2024 IL App (4th) 230832-U

NO. 4-23-0832

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
October 8, 2024
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Sangamon County
STEPHEN C. COLEMAN,	)	No. 15CF1036
Defendant-Appellant.	)	
	)	Honorable
	)	John M. Madonia,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Steigmann and DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, holding the trial court's denial of defendant's postconviction petition following a third-stage evidentiary hearing was not manifestly erroneous.

¶ 2 Defendant, Stephen C. Coleman, appeals the denial of his postconviction petition following a third-stage evidentiary hearing. Defendant argues he proved by a preponderance of the evidence that he received ineffective assistance of trial counsel due to his trial attorneys' failure to pursue suppression of evidence on the basis that it was obtained through an unconstitutionally prolonged traffic stop. We affirm.

¶ 3 I. BACKGROUND

¶ 4 In 2015, the State charged defendant with unlawful possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2014)), being an armed habitual criminal (*id.* § 24-1.7(a)),

and aggravated unlawful use of a weapon (*id.* § 24-1.6(a)(1), (a)(3)(C)). The charges arose from an incident during which police officers conducted a traffic stop on a vehicle in which defendant was a passenger. During the stop, the officers located a firearm inside the vehicle and discovered defendant was wearing body armor.

¶ 5 The public defender's office was appointed to represent defendant. On May 25, 2016, Assistant Public Defender Michael Harmon filed a motion to suppress evidence on defendant's behalf. The motion alleged that, on the night of the incident, Officer Matthew Dowis and Officer Rikki Castles conducted a traffic stop on a vehicle being driven by Trish Rennier for an improper turn. Defendant was the sole passenger in the vehicle. The motion alleged the officers improperly searched the vehicle without consent or a search warrant. It also alleged the duration of the stop far exceeded what would be considered an appropriate time for completing the stop's purpose (*i.e.*, issuing a traffic citation). The motion requested that all evidence seized during the search be suppressed.

¶ 6 The trial court held a hearing on the motion to suppress. Rennier testified that, on the evening of the incident, she was driving her vehicle and defendant was a passenger. Two officers pulled over her vehicle, obtained her driver's license and proof of insurance, and went back to their squad car. They returned to Rennier's vehicle, asked Rennier and defendant to get out, and then searched the vehicle. The officers told Rennier they found a gun under the passenger seat and a bulletproof vest on defendant's person. Rennier testified that she owned the car and defendant did not have an interest in it, nor did he regularly drive it. Rennier did not recall the officers ever asking for permission to search her vehicle.

¶ 7 The State moved for a directed finding at the conclusion of defendant's evidence, arguing that even if the trial court found Rennier did not consent to the search of her vehicle,

defendant did not have standing to move for suppression because the evidence did not show he had a legitimate privacy interest in the vehicle. The court granted the motion in part, finding defendant lacked standing to challenge the search of the vehicle. However, the court found the burden of proof had shifted to the State as to the search of defendant's person during which the body armor was discovered.

¶ 8 The State called Dowis as a witness. Dowis testified that on the night of the incident, he was in field training and was a passenger in a squad car driven by Castles. Rennier's vehicle improperly turned into Castles's lane, and Rennier had to turn sharply back into the correct lane to avoid hitting the squad car. Dowis and Castles then conducted a traffic stop of Rennier's vehicle. The officers obtained the occupants' names and dates of birth and returned to their squad car to run the information. They learned that defendant had a history of drug and weapons offenses. It took approximately 30 seconds to one minute to complete the name and criminal history search, and they were in the squad car for approximately two or three minutes.

¶ 9 Dowis testified that the officers then returned to Rennier's car and Castles requested permission to search it. Rennier consented, and Dowis asked defendant to step out of the vehicle. After obtaining defendant's consent, Dowis patted him down on the exterior of his clothing to feel for weapons. Dowis felt an "uncommon feature" under defendant's shirt, and defendant told him it was a bulletproof vest. Dowis and Castles searched the vehicle and located a handgun. Defense counsel asked Dowis if defendant's criminal history was the "sole reason" why the officers requested to search the vehicle, and Dowis said that it was.

¶ 10 The trial court denied the motion to suppress. On July 21, 2016, defendant, *pro se*, filed a motion to reconsider the denial of the motion to suppress, which the court denied.

¶ 11 In January 2017, defendant retained a new attorney, Michael Costello, who filed a motion to suppress on defendant's behalf based on the prolonged duration of the traffic stop. However, Costello withdrew in March 2017, and Harmon was reappointed to represent defendant. Harmon abandoned the motion to suppress filed by Costello.

¶ 12 In May 2017, a third attorney, Sean Liles, entered his appearance on defendant's behalf. On September 5, 2017, Liles filed on defendant's behalf a motion to suppress evidence due to a lack of reasonable suspicion that a traffic violation had occurred.

¶ 13 On September 7, 2017, the trial court held a hearing on the motion to suppress filed by Liles. Rennier testified that police officers pulled over the vehicle she was driving on the night of the incident after she made a left turn. She did not believe she violated any traffic law when she made the turn. She stated there was liquor in cups in the cupholders of her vehicle and cannabis in the center console. Defendant was a passenger in the vehicle.

¶ 14 Castles testified that she was on patrol in her squad car on the night of the incident. She was stopped at a stoplight when Rennier made a left turn onto the street where Castles's car was stopped. As Rennier was completing the turn, her vehicle crossed into Castles's lane and nearly hit Castles's squad car before moving into the proper lane. Castles conducted a traffic stop on Rennier's vehicle due to what she concluded was a traffic violation. When asked if she subsequently discovered "potential other criminal violations" that did not involve defendant, Castles stated that she did not believe so. Castles stated she did not remember whether she or Dowis found open containers of liquor in the car, but the police report indicated that one of them did. Castles did not recall finding cannabis and paraphernalia in the vehicle. Castles stated she did not ultimately issue a citation for driving under the influence (DUI) or a traffic

violation to Rennier but rather issued a verbal warning. Castles stated that Rennier was cooperative the entire time, and she did not normally issue citations if people were cooperative.

¶ 15 The prosecutor asked Castles if she believed Rennier may have been driving under the influence of alcohol when she turned into Castles's lane. Castles replied: "I mean it was a—it was a possible—it was possible, but I don't—I'm not a D.U.I. officer. I don't generally do a lot of D.U.I.'s." Defense counsel asked Castles if the fact that she was in a "heavy drug traffic area" was one of the reasons she chose to stop Rennier's vehicle. Castles stated that she stopped Rennier solely because of the traffic violation and she could not "stop people just because they are in a drug area."

¶ 16 Dowis testified that the officers located a bottle of liquor under the driver's seat when they searched Rennier's car on the night of the incident. He did not remember whether they also located two cups. He also did not recall if they located cannabis or paraphernalia in the vehicle.

¶ 17 The trial court denied the motion to suppress filed by Liles, finding there was justification for the officers to conduct an investigatory traffic stop.

¶ 18 A bench trial was held on November 2, 2017. Rennier, Dowis, and Castles gave testimony that was largely consistent with their previous testimony. Evidence was also presented that DNA testing of the gun yielded results consistent with defendant's DNA profile. The trial court found defendant guilty of all three counts. The court subsequently sentenced him to 15 years' imprisonment for being an armed habitual criminal, finding the other counts merged.

¶ 19 On direct appeal, defendant argued that the trial court erred by denying his request to suppress evidence, contending he was unlawfully seized because the officers improperly prolonged the traffic stop. *People v. Coleman*, 2020 IL App (4th) 180098-U, ¶ 29. We affirmed

the judgment of the trial court. *Id.* ¶ 61. We found defendant had forfeited the issue by failing to develop and argue the claim in the trial court. *Id.* ¶¶ 32-33. We further found the claim was not reviewable under the plain error doctrine because defendant could not establish that a clear or obvious error occurred because the record was not developed as to the question of whether the officers improperly prolonged the stop. *Id.* ¶¶ 46-59.

¶ 20 On February 2, 2021, defendant, *pro se*, filed a postconviction petition arguing that his trial attorneys provided ineffective assistance by failing to litigate his motions to suppress premised on the claim that the officers improperly prolonged the traffic stop. Defendant noted that although the duration of the stop was included as an issue in Harmon's motion to suppress, Harmon failed to present any evidence in support of this basis for suppression or obtain a ruling on it. Defendant also argued that his appellate counsel was ineffective for failing to argue that his trial attorneys were ineffective for failing to properly develop this issue. The trial court summarily dismissed the *pro se* petition, finding it to be frivolous or patently without merit.

¶ 21 Defendant appealed, and we reversed the trial court's summary dismissal of the *pro se* postconviction petition and remanded the matter for second-stage proceedings. *People v. Coleman*, 2022 IL App (4th) 210271, ¶ 38. We found that while the trial record was insufficient to establish a clear or obvious error in the trial court's denial of defendant's motions to suppress, it was sufficient to support an arguable claim that the stop was improperly prolonged beyond its mission and that trial counsel was ineffective for failing to litigate that ground for suppression. *Id.* ¶ 36.

¶ 22 On remand, the trial court appointed counsel to represent defendant. Counsel adopted defendant's *pro se* petition and filed a certificate of compliance pursuant to Illinois

Supreme Court Rule 651(c) (eff. July 1, 2017). The State filed a motion to dismiss the petition, which was denied.

¶ 23 On August 8, 2023, the trial court held an evidentiary hearing on the petition. Harmon and Liles testified concerning the motions to suppress each had filed on defendant's behalf. Harmon could not recall whether the portion of his motion to suppress challenging the duration of the traffic stop was litigated. Liles stated he considered challenging the duration of the stop but decided not to after reviewing the discovery and interviewing defendant and Rennier.

¶ 24 Dowis testified that on the night of the incident, he and Castles stopped Rennier's vehicle due to improper lane usage after Rennier nearly hit their squad car. The officers approached Rennier's vehicle and requested her license and insurance. Dowis indicated he could not "recall specifics" about whether they also asked for defendant's information. Dowis stated that he and Castles went back to their squad car and ran a Law Enforcement Agencies Data System (LEADS) search on Rennier and defendant. He believed they ran Rennier's name first, but he was not certain. Dowis estimated the search of defendant's information took 30 seconds to one minute. They learned that neither defendant nor Rennier had outstanding warrants, but defendant had a history of weapons offenses. Dowis estimated that he and Castles were in the squad car for approximately 60 to 90 seconds.

¶ 25 Dowis testified that he and Castles then returned to Rennier's vehicle. He stated the only thing left to do to conclude the traffic stop would have been to possibly issue a citation. However, the information the officers received from the LEADS inquiry "prompted [them] to further the stop," and Castles asked to search the vehicle. Rennier consented to the search, and the officers searched the vehicle for approximately three minutes. Approximately three and a half

to five minutes had elapsed from the time the officers initiated the traffic stop to the point they requested permission to search the vehicle.

¶ 26 Dowis testified that he believed the only reason they requested to search the vehicle was defendant's criminal history. When asked if he knew whether there was only one reason for requesting to search the vehicle, Dowis replied that he did not "know that for a fact." Dowis stated: "I don't know if Officer Castles may have seen something I didn't see. As her experience as a veteran officer, maybe she caught something I didn't see, and I was a brand new officer at the time. So, I don't know if that is the sole reason."

¶ 27 When asked if he suspected Rennier might have been under the influence of alcohol, Dowis replied, "Yeah. I would say based on the time of day and the violation, the vehicle almost hitting us, it's fair to assume potentially there might have been an impaired driver." He stated that it was possible that requesting consent to search the vehicle would have revealed evidence like alcohol in the vehicle. The State asked Dowis, "Do you know if that was an actual possibility in your mind at the time you discussed the request and consent to search?" Dowis replied, "I would say, based on again, the violation of the car almost hitting us, and yeah, I would say so, yeah. Again, with Officer Castles being a veteran officer, she would be more inclined to think, yeah, this is potentially a DUI."

¶ 28 Dowis testified that safety was a concern during the stop due to the area they were in and the fact that the stop occurred close to midnight. He stated that obtaining the identities of the occupants of a vehicle and requesting to search the vehicle promoted officer safety. He indicated he believed the traffic stop was still ongoing at the time they requested to search Rennier's vehicle. The trial court admitted a copy of Dowis's police report and a transcript of his testimony from June 29, 2016, into evidence.

¶ 29 Castles also testified at the evidentiary hearing concerning the traffic stop. (Castles had a different last name at the time of the hearing, but we refer to her as "Castles" throughout this order for purposes of consistency.) Castles stated that on the night of the incident, Rennier's vehicle proceeded directly toward her squad car and almost hit it. Castles and Dowis then conducted a traffic stop on Rennier's vehicle. Castles did not independently recall the conversation with Rennier, but she stated she would have asked Rennier for her driver's license and insurance card. Either Castles or Dowis also requested defendant's name. When asked if she noticed anything suspicious during the traffic stop, Castles stated she observed cups with liquid in them in the center console and noted that they were in a high-crime area.

¶ 30 Castles testified that she and Dowis then returned to their squad car and ran LEADS searches on Rennier and defendant, checking for both outstanding warrants and their criminal histories. Castles indicated that checking for someone's criminal history required an extra step as opposed to just checking for outstanding warrants. She could not remember what the extra step involved at the time of the traffic stop, as they were using a different system at that time. She stated she searched for criminal histories during most of the traffic stops she conducted. Castles testified that checking the criminal history of the driver and passenger promoted officer safety. She stated the traffic stop in the instant case presented more safety concerns than an average stop due to the location and time of the stop and the fact that Dowis was still in training.

¶ 31 Castles estimated the officers were in their squad car for three to five minutes before returning to Rennier's vehicle. She had not written a citation at the time she reapproached Rennier's vehicle, and she did not know if she was going to write one. Castles then asked Rennier for permission to search the vehicle, and Rennier consented. Castles stated there were

several reasons she requested permission to search the vehicle. She noted the area they were in was "notorious at the time for different types of crime." She also stated the fact that Rennier almost hit the officers' squad car led her to believe that she and defendant may have been drinking. Castles also noted there was liquid in cups in the car, which "looked like maybe a mixed drink or something." She stated defendant's criminal history was also a reason she wanted to further the investigation, but she would have continued the investigation regardless of defendant's criminal history.

¶ 32 Castles indicated she would have made known her concerns about intoxication to Dowis, as she was training him. She stated she rarely wrote tickets, but if she had been concerned that Rennier was impaired, she would have addressed it by calling a DUI officer. After Castles talked to Rennier for a while, she no longer suspected she may have been impaired.

¶ 33 During closing arguments, defense counsel argued that Castles's testimony that she asked to search the vehicle because she was concerned that Rennier might have been consuming alcohol was not credible. Defense counsel noted Dowis had previously testified that the sole reason the officers asked to search the vehicle was defendant's criminal history. The State argued that every step the officers took during the stop was justified to either further the investigation of the traffic violation or to conduct the traffic stop in a safe manner.

¶ 34 The trial court denied the defendant's postconviction petition. The court stated:

> "Well, at the conclusion of all of the evidence at this Third Stage hearing, the one thing the Court is confident in concluding is that this was still an active, ongoing investigation when those officers re-approached this car. From everything that they had seen from the time of night to the driving, to the cups that are unidentified, all leading to some suspicions of some conduct that needs to be

> investigated, then they do everything diligently. They go back. They run the information. They come back, and at the most I've heard five minutes, to conduct all of this time."

The court stated it was "inconclusive at best" as to whether the officers gave "any documents" back to Rennier when they reapproached the vehicle. The court stated that even if the officers did return the documents, it could not conclude that the traffic stop or investigation was over, as the officers still needed to determine whether to write citations or call a DUI officer.

¶ 35 The trial court found defendant had failed to make a substantial showing of a constitutional violation based on ineffective assistance of trial counsel because he was not prejudiced by his attorneys' failure to litigate the issue of the duration of the stop as a basis for suppression prior to trial. The court stated there was "no chance that that motion would have succeeded because that investigation was active, ongoing, was not impermissibly detained past any sort of objective that was present and needed to be investigated."

¶ 36 This appeal followed.

¶ 37 II. ANALYSIS

¶ 38 On appeal, defendant argues the trial court erred by denying his postconviction petition following the third-stage evidentiary hearing because he proved by a preponderance of the evidence that he received ineffective assistance of trial counsel due to his attorneys' failure to pursue suppression of the firearm on the basis that the traffic stop was unconstitutionally prolonged. Defendant asserts that he established this was a meritorious basis for suppression, as the evidence showed the officers measurably extended the stop by (1) taking time to run his name and criminal history and (2) requesting consent to search Rennier's vehicle rather than completing the stop by issuing a traffic citation or warning. He contends his trial attorneys

performed deficiently by failing to pursue this basis for suppression and he was prejudiced because suppression of the firearm would have changed the outcome of the trial.

¶ 39 The Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2020)) provides a mechanism for criminal defendants to assert that their convictions were the result of a substantial deprivation of their constitutional rights. *People v. Agee*, 2023 IL 128413, ¶ 36. Postconviction proceedings have three stages. *Id.* At the first stage, the trial court independently reviews the postconviction petition and may summarily dismiss it if it finds it to be frivolous or patently without merit. *Id.*; see 725 ILCS 5/122-2.1(a)(2) (West 2020). If the petition survives first-stage review, it advances to the second stage, where the trial court must determine whether the allegations in the petition, taken as true and liberally construed, and any supporting documentation make a substantial showing of a constitutional violation. *People v. Domagala*, 2013 IL 113688, ¶ 33; *People v. Sanders*, 2016 IL 118123, ¶ 31.

¶ 40 If the petitioner makes the requisite substantial showing, the petition is advanced to a third-stage evidentiary hearing. *Domagala*, 2013 IL 113688, ¶ 34. At the third stage, the court determines, based on the evidence presented, whether the petitioner is in fact entitled to relief. *Id.* "In an evidentiary hearing on a postconviction petition, the defendant has the burden of proving, by a preponderance of the evidence, a substantial violation of a constitutional right." *People v. Coe*, 2021 IL App (4th) 200233, ¶ 106.

¶ 41 "After an evidentiary hearing where fact-finding and credibility determinations are involved, the circuit court's decision will not be reversed unless it is manifestly erroneous." *People v. English*, 2013 IL 112890, ¶ 23. "[A] decision is manifestly erroneous when the opposite conclusion is clearly evident." *People v. Coleman*, 2013 IL 113307, ¶ 98.

¶ 42 "To prevail on a claim of ineffective assistance of counsel, a defendant must demonstrate that counsel's performance was deficient and that the deficient performance prejudiced the defendant." *Domagala*, 2013 IL 113688, ¶ 36. That is, a defendant must show that (1) counsel's performance was objectively unreasonable and (2) there is a reasonable probability that, but for counsel's deficient performance, the result of the proceeding would have been different. *People v. Patterson*, 2014 IL 115102, ¶ 81; see *Strickland v. Washington*, 466 U.S. 668, 694 (1984). "[A] 'reasonable probability' is defined as a showing sufficient to undermine confidence in the outcome, rendering the result unreliable or fundamentally unfair." *Patterson*, 2014 IL 115102, ¶ 81. "In order to establish prejudice resulting from failure to file a motion to suppress, a defendant must show a reasonable probability that: (1) the motion would have been granted, and (2) the outcome of the trial would have been different had the evidence been suppressed." *People v. Patterson*, 217 Ill. 2d 407, 438 (2005). Failing to file a motion to suppress does not constitute incompetent representation when the motion would have been futile. *Id.*

¶ 43 Unreasonable seizures are prohibited by the fourth amendment. U.S. Const., amend. IV. A traffic stop is a seizure of both the driver and any passengers in a vehicle, and it is analogous to a *Terry* stop. *People v. Bass*, 2021 IL 125434, ¶ 15. An officer may conduct such a stop when he or she reasonably believes the individual has committed or is about to commit a crime. *People v. Timmsen*, 2016 IL 118181, ¶ 9. "A lawfully initiated traffic stop may violate the fourth amendment if it is prolonged beyond the time reasonably required to complete its mission and attend to related safety concerns." *Bass*, 2021 IL 125434, ¶ 16. The mission of a traffic stop is to address the traffic violation that warranted the stop and attend to related safety concerns. *People v. Cummings*, 2016 IL 115769, ¶ 7; *Bass*, 2021 IL 125434, ¶ 17.

¶ 44 An officer's authority to conduct a traffic stop ends "when tasks related to the stop's purpose are, or reasonably should have been, completed." *Bass*, 2021 IL 125434, ¶ 17. Inquiries into unrelated matters do not convert the stop into something other than a lawful seizure "so long as those inquiries do not measurably extend the duration of the stop." *Id.* ¶ 18. However, inquiries unrelated to the mission of the stop that prolong the stop are impermissible unless they are precipitated by reasonable suspicion. *Cummings*, 2016 IL 115769, ¶ 15.

¶ 45 When conducting a traffic stop, police officers may attend to safety concerns relevant to the stop's mission. *Bass*, 2021 IL 125434, ¶ 19. This includes conducting ordinary inquiries related to a traffic stop, like checking the driver's license, conducting a warrant check on the driver, and asking for registration and proof of insurance. *Id.* ¶ 17; *Cummings*, 2016 IL 115769, ¶ 13. These inquiries serve the purposes of both officer safety and traffic enforcement. *Cummings*, 2016 IL 115769, ¶ 14. Such inquiries do not prolong a stop beyond its original mission because they are part of the original mission of the stop. *Id.* ¶ 15.

¶ 46 A. Name Check and LEADS Search

¶ 47 Defendant contends the stop was unconstitutionally prolonged when the officers ran his name and criminal history through the LEADS system. Defendant contends that this had nothing to do with resolving the traffic violation that precipitated the stop and that it added a brief but measurable amount of time to the stop. The State argues that obtaining defendant's criminal history did not measurably extend the traffic stop and was necessary for officer safety. Defendant counters that, although Castles testified that checking defendant's criminal history promoted officer safety, the State failed to explain how this would further officer safety. Defendant claims the State has failed to show that the search of defendant's criminal history

"was necessary as anything other than as an investigation into possible criminal activity unrelated to the traffic stop at issue."

¶ 48 We find the United States Supreme Court's decision in *Rodriguez v. United States*, 575 U.S. 348 (2015), to be instructive on this point. In *Rodriguez*, the Court recognized that traffic stops pose a danger to police officers such that "an officer may need to take certain negligibly burdensome precautions in order to complete his mission safely." *Id.* at 356. In so finding, the Court favorably cited *United States v. Holt*, 264 F.3d 1215, 1221-22 (10th Cir. 2001), for its holding that warrant and criminal record checks of detained motorists were justified by officer safety considerations. *Rodriguez*, 575 U.S. at 356.The *Holt* court held that detaining a motorist for a short period of time while an officer ran a warrant and criminal record check was permissible to protect officer safety "even though the purpose of the stop had nothing to do with such prior criminal history." *Holt*, 264 F.3d at 1221. The *Holt* court stated: "By determining whether a detained motorist has a criminal record or outstanding warrants, an officer will be better appri[s]ed of whether the detained motorist might engage in violent activity during the stop." *Id.* at 1221-22.

¶ 49 At the evidentiary hearing in this case, Castles testified that checking the criminal history of both the driver and passenger promoted officer safety and that the traffic stop in this case presented more safety concerns than a typical stop. While defendant contends that Castles failed to offer an explanation as to how this promoted officer safety, courts have recognized that checking the criminal history of a motorist promotes officer safety by better informing an officer as to whether the individual may engage in violent activity during a stop. See *id.*; *Rodriguez*, 575 U.S. at 356 (favorably citing *Holt*); *Cummings*, 2016 IL 115769, ¶ 17 (recognizing that *Rodriguez* deemed warrant checks and criminal history checks of a driver without reasonable

suspicion permissible as negligibly burdensome precautions in order to complete an officer's mission safely). While the foregoing authority involved criminal history checks of drivers of vehicles, the officer safety justification applies with equal force to passengers, who may also pose a danger during a traffic stop.

¶ 50 The testimony at the evidentiary hearing showed that it took the officers five minutes or less to run warrant and criminal history checks on both Rennier and defendant. Pursuant to *Holt*, *Rodriguez*, and *Cummings*, these brief criminal history checks were negligibly burdensome precautions that were justified by officer safety concerns. Accordingly, in conducting the criminal records check, the officers were attending to safety concerns related to the stop rather than engaging in an unrelated inquiry that impermissibly prolonged the stop. See *Cummings*, 2016 IL 115769, ¶ 15.

¶ 51 In reaching our holding, we find the Illinois Supreme Court's decision in *Bass*, 2021 IL 125434, upon which defendant relies, to be distinguishable. In *Bass*, the defendant had been a passenger in a vehicle that was stopped for committing a traffic violation. *Id.* ¶ 5. Officers ordered the driver and occupants to exit the vehicle due to safety concerns. *Id.* ¶ 23. At some point during the stop, an officer ran a LEADS check on the driver and filled out documentation related to the stop. *Id.* ¶ 25. At another point, officers ran a name check on the defendant and some of the other passengers in the vehicle and found that an "investigative alert" had been issued, which indicated there was probable cause to arrest the defendant for sexual assault. *Id.* ¶¶ 5, 25. The officers arrested the defendant pursuant to the investigative alert, and he made incriminating statements shortly after his arrest. *Id* ¶¶ 5-6. The officers gave the driver of the vehicle a verbal warning. *Id.* ¶ 5.

¶ 52 The *Bass* defendant moved to suppress his post-arrest statements on the basis that the stop had been unduly prolonged and on a second basis not relevant to this appeal. *Id.* ¶ 6. The trial court denied the motion to suppress, and the defendant was ultimately convicted of criminal sexual assault. *Id.* On direct appeal, the defendant argued the motion to suppress should have been granted, and the appellate court reversed his conviction and remanded for a new trial, finding the motion to suppress should have been granted on both grounds. *Id.*¶¶ 7, 9.

¶ 53 Our supreme court affirmed the appellate court's reversal of the defendant's conviction. *Id.* ¶ 33. The court found that the defendant made a *prima facie* case that the traffic stop was unconstitutionally prolonged because his name check had "nothing to do" with resolving the traffic violation at issue or the safe execution of the stop. *Id.* ¶ 22. The *Bass* court stated: "[T]he officers resolved the traffic violation and then waited to issue the verbal warning so that they could engage in on-scene investigations into other crimes, specifically by checking names until they found something worth investigating." *Id.* The court also noted the State had conceded that it had the burden of rebutting the defendant's *prima facie* case. *Id.* ¶ 21.

¶ 54 The *Bass* court found the State failed to offer sufficient evidence to rebut the defendant's *prima facie* case, as the State's evidence was "insufficient to answer whether the traffic stop was extended by unrelated inquiries into [the defendant's] records." *Id.* ¶ 24. The court noted that the evidence at the suppression hearing did not establish the order in which the officers filled out the documentation, conducted the LEADS check on the driver, and conducted name checks on the passengers. *Id.* ¶ 25. The record also did not show which officer ran the name check on the defendant, in what order the name checks occurred, whether the defendant was arrested before or after a verbal warning was issued to the driver, or when probable cause arose to arrest the defendant. *Id.* The *Bass* court stated

> "Asking [the defendant] for identification and obtaining his driver's license were not inherently improper, but it is unclear from the record if those two actions, and the subsequent name checks of the passengers, were related to resolving the [traffic] violation or were part of a detouring investigation, which prolonged the stop. The State has not met its burden in producing evidence sufficient to make a determination on this issue. We therefore conclude *** that the stop was unreasonably extended and the motion to suppress should have been granted." *Id.* ¶ 26.

¶ 55 Initially, the procedural posture of this case differs significantly from *Bass*. In *Bass*, which involved a direct appeal of a conviction, the State conceded that it bore the burden of rebutting the defendant's *prima facie* case that the traffic stop was unconstitutional. *Id.* ¶¶ 21-22. In this case, on the other hand, it was defendant's burden to prove a substantial violation of a constitutional right by a preponderance of the evidence. See *Coe*, 2021 IL App (4th) 200233, ¶ 106. *Bass* is also factually distinguishable from this case. Unlike in *Bass*, the testimony at the evidentiary hearing established the order of events during the traffic stop, showing that name checks on both Rennier and defendant occurred shortly after the officers pulled over the vehicle and before the officers had completed their investigation of the traffic violation or issued a verbal warning to Rennier. Also, unlike in *Bass*, the officers had not already taken other measures to ensure their safety, like ordering defendant out of the vehicle, at the time they ran the name checks. See *Bass*, 2021 IL 125434, ¶¶ 23-24; see also *People v. Bass*, 2019 IL App (1st) 160640, ¶ 76; *Coleman*, 2020 IL App (4th) 180098-U, ¶ 55. Moreover, as we have discussed, Castles also testified that checking defendant's criminal history promoted officer

safety, and courts have recognized officer safety as a justification for criminal history checks. See *Rodriguez*, 575 U.S. at 356; *Holt*, 264 F.3d at 1221-22; *Cummings*, 2016 IL 115769, ¶ 17.

¶ 56 B. Request to Search

¶ 57 Defendant also argues that the traffic stop was unconstitutionally prolonged when the officers delayed the stop to request to search Rennier's car. Defendant contends that the evidence showed that when the officers went back to Rennier's vehicle after running her information, they returned her driver's license and insurance documentation and then requested to search her vehicle. Defendant argues that the traffic stop should have concluded once the officers returned Rennier's documentation, as the only task left to complete was issuing a citation or verbal warning. Defendant contends the officers improperly waited to conclude the stop in order to conduct an unrelated investigation based on their knowledge of defendant's criminal history. Defendant notes that Dowis consistently testified that the only reason the officers requested to search the vehicle was defendant's criminal history.

¶ 58 We find the trial court's determination that the investigation into the traffic violation was still ongoing at the time the officers requested to search the vehicle was not manifestly erroneous. Castles testified at the evidentiary hearing that she requested to search Rennier's vehicle for several reasons, including her suspicion that Rennier may have been drinking. Castles noted that Rennier almost hit her squad car and she observed liquid in cups in Rennier's vehicle. Castles testified that defendant's criminal history and the fact that they were in a high-crime area were also considerations, but she would have conducted further investigation regardless of defendant's criminal history. She stated she had not yet determined at the time she requested to search the vehicle whether she would issue a citation and she would have called a DUI officer if Rennier seemed impaired by drugs or alcohol.

¶ 59 Defendant argues that Castles's testimony concerning the need to investigate further due to her suspicion of a possible DUI was not credible. Defendant notes that Castles "provided this justification despite repeatedly asserting that she did not actually remember most of the details of the encounter." Defendant notes that Castles had testified at prior hearings that she did not recall which side of the vehicle she approached prior to the search, whether Rennier had been engaged in any other inappropriate or criminal behavior, or whether she had issued a citation to Rennier. Defendant also asserts that Castles's testimony directly conflicted with Dowis's testimony that defendant's criminal history was the sole reason for searching the vehicle.

¶ 60 We find, however, that the trial court's decision to accept Castles's testimony at the evidentiary hearing as credible was not manifestly erroneous. We note that the trial court's credibility determination is entitled to great deference on appeal, as it was in a far better position to assess Castles's credibility. See *People v. Coleman*, 183 Ill. 2d 366, 384 (1998) ("[T]he post-conviction trial judge is able to observe and hear the witnesses at the evidentiary hearing and, therefore, occupies a position of advantage in a search for the truth which is infinitely superior to that of a tribunal where the sole guide is the printed record." (Internal quotation marks omitted.))

¶ 61 Moreover, while defendant notes several details of the stop that Castles failed to recall during prior hearings, Castles's prior testimony did not directly contradict her testimony at the evidentiary hearing. When asked at the second suppression hearing whether she believed Rennier may have been driving under the influence of alcohol when she turned into Castles's lane, Castles stated she believed it was possible but noted that she was not a DUI officer and generally did not handle DUIs. This was consistent with Castles's testimony at the evidentiary

hearing that she would have called a DUI officer if she had believed Rennier was impaired but that she was no longer concerned about possible impairment after speaking further with Rennier. While Castles did not testify at prior hearings that she requested to search the vehicle because of her belief that Rennier may have been driving under the influence of alcohol, she was not previously asked why she requested to search the vehicle.

¶ 62 We also reject defendant's argument that Castles's testimony that she requested to search the vehicle due, in part, to her concern that Rennier may have been driving under the influence of alcohol was in direct conflict with Dowis's testimony. While Dowis testified at both the evidentiary hearing and a prior hearing that he believed defendant's criminal history was the sole reason the officers requested to search the vehicle, he clarified at the evidentiary hearing that he did not know "for a fact" if that was the only reason. He stated Castles was more experienced than him, she may have seen something he did not, and she may have been more inclined to view the stop as a potential DUI due to her experience.

¶ 63 Thus, we find that neither the trial court's reliance on Castles's testimony nor its finding that the investigation of the traffic violation was ongoing at the time the officers requested to search Rennier's vehicle were manifestly erroneous, as the opposite conclusion was not clearly evident based on the evidence. See *Coleman*, 2013 IL 113307, ¶ 98.

¶ 64 C. Ineffective Assistance of Counsel

¶ 65 As we have found that the evidence showed that the criminal records check on defendant was a proper measure taken to promote officer safety and that the investigation into the traffic violation was ongoing at the time the officers requested to search the vehicle, we conclude that no reasonable probability exists that a motion to suppress on the basis that the stop was unconstitutionally prolonged would have been granted if it had been litigated prior to trial.

Accordingly, the trial court did not err by determining that defendant failed to show that he was prejudiced by his trial attorneys' failure to litigate this ground for suppression (see *Patterson*, 217 Ill. 2d at 438), which he was required to show in order to establish a claim of ineffective assistance of counsel. See *People v. Sanchez*, 169 Ill. 2d 472, 487 (1996) ("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."). Thus, we conclude the court did not err by denying the postconviction petition following the evidentiary hearing.

¶ 66 III. CONCLUSION

¶ 67 For the reasons stated, we affirm the trial court's judgment.

¶ 68 Affirmed.