he is offering is also not credible. It was evident that Tyson was anxious to assist the defendant in any way possible. When he first reached out to defendant's counsel on December 16, 2021, (Defendant's Exhibit 18) he wrote "I have your Christmas present", then told him he had information about the case. Tyson has listened to 95% of the podcasts being produced about this case, and in one he was ranked the second most important piece of evidence. (5/13/25, pg. 168). He follows the Facebook page that has been set up for the defendant, and Tyson is listed as the top fan of Friends of Chester Weger. (5/13/25, pgs. 217- 220).

The court observed that Tyson testified easily on direct examination and was able to tell his story without much interruption. However, on cross-examination he was noticeably defensive in his responses, less certain about his answers, and had a tendency to add information that was based on his personal opinion rather than the statements told

to him by Wrona. For example, when asked how much time elapsed between the first phone call to Wrona and the murders on March 14th, Tyson stated:

- A. So I imagine he --March 1st or 2nd, that would be my educated guess, the first or second when he first got ---
- Q. Smokey didn't tell you --
- A. -- when he first got it. Not a date, but he told me in ways that would make you think of what time." (5/13/25, pgs. 187-188).

In another instance, Tyson testified that the string found at the scene of the crime did not come from Wrona, and it is his belief that someone other than the three killers put the string there. (5/13/25, pg. 206). He also believes that, while a log was used to kill the women, the log that was presented at trial was not the one used in the murders and was a complete fraud. (5/13/25, pg. 213).

The evidence heard by the jury was vastly different than the testimony offered by Tyson about how the murders occurred. During the original trial, the State introduced multiple confessions by the defendant concerning his involvement in the murders, including three court reported statements. The jury heard from witnesses who testified when and how the confessions were taken, the circumstances surrounding his confessions, and the defendant's demeanor and relief after making his confessions. There were multiple witnesses who corroborated his confession by testifying to seeing scratches and bruises on his face in the days after the murders. The confessions were further corroborated by the presence of a frozen log at the scene, pieces of wood recovered from Mrs. Oetting's head, human tissue found within the binoculars and camera found on the scene, blood spatter patterns on the defendant's jacket, and a broken piece of strap found near the scene. The defendant mentioned seeing a red and white airplane flying overhead, which he could only know if he was at the scene. This detail was corroborated by two

witnesses who testified that a red and white plane was in fact flying over that area at the time he described.

The jury had the opportunity to observe the defendant as he denied that he killed Mrs. Oetting and as he challenged the evidence presented by the State. He asserted that his confessions were not true, and that he was told what to say by Bill Dummett, who was one of the lead investigators on the case. He said that promises were made to him, he was threatened, and his statements were not voluntary because he was trying to save his life. He stated that many of the witnesses who testified for the State were lying, including investigators Dummett and Wayne Hess, the Starved Rock employees who saw scratches or bruises on his face, and the court reporters who transcribed his statements and left certain questions and answers out of the transcripts. He was repeatedly impeached on cross examination with inconsistencies from prior statements he gave to the police, which were taken early in the investigation and before he became a prime suspect. Significantly, in none of those statements does the defendant mention being approached by a man looking to hide three bags of money, let alone tell them it was Wrona.

The defendant's assertion of his innocence and denial of the State's claims were fully argued by his counsel during the closing arguments of the trial. Those arguments were rejected by the jury, who found him guilty of the murder of Mrs. Oetting on the second day of deliberations.

The court finds that Tyson's testimony and the hearsay statements attributable to Wrona would not be admissible at trial, are not reliable and are entitled to no weight. Even assuming Tyson accurately related what Wrona told him, there is nothing to establish that Wrona was telling him the truth, especially since Tyson admitted that

Wrona was a “a crook”, “a liar”, “a cheat”, “and my friend.” (5/13/25, pg. 186). Wrona even gave a different version of the events surrounding the murders to his sister, Alice Boehm. The story told to Tyson by Wrona is double hearsay since Wrona did not witness the murders. Wrona could not even identify a single person involved with the actual killing. The hearsay information presented by Tyson cannot be challenged or questioned because Wrona is dead (Defendant’s Exhibit 34). Additionally, Tyson’s engagement in various platforms involving the case – the podcast and Facebook – demonstrate a bias towards assisting the defendant. Tyson’s willingness to offer his own opinions about the case based solely on information gleaned from the various digital platforms adversely affects the court’s impression of his testimony and his motives for coming forward.

Evaluating Tyson’s testimony in light of the evidence presented to the jury the court finds that his testimony is not credible or reliable, does not support a freestanding claim of actual innocence, is not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that his testimony would lead to a different result.

DR. DAVID FOWLER

Dr. David Fowler is a forensic pathologist (Defendant’s Exhibit 10) who was asked to give opinion testimony about the three women who were killed at Starved Rock concerning the severity of their injuries, the types of objects that could cause the injuries, and the women’s manner and cause of death. He issued a report (Defendant’s Exhibit 11) after reviewing the original autopsy report (Defendant’s Exhibit 9), handwritten notes from a meeting dated 3/20/60 (Defendant’s Exhibit 12), assorted photographs, trial testimony, and newspaper clippings. He did not conduct any original investigation for purposes of preparing his report. The court will initially point out that Fowler is not

necessarily offering newly discovered evidence, but is making new opinions based on old evidence. However, since one of the apparent purposes for his testimony is to corroborate the statements made by Wrona about the way he wanted the women to be killed, the court will consider it.

After reviewing Fowler's testimony, the court finds that it does not corroborate the statements attributable to Wrona about how he wanted the women killed. According to Tyson, it was Wrona's plan to have the women strangled with butcher string until they died, then severely beaten about the head and face with a log to cover up the proof of the strangulation. On cross-examination Fowler admitted that the autopsy report from 1960 (exhibit 9) showed that all three of the women had aspirated blood in their lungs. (5/12/25, pgs. 275-276). For this to take place, the women needed to have blood in their mouths, which they would then breathe into their lungs. (5/12/25, pg. 276). With regard to Mrs. Oetting, she had re-aspirated blood, which meant that the blood went in and out of her mouth and lungs. (5/12/25, pg. 276). The autopsy report also revealed that Mrs. Oetting had blood in her stomach, which is evidence of swallowing. (5/12/25, pg. 275). Fowler admitted there were no signs of asphyxiation. (5/12/25, pg. 277).

The testimony from Fowler about the way the women died is not consistent with the story told by Wrona about the women being strangled. If they were killed in the way Wrona stated, there would have been evidence of asphyxiation, and no aspirated blood in the lungs or stomach. However, his testimony about the women's manner of death is consistent with, and corroborates, the confession by defendant that the women were killed by being beaten.

The witness also offered testimony about the kind of object needed to inflict the type of injury described in the autopsy report. He listed a tire iron, crow-bar, and baseball bat among items that were consistent with the type of object needed to cause these injuries based on their ability to withstand a great deal of force. He was not inclined to accept that the injuries could be inflicted by a log because a log does not have the same ability to withstand the amount of force needed to cause these injuries. This testimony contradicts the defendant's confessions about the murder weapons, but it also contradicts Wrona's story that a frozen log was used to beat the women after they were strangled.

There were a number of questions asked of Fowler concerning the injuries to Mrs. Murphy and the removal of her fingertip. This type of testimony was never elicited at defendant's original trial, undoubtedly because it was irrelevant since he was only being tried for the murder of Mrs. Oetting. The court understands it was elicited in this hearing to corroborate Wrona's story, but the fact the fingertip was removed was public knowledge in 1960, and therefore could have been known by Wrona before he told his story to Tyson.

The court finds that Fowler's testimony contradicts Wrona's version of events, partially corroborates the defendant's confessions, and therefore does not support a freestanding claim of actual innocence. His testimony is not sufficient for the court to lose confidence in the guilty verdict, but rather supports it, and the court finds that it is not probable that his testimony would lead to a different result.

RANDY REYNOLDS

Randy Reynolds testified that, in 1982, he attended a retirement party for Bill Dummitt, who was one of the lead investigators on the Starved Rock Murder case in

1960. His testimony was offered to establish that Dummett made a statement at his party that “Chester Weger was innocent ... but I got the son of a bitch to admit to it.” (5/13/25 – p. 27). Reynolds stated that he was devastated by that admission and mentioned it to his wife, who worked in the Sheriff’s Department and was good friends with Dummett. She was dismissive of this alleged statement, saying that was “just Dummett being Dummett.” (5/13/25 – pg. 35). Reynolds did not go to the authorities with this information acknowledging that “I was 24 years old back then. That didn’t matter to me. I mean, the Starved Rock murders didn’t really matter to me.” (5/13/25 – pg. 36).

Defendant’s Exhibit 16 is a Declaration signed by Reynolds on June 10, 2024, in which he sets out Dummett’s statement. It was established on cross-examination that prior to June 10th Reynolds spoke to a family member who was aware of the defendant’s case, liked to investigate it, and was excited to be “helping Mr. Hale.” (5/13/25 – pg. 31-32). She arranged for Reynolds to meet defense counsel, and she subsequently advised him that Defendant’s Exhibit 16 was at her house and ready to be signed after he filled in some information. (5/13/25 – pg. 31).

The court had the opportunity to observe the demeanor of Reynolds while he testified and his manner of speaking. His answers on direct examination were more concise and confident about general and broad statements, but when questioned on cross-examination about the details, his manner of answering questions changed and he was less clear. Reynolds testified that he was devastated when he first heard the statement from Dummett, but also admitted that it didn’t matter to him in 1982 because the Starved Rock murders didn’t matter to him. He did not contact any authorities or take any action to bring this information to light until he spoke with a family member who was interested

in the investigation of the case and was able to set up an appointment for him to meet defendant's counsel in 2024. He filled in the blank spaces on Defendant's Exhibit 16, but admitted he wrote in the wrong years for the retirement party. It was established by Defendant's Exhibit 17 that the retirement party actually took place in 1982.

The court accepts that Reynolds attended the party, but the court finds that the surprisingly detailed comment about what Dummett said – namely that Chester Weger was innocent and I got him to admit it - is not believable, especially since he could remember few details about who was present for the statement, he admitted that the Starved Rock murders did not mean much to him back then, and it was not until he had conversations with a family member interested in investigating the case 40 years later that he decided to say anything about it.

The court also finds this statement is not credible based on the prior trial court record. In pre-trial hearings, Judge Hoffman concluded that defendant's confessions were voluntary and admissible. At trial the defendant denied that his confessions were true and testified that he was told what to say by Dummett, who had done the investigation and was familiar with the evidence. However, part of his confession included his statement that a red and white airplane was flying over the area at the time of the murders. This is something that Dummett could not know because there was no evidence of the plane at the scene. This fact could only be known by someone who was there. Any claim by defendant that Dummett told him this information would require this court to conclude that Dummett was so clever and intent on framing the defendant, that he investigated and created corroboration that would not be present at the scene. Alternatively, it would require this court to conclude, as argued by the defendant in his original trial, that

Dummett was able to convince the two witnesses who testified about the plane to commit perjury to ensure defendant's conviction. The jury did not accept this theory, and this court does not accept it either.

The court finds that Reynolds' testimony is not reliable, would not be admissible at any trial, and is not worthy of belief. For these reasons the court finds his testimony does not support a freestanding claim of actual innocence, is not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that his testimony would lead to a different result.

JAMES WOODS

The testimony of James Woods was offered to show that Wayne Hess, who was one of the lead investigators on the Starved Rock murder case in 1960, made a statement to Woods' father suggesting that the conduct of the investigators towards the defendant was inappropriate. Specifically, Woods testified that when he was 13 years old he was standing in his kitchen when he heard his father tell his mother that, while in his work truck, Hess turned to him and said "Jimmy, what we did to that kid was terrible." Woods then testified that his father mentioned that Hess wondered what that was going to mean for him. (5/13/25, pg. 48). He pressed his dad for details, but his father would not provide them or say anything more about the comments. Based on the witness's age when he testified at the third-stage hearing (58 years old) and his age when the statement was made (13 years old), this event occurred around 1980.

On cross-examination, Woods admitted that the Starved Rock murders were not specifically mentioned when he heard his father's statement, but he knew that was the topic being discussed. He also acknowledged that when he reached out to defense

counsel, he was familiar with his podcasts and wanted to provide him with as much information as he could about the case. Despite that, when he was interviewed by defense counsel on September 2, 2022, he did not tell him about Hess saying that he wondered what this was going to mean for him. (5/13/25, pgs 59-60). He subsequently remembered that statement while thinking about the case before testifying. (5/13/25, pgs 68-69).

The court finds that the statements attributed to Hess are too indefinite and speculative to be reliable. There is nothing about these statements that establishes that the defendant is actually innocent, only that Hess had regrets about some prior action. Additionally, there was not even an acknowledgement by his father that he was referring to the Starved Rock murder case when the statements were made. The testimony from Woods is based on something Hess told his father, and his father told his mother, and he overheard, which is double hearsay that would not be admissible at trial. The defendant's multiple confessions, corroborated by other evidence, was sufficient for the jury to find defendant guilty, and this single indefinite comment would not alter the guilty verdict. Therefore, the court finds that the testimony of Woods does not support a freestanding claim of actual innocence, is not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that his testimony would lead to a different result.

MELISSA SMITH

The testimony of Melissa Smith was offered to relate a conversation she had with her grandfather concerning the murders at Starved Rock. According to Smith, when she was 15 years old her grandfather, Roy Grizzi, who was a member of the mafia, told her he was responsible for putting out a hit that resulted in the deaths of the three women at

Starved Rock in 1960. He said the husband of one of the women wanted her killed, and the two other women were killed because they were collateral damage. There were five men sent to complete the task, and he knew that defendant was not one of them. He made her promise to do everything she could to help defendant. At one point she sent a letter to the defendant and two of his prior lawyers offering to provide information, but none of them responded.

Smith said that she was employed at a law firm when she was 16 years old (1997) and working for attorney James McConnell when she mentioned the Starved Rock murders and her grandfather's statement that they got the wrong guy. This conversation occurred after she had been working at the firm for "at least the first six months to a year because I didn't want to just bring it up to some guy I met ... who is my boss now. I didn't want to ruin a job I had." (5/14/25, pg. 124). McConnell did not want to discuss it with her, and she provided him with no details. She testified that she remained at the law firm and worked there for 11 years. (5/14/25, pg. 110).

Smith testified that she was watching television when a promo for an HBO special about the Starved Rock murders came on the air. She did a Google search, found Mr. Hale's name, then reached out to him on Facebook. (5/14/25, pgs. 126-27). She spoke to him and said she had done prior research on the case, went to the library to study it, and believed that defendant was innocent because one man could not do it alone. (5/14/25, pgs. 135-36). She expressed concern that one of the cigarette butts that was being examined forensically may come back with defendant's DNA, despite his innocence, because she assumed the defendant smoked, may have been in the cave where

the bodies were found at a different time, and left a cigarette butt there. (5/14/25, pg. 137).

The testimony of Smith illustrates one of the ongoing challenges the court faces in trying to determine whether the testimony offered at the hearing is based on a witness's memory of what they were told (albeit hearsay), or information that was secured by other means, such as research or a form of digital media. The notoriety surrounding this case has been present since the murder of the three women was discovered in 1960. There were numerous news articles covering the details of the case and the subsequent investigation. There was a book written by Steve Stout. Numerous witnesses have talked about listening to a podcast regarding the case, and there is a Friends of Chester Weger Facebook page. All of this access to information causes the court to question the source of the witness's memories, especially since many of the witnesses (Tyson, Reynolds, Woods, and Smith) are testifying to statements they were told more than 25 years ago.

The court does not find Smith's testimony credible based on her demeanor and manner in testifying. She was defensive when questioned by the State and tried to interject explanations when comments she made were being challenged. She proactively expressed concern about the testing being done and its impact on the investigation, although she had no direct involvement in those aspects of the case. Her testimony that her grandfather gave her this information when she was 15 years old and made her promise to help defendant because the Mafia does not kill children is not believable, especially since she would be an adult within three years of being given the information. Her memory is questionable for some past events. For example, the lawyer she worked for, McConnell, testified that she told him about her grandfather within a month and a

half of starting (not a year and a half as she said), and that she remained with the firm for three years (not 11 years).

The testimony by Smith is not reliable because it is based solely on a hearsay statement made by her grandfather that they got the wrong guy. Her grandfather did not participate in the actual murders, so any the information he obtained is hearsay. The information offered by Smith is lacking in specificity and details. There is no information about the name of the man who wanted his wife killed. The names of the men who committed the murders have not been identified. Her grandfather gave her no information about how the murders took place or what weapons were used. It was Smith herself who speculated that her grandfather would have used someone from the Starved Rock area and that they would have brought their own weapons so they could carry them out when they were finished. None of this information was provided by her grandfather, and all of it is speculation.

The testimony of Smith is not reliable, would not be admissible at trial, and therefore is given very little weight. When the court evaluates her testimony with the trial testimony, the court concludes that it does not support a freestanding claim of actual innocence, is not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that her testimony would lead to a different result.

JAMES McCONNELL

The testimony of James McConnell was offered to corroborate the testimony by Melissa Smith that she talked about the Starved Rock murders case when she worked for his law firm. According to McConnell, Smith mentioned the case and made a comment that her grandfather said they had the wrong guy. Upon hearing this, he told her to say

nothing more out of concern that she may be waiving a family privilege. They never discussed the case again.

The court finds that McConnell offered no direct testimony about the Starved Rock murders that is relevant to this case. The comment by Smith to him about what her grandfather said is hearsay, completely innocuous, lacking in detail, conclusory only, and would not be admissible at trial. Additionally, the mere fact she made the statement does not corroborate that she was given that information by her grandfather. Therefore, the court finds that his testimony does not support a freestanding claim of actual innocence, is not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that his testimony would lead to a different result.

The court does find that McConnell's testimony is believable as impeachment for some of the testimony offered by Smith. He stated that she began working at his law firm in 2003, she made the statement to him within a month to a month-and-a-half of when she started working there, and she worked at the law firm for three years total. (5/14/25, pg. 7). This is significantly different than Smith's testimony that she began at the law firm when she was 16 (1997), worked at the law firm 11 years and did not tell him about her grandfather until she was there for at least six months to a year because she did not want to jeopardize her job. (5/14/25, pgs. 110, 124).

LOIS ZELENSEK EXHIBIT/ MARSHA MINOTT TESTIMONY

Defendant's Exhibit 13 is a statement given by Lois Zelensek to the police on April 20, 1960. In her statement Zelensek relates that she is a telephone operator, and in that capacity overheard part of a conversation that took place on March 21, 1960. During that call a man from La Salle and a man from Aurora were discussing a murder case that

was reported in the newspaper, a kid who was concerned because he had a car trunk containing bloody clothes, and the recommendation that the clothes be burned. There was no specific mention of the Starved Rock murders, she did not know the names of the men who were speaking, and she misidentified the phone information for the La Salle number.

The police investigation subsequently identified the phone numbers as belonging to Glen and William Palmatier. A newspaper story was published on August 31, 1960 identifying them by name and mentioning details of what Zelensek overheard on the phone. (Defendant's Exhibit 21). A subsequent polygraph examination of Zelensek concluded that she was being untruthful. (Defendant's Exhibit 15). An interview was conducted of Glen Palmatier (Defendant's Exhibit 19), who denied being involved in that phone conversation. A memorandum of the Palmatier interview was admitted as Defendant's Exhibit 33. A subsequent polygraph examination of both of the Palmatier brothers concluded they were being truthful. (Defendant Exhibit 20).

The exhibits the court admitted into evidence regarding the Zelensek statement are hearsay, and also at times contradictory. Gladys Brummel gave a statement (Defendant's Exhibit 23) to corroborate Zelensek's claim that she overheard the conversation of the men talking on the phone. However, a subsequent polygraph test of Zelensek determined that she was not truthful during her examination. Since Zelensek does not know who the men were that were talking when she overheard the conversation, there is nothing to contradict the Palmatier brother's claims that they were not a part of that conversation. If she overheard two other men talking, their identities are unknown, and her testimony would be too speculative to admit at trial.

The court finds, after reviewing the exhibits, that they are not reliable. When the court evaluates these exhibits against the trial testimony, particularly the defendant's confessions and the corroborating witness testimony, the court concludes that they do not support a freestanding claim of actual innocence, are not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that they would lead to a different result.

Marsha Minott , the daughter of Zelensek, offered testimony about her mother's good character. Minott admitted that her mother never told her anything about the conversation she overheard in 1960 (Exhibit 13), and that she only learned of it from her father on his death bed. Despite the fact that her mother's statement contains no names and few details, Minnott told defendant's counsel that "she wished the man that was charged with this is released", and she bases this on "her values" and belief "that there is some more involvement that needs to be investigated." She admitted she did not conduct any investigation, although she did listen to one of the podcasts about the case. (5/13/25 – pages 19-20).

The court finds that the testimony from Minott, while a sincere statement of her opinions, is based on both double hearsay and speculation, which would not be admissible at trial. The court further finds that her testimony is not reliable, and when compared to the trial testimony, does not support a freestanding claim of actual innocence, is not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that her testimony would lead to a different result.

ALICE BOEHM

Alice Boehm was called by the State to give testimony about conversations she had with her brother, Smokey Wrona, and his relationship with the defendant. She stated that Wrona and the defendant were friends, and that Wrona dated defendant's sister, Rose, prior to 1960. (Defendant's Exhibit 36). Boehm testified that Wrona told her he was involved in planning the Starved Rock murders, and that he needed to go back to prison in 1998 or 1999 to get the message and information about what needed to be done. She later clarified the dates that he went to prison as 1958 or 1959. (5/14/25, pgs. 165-67). Wrona told her he was paid \$25,000 for planning the murders. She asked him if the murders took place in the house over the canyon or the Tiki house, and Wrona did not specifically answer, but said he had to burn the house over the canyon because there was too much evidence there. (5/14/25, pg. 167). She testified that, while he did not say where the murders happened, she knows that "they didn't happen in the canyon, I can tell you that." (5/14/25, pg. 176). Wrona told her that his friends helped him commit the murders, and he specifically denied that defendant was involved. (5/14/25, pgs. 168, 171). Wrona also told Boehm that he thought the defendant was framed. (5/14/25, pg. 172).

Although the court believes Boehm was trying to answer the questions she was asked truthfully, her responses were confusing, illogical, conclusory, and speculative, and therefore, not reliable. She had no first-hand knowledge of any of the details of the murders, with all of her testimony being based on hearsay statements from her brother. Her version of what occurred is significantly different than the story Wrona told Tyson. When the court evaluates her testimony with the trial testimony, the court concludes that

it does not support a freestanding claim of actual innocence, is not sufficient for the court to lose confidence in the guilty verdict, and that it is not probable that her testimony would lead to a different result.

DNA EVIDENCE TESTIMONY

DR. CHRISTOPHER PALENIK, NAJAI BRADLEY, KEELEY COLEMAN,
COLBY LASYONE

The four individuals listed above all testified about their qualifications (Defendant's Exhibits 2, 4) and specific involvement in obtaining and identifying DNA material from original evidence that was collected following the murders in 1960. The majority of their testimony concerned a strand of hair that was found on the glove of Mrs. Murphy. The testimony from each witness was based on an objective and scientific analysis of the DNA that was collected. The court finds that each of the witnesses testified credibly about their specific area of expertise.

The parties do not dispute that the hair from Mrs. Murphy's glove did not come from the defendant. It was concluded that the hair was dissimilar from the defendant's hair in 1960 (Defendant Exhibit 1), and that finding was confirmed by subsequent DNA testing. However, there is significant disagreement between the parties about whether those findings are reliable and relevant based on evidentiary issues that have been raised involving the chain of custody for the hair.

The items of evidence reviewed by these witnesses were collected at the time of the murders, but were not stored or maintained in a typical fashion in years following the trial. They were kept in the State's Attorney's office for a period of time, made available for public inspection by assorted youth groups, then eventually retained by the Sheriff's

Department. In 2021 this court granted the defendant's Motion for DNA Testing pursuant to 725 ILCS 5/116-3, finding that the defendant had made a *prima facie* case of a sufficiently secure chain of custody, as required by Section 116-3, for a limited number of items to be tested. One of those items was the hair from Mrs. Murphy's glove (Defendant's Exhibit 3), which was the primary focus of these witnesses' testimony in this hearing.

There is no question that the chain of custody for the hair on Mrs. Murphy's glove was not ideal after it was placed on the glass slide. However, to reject this DNA evidence from consideration based on that fact alone would be unfair since the State was responsible for securing and maintaining that evidence. The defendant did present sufficient evidence to demonstrate the chain of custody was properly maintained after it was obtained from the Sheriff's Department by Dr. Palenik. (Defendant Exhibits 6, 7, 8).

The bigger concern for the court about the chain of custody is the manner in which the hair was initially collected before it was placed on the glass slide. There is no testimony about when or how this occurred. The court does not know if the hair was removed from Mrs. Murphey's glove at the place she was located at the scene of the crime, prior to her being placed in a body bag, before her clothes were removed during the autopsy, after her clothes were removed but before the clothes were placed in evidence bags, or after the clothes were placed in the evidence bags then later removed for examination. The court fully understands that the process for collecting evidence in 1960 was significantly different than it is now, but this does not eliminate the reliability requirement inherent in the consideration of all items of evidence.

Najai Bradley testified that the hair found on Mrs. Murphy's glove was an anagen hair with a root (Defendant's Exhibit 5), which means it was a securely attached hair follicle before it was removed. (5/12/25, pg. 113). She opined that typically this type of hair is one that has been forcibly removed. (5/12/25, pg. 123). She acknowledged, along with Coleman and Lasyone, that hairs can be transferred by contact.

A genetic profile of the hair was completed by Othram, Inc. (Defendant's Exhibits 24, 25) which concluded that the hair was a genetic match to one of three brothers, Leo (1892 – 1972), Charles (1894 – 1981), or Edward Bray (1900 – 1960), who were local to the Starved Rock area. Each of the brothers were at least 60 years old on March 14, 1960 when the three women were killed.

The State introduced the death certificate of Edward Bray as People's Exhibit 2 and his Obituary as People's Exhibit 3. That document shows that Edward Bray died on the morning of March 16, 1960, which is the same day the bodies of the three women were discovered. It also establishes that Norman Hulse, who was the Deputy Coroner and participated in the removal of the three women from Starved Rock, was also involved with tending to the death of Edward Bray on the same day.

As part of its analysis, the court has to consider whether a hair found on the glove of Mrs. Murphy, who the defendant was not convicted of killing, is relevant. At the time of trial, defense counsel repeatedly objected to references being made to three women being killed since the defendant was only on trial for the death of Mrs. Oetting. In this hearing, the defendant wants evidence from the other murder victims considered because the State's theory of the case was that the defendant killed all three, and this hair evidence is relevant to establish that he did not kill Mrs. Murphy.

The court acknowledges that the State mentioned the deaths of all three women frequently during the trial, so allowing the defendant to comment on it now is fair. The court will not exclude the evidence solely because it is not relevant.

The broader concerns the court has with the evidence are the unanswered questions relating to when and how the hair was collected from Mrs. Murphy's glove. One of the inherent challenges of this case is that the court is evaluating conduct that occurred 65 years ago, before most modern methods for evidence collection were established. A sufficient chain of custody is always required to allow a fact finder to have the confidence that the evidence is directly related to the commission of a crime. Without this confidence, evidence has no meaning.

Leaving a strand of hair at a murder scene is not so common that jurors expect to see it in most cases. The hair's relevance as evidence from the murder is diminished by the fact that a person who matched the hair died on the morning of the same day Mrs. Murphy's body was discovered and the same deputy coroner handled both bodies. The defendant's assertion that the hair must have come from the killer are compromised by the recognition that, to be true, it means a 60+ year old man was sent to Starved Rock to assist in killing three women at the end of a long canyon. Based on the totality of the circumstances, the court does not conclude that the hair on Mrs. Murphy's glove must have come from the killer or that the hair is conclusive proof of defendant's actual innocence.

When the court evaluates the chain of custody issues and the possibility that the hair may have been from Edward Bray with the evidence presented at trial, the court finds that this DNA evidence is not sufficiently conclusive for the court to lose

confidence in the guilty verdict and that it is not probable that this evidence would lead to a different result.

DEFENDANT'S REMAINING EXHIBITS

When the court denied the State's Motion to Dismiss on November 22, 2024, it determined that certain items of evidence, while not individually meeting the requirements of *Robinson* for moving on to third-stage proceedings, would be allowed to proceed based on their potential to corroborate witness testimony. Those items have been admitted in this proceeding as Defendant's Exhibits 22, 26, 27, 28, 29, 30, 31, 32, and 33.

The court has reviewed each of the items and, in light of the court's previous rulings in this order, finds that they are hearsay, unreliable, inadmissible at trial, and do not independently or as corroboration support the defendant's freestanding claim of actual innocence. None of these items, when considered with the trial evidence, is sufficient for the court to lose confidence in the guilty verdict or find it probable that their admission would lead to a different result.

The last item of evidence the court needs to discuss is Defendant's Exhibit 35, which is a newspaper article showing the temperature in Ottawa on the afternoon of March 14, 1960 was at or above freezing. This evidence is presumably being offered to contradict the State's testimony at trial that Weger used a frozen log he found on scene to kill Mrs. Oetting. This would also seem to contradict Wrona's testimony he kept a frozen log in the trunk of his car to be used as the murder weapon. This newspaper article is hearsay, does not necessarily indicate the temperature at St. Louis Canyon in Starved Rock State Park at the time of the murders, and is unpersuasive as evidence of Weger's freestanding claim of actual innocence. The court finds that this exhibit does not cause

the court to lose confidence in the guilty verdict or find it probable that its admission would lead to a different result at trial.

CONCLUSION

The burden of proof at a third-stage evidentiary hearing is on the defendant. “Requests for a new trial based on newly discovered evidence are not looked upon with favor by the courts and must be closely scrutinized.” *Carter*, ¶ 75. “[T]he primary purpose of a third-stage hearing is to test the reliability, credibility, or veracity of the new evidence and determine whether the new evidence is compelling enough to place the trial evidence in a new light and undermine confidence in the finding of guilt.” *People v. House*, 2023 IL App (4th) 220891, ¶ 94.

Every witness that testified about how the murders occurred did so based on hearsay, and none of the hearsay came from an eye witness to the murders. There are inherent challenges to presenting evidence at a third-stage post-conviction hearing where the murder that formed the basis for the conviction occurred 65 years ago, but those challenges do not relieve the defendant of the burden of proof associated with post-conviction relief. The court finds that the evidence presented in this hearing is insufficient to meet that burden.

For the reasons stated herein, IT IS HEREBY ORDERED that the defendant’s Amended Successive Post-Conviction Petition is Denied. This is a final and appealable order.

June 18, 2025



Michael C. Jansz, Associate Circuit Judge