

No. 98-0074. [9-081] MORE v. STATE

Appeal from the Iowa District Court for Scott County, James E. Kelley, Judge.
AFFIRMED. Considered by Sackett, C.J., and Streit and Vogel, JJ. Zimmer, J., takes no part. Opinion by Sackett, C.J. (8 pages \$3.20)

Glendale More, Jr., appeals after the district court denied his application for postconviction relief seeking a new trial. More was convicted of first-degree murder for shooting his girlfriend and setting on fire the car where her body lay. His conviction was affirmed. More contends, in this appeal, (1) the State failed to disclose Jeffrey Elmore, the only person testifying he witnessed the crime, received a reward from the Iowa Arson Alert and this violated More's right to a fair trial; and (2) the district court erred in denying his application for a new trial when Elmore recanted his trial testimony. We affirm. We first address More's claim he should have a new trial because the State failed to disclose Elmore would receive the reward. More's trial attorney testified he was never given the information and it would have made a difference in cross-examination. We agree with More the evidence was suppressed. The question for us, then, becomes whether, if More had the evidence prior to trial, there is a reasonable probability the result of the proceeding would have been different. The suppressed evidence was

impeachment evidence. The district court rejected More's claim finding (1) Elmore's trial testimony was consistent with an earlier statement; (2) Elmore gave information not known to the public; (3) Elmore was impeached with other evidence, and (4) even excluding Elmore's testimony, the evidence establishing More's guilt was strong. We affirm on this issue. We next address More's claim he should have a new trial because of Elmore's recanted trial testimony in February of 1997. The postconviction court discounted Elmore's recantation, finding it "completely incredible." The court ruled the testimony was precipitated by Elmore's encounter with More while in prison at Fort Madison. Recanted testimony is looked at with suspicion. The trial court is in a better position than are we to determine if it would lead to a different result after another trial. We will interfere only on a finding the district court abused its discretion. We affirm on this issue.