

FIRST DISTRICT
FIRST DIVISION
September 21, 2026

No. 1-24-2465

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of Cook County.
Respondent-Appellee,	)	
	)	No. 02 CR 09846
v.	)	
	)	
ANTAWAN JOHNSON,	)	Honorable
	)	Michele McDowell Pitman,
Petitioner-Appellant.	)	Judge Presiding.

JUSTICE HOWSE delivered the judgment of the court, with opinion.
Presiding Justice Ellis and Justice Cobbs concurred in the judgment and opinion.

OPINION

¶ 1 After rejecting a plea deal in favor of a jury trial, petitioner Antawan Johnson was found guilty of first degree murder (720 ILCS 5/9-1(a)(1) (West 2000)) and sentenced to 50 years' imprisonment. This court affirmed his conviction on direct appeal. *People v. Johnson*, 372 Ill. App. 3d 1096 (2007) (table) (unpublished order under Illinois Supreme Court Rule 23). Petitioner filed an initial petition under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2008)). The circuit court dismissed the petition, and we affirmed. *People v. Johnson*, 2014 IL App (1st) 120750-U, ¶ 63.

¶ 2 Petitioner moved *pro se* for leave to file a successive postconviction petition and a series of supplemental petitions. He contended that trial counsel provided ineffective assistance under *Lafler v. Cooper*, 566 U.S. 156 (2012), when advising him to reject the plea deal. He also argued that his 50-year sentence violated the proportionate penalties clause (Ill. Const. 1970, art. I, § 11)

and the eighth amendment (U.S. Const., amend. VIII), citing *Miller v. Alabama*, 567 U.S. 460 (2012).

¶ 3 The circuit court granted leave and appointed successive postconviction counsel. Counsel advised him that Illinois law precluded him from satisfying the cause-and-prejudice test necessary for his *Miller* claim. Petitioner terminated counsel's representation of him and then proceeded *pro se*, filing his own supplemental petition and arguing on his own behalf during hearing on the State's motion to dismiss. The circuit court granted the State's motion.

¶ 4 On appeal, petitioner abandoned his *Miller* and *Lafler* claims and argues only that successive postconviction counsel provided unreasonable assistance when failing to amend his petition to adequately present these claims. Alternatively, petitioner asserts that he should not have to demonstrate cause under Public Act 104-564 (Pub. Act 104-564 (eff. July 10, 2026) (amending 725 ILCS 5/122-1)), and the case should be remanded. For the following reasons, we affirm.

¶ 5 BACKGROUND

¶ 6 This court summarized the trial evidence in its order on direct appeal (*Johnson*, slip order at 2-6) and in its order affirming dismissal of petitioner's initial postconviction petition (*Johnson*, 2014 IL App (1st) 120750-U, ¶¶ 4-10). We restate the proceedings as relevant.

¶ 7 Following the shooting death of Cortez Bell, a jury found petitioner and his codefendant Naja Triplett guilty of first degree murder. The jury additionally found that petitioner had personally discharged a firearm while committing the offense. Petitioner was sentenced to 30 years' imprisonment for the murder and an additional 20 years for personal discharge of a firearm for a total sentence of 50 years.

¶ 8 This court affirmed petitioner's conviction on direct appeal in 2007. *Johnson*, slip order at 14.

¶ 9 Petitioner filed an initial postconviction petition on April 2, 2008. The circuit court dismissed it at the second stage, and we affirmed. *Johnson*, 2014 IL App (1st) 120750-U, ¶¶ 14, 63.

¶ 10 On April 2, 2018, petitioner moved for leave to file a successive postconviction petition. Citing *Miller* and *People v. House*, 2015 IL App (1st) 110580, *vacated*, No. 122134 (Ill. Nov. 28, 2018) (supervisory order), he contended that his *de facto* life sentence was disproportionate because the trial court failed to consider the fact that he was a young adult aged 20 years old at the time of the shooting. Petitioner summarized the developing case law concerning young-adult sentencing and the emerging scientific understanding that young adults' brains do not finish developing until young adults reach their mid-twenties. He further argued that he could show cause for a successive petition because this case law was not issued until after his direct appeal and his initial petition.

¶ 11 Petitioner moved for leave to supplement his successive postconviction petition in October 2020. He asserted that the State had offered him a 20-year plea deal and that he had rejected it based on the erroneous advice of trial counsel. Petitioner claimed that counsel had given ineffective assistance under *Lafler*.

¶ 12 Petitioner moved to supplement again in September 2021, attaching the October 2020 supplemental successive petition and his initial postconviction petition.

¶ 13 The circuit court granted petitioner leave to file his successive postconviction petition, and the petition advanced to the second stage. The court also appointed postconviction counsel.

¶ 14 The circuit court asked successive postconviction counsel on February 10, 2023, whether she would amend petitioner's *pro se* petition. She replied that she had just received the common law record and needed time to finish reviewing it. On May 19, 2023, the court told counsel that she had until the next court date to decide whether she would amend the petition.

¶ 15 During an appearance before the circuit court on July 28, 2023, successive postconviction counsel stated that petitioner wanted to proceed *pro se*.

¶ 16 On October 13, 2023, successive postconviction counsel reported to the circuit court that she had informed petitioner that recent case law from the Illinois Supreme Court foreclosed his ability to bring a *Miller* claim in a successive postconviction petition. According to counsel, he would not be able to show cause. Petitioner confirmed to the court that he had understood what counsel had told him.

¶ 17 Successive postconviction counsel informed the circuit court that petitioner had written back to her stating that "he wished for [the public defender's] office to no longer represent him and that he would represent himself." The court asked petitioner whether he was going to represent himself, and petitioner replied, "Yes." The court discussed petitioner's ability to represent himself, and petitioner repeated that he would represent himself *pro se*. He wanted the appointment of the public defender's office vacated.

¶ 18 The circuit court vacated the appointment of the public defender's office and stated that petitioner would "represent himself as a self-represented litigant in a *pro se* manner." Successive postconviction counsel did not amend his petition or file a certificate under Illinois Supreme Court Rule 651(c) (eff. July 1, 2017) before petitioner discharged her.

¶ 19 The circuit court gave petitioner until the next court date to decide whether he wanted to amend his petition.

¶ 20 When the parties appeared on December 8, 2023, the circuit court confirmed that petitioner still wanted to represent himself. Petitioner also stated that he had a supplemental petition to file. This petition raised a *Lafler* claim similar to the one in the October 2020 petition. The December 2023 petition claimed that trial counsel told petitioner not to take a plea deal that would require him to testify because the State would not be able to prove the charged offenses without his or his codefendant's testimony.

¶ 21 Petitioner said he wanted to rescind his October 2020 and September 2021 petitions, proceeding only on his April 2018 and December 2023 petitions.

¶ 22 The State moved to dismiss, and petitioner responded *pro se* and represented himself at the hearing on the motion.

¶ 23 The circuit court granted the State's motion to dismiss. With respect to the proportionate-penalty and *Miller* claims, it held that petitioner had not shown cause or prejudice and nothing in the record showed that his brain was more akin to a juvenile's brain when he committed the offense at 20 years of age.

¶ 24 The circuit court also said that petitioner's self-serving allegation concerning trial counsel's advice was insufficient to support his *Lafler* claim and he had not demonstrated cause and prejudice on that issue.

¶ 25 Petitioner timely appealed.

¶ 26 ANALYSIS

¶ 27 Initially, we note that petitioner has abandoned any challenge to the circuit court's dismissal of his successive postconviction petition except for the claim of unreasonable assistance by successive postconviction counsel. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). Our review is confined to this issue.

¶ 28 The Act provides a procedure to collaterally challenge criminal convictions on constitutional grounds. *E.g.*, *People v. Domagala*, 2013 IL 113688, ¶ 32. The Act contemplates only one petition, and any claims not raised in an initial or amended petition are waived. *People v. Johnson*, 2026 IL App (1st) 231497, ¶ 40. However, a circuit court may grant a petitioner leave to file a successive petition where he establishes cause and prejudice for his failure to raise a claim earlier. *People v. Valladares*, 2026 IL App (1st) 240576, ¶ 27.

¶ 29 Once a petitioner has obtained leave to file a successive petition, his petition advances to the second stage. *People v. McGee*, 2025 IL App (1st) 240445, ¶ 33. There, postconviction counsel may be appointed to represent a petitioner, and the State may move to dismiss or answer. *Id.* ¶ 34. In addition to showing cause and prejudice, a petition and any supporting documentation must make a substantial showing of a constitutional violation to survive a motion to dismiss and advance to the third stage for an evidentiary hearing. *People v. Carroll*, 2026 IL 131360, ¶ 54; *People v. Bailey*, 2017 IL 121450, ¶ 26.

¶ 30 We review a circuit court's second-stage dismissal of a petition *de novo*. *People v. Smith*, 2026 IL App (1st) 231635, ¶ 13.

¶ 31 Unreasonable Assistance of Successive Postconviction Counsel

¶ 32 Petitioner argues first on appeal that successive postconviction counsel provided unreasonable assistance when failing to amend his petition to include evidence supporting his *Lafler* and *Miller* claims.

¶ 33 A petitioner does not have a constitutional right to counsel during postconviction proceedings. *Carroll*, 2026 IL 131360, ¶ 87. As noted, the Act allows for the appointment of counsel when a petition advances to the second stage. *McGee*, 2025 IL App (1st) 240445, ¶ 34.

Alternatively, a petitioner can waive his statutory right to counsel and proceed *pro se*. *People v. Rouse*, 2020 IL App (1st) 170491, ¶ 55.

¶ 34 Once postconviction counsel is appointed, the Act only requires that counsel give a “reasonable level of assistance.” *People v. Williams*, 2025 IL 129718, ¶ 43. Reasonable assistance includes amending a *pro se* petition as “necessary for an adequate presentation of” the petitioner’s claims. Ill. S. Ct. R. 651(c) (eff. July 1, 2017).

¶ 35 Filing a Rule 651(c) certificate creates a rebuttable presumption of reasonable assistance absent an affirmative showing otherwise in the record. *People v. Agee*, 2023 IL 128413, ¶ 43.

Where, as here, counsel does not file a Rule 651(c) certificate, there must be an explicit showing in the record that the rule’s requirements have been satisfied. *People v. Carrizoza*, 2018 IL App (3d) 160051, ¶ 12. We review the reasonability of postconviction counsel’s assistance *de novo*. *Williams*, 2025 IL 129718, ¶ 41.

¶ 36 Petitioner’s argument regarding unreasonable assistance of counsel cannot prevail. The record shows that petitioner terminated the representation of his appointed successive postconviction counsel before she was required to indicate whether she would amend his petition, before she could make any amendments to the petition, and before she could file a Rule 651(c) certificate. On May 19, 2023, the circuit court informed counsel that she would need to decide by the next court date whether she intended to amend petitioner’s petition. After that court date, counsel advised petitioner that Illinois law prevented him from raising a *Miller* claim in a successive petition. Following this advice, petitioner elected to terminate the attorney-client relationship.

¶ 37 On October 13, 2023, both counsel and petitioner appeared before the court to explain the circumstances of the termination. The court accepted their explanation and acquiesced to the termination without making any inquiry as to whether counsel intended to amend the petition.

¶ 38 Petitioner's discharge of successive postconviction counsel prevented her from doing any further work on his case. She could not amend the petition because she no longer represented him at that point. Case law from our supreme court and the Second District holds that a petitioner cannot complain of inadequate representation where his counsel's purported inadequate performance is attributable to the petitioner's conduct.

¶ 39 In *People v. Curtis*, appointed postconviction counsel informed the petitioner that his petition was insufficient. 48 Ill. 2d 25, 29 (1971). Counsel then asked the petitioner for trial transcripts and any other information that could support a claim. *Id.* The petitioner responded that he would not be "compatible," he would not forward the transcripts, and he did not trust counsel or anyone else. (Internal quotation marks omitted.) *Id.* The petitioner did not request different counsel, and his petition was dismissed after a second-stage hearing. *Id.* at 27, 29.

¶ 40 On appeal, the petitioner argued that counsel's performance was inadequate and he had been deprived of effective representation at the hearing. *Id.* at 29. The Illinois Supreme Court stated that "[w]here a petitioner refuses, as here, to cooperate with counsel[,] he cannot properly complain of possible inadequacy of representation which is attributable to his own deliberate conduct." *Id.* at 30; *People v. Bright*, 42 Ill. 2d 331, 333 (1969). Since the petitioner had not accepted counsel, he could not complain about counsel's performance. *Curtis*, 48 Ill. 2d at 30.

¶ 41 In *People v. French*, despite the petitioner's repeated requests for counsel to be appointed from outside the public defender's office, the circuit court appointed first one public defender and then a second after the petitioner rejected the first. 210 Ill. App. 3d 681, 685-86 (1991).

Second postconviction counsel declined to examine a separate conviction of the petitioner's that was not the subject of the petition unless it was relevant. *Id.* at 686. The petitioner stated that he did not want the second counsel or any public defender to represent him and was given leave to proceed *pro se*. *Id.* He later expressly declined the opportunity to amend his petition. *Id.* at 690. The circuit court subsequently dismissed his petition. *Id.* at 686.

¶ 42 On appeal, the petitioner argued that postconviction counsel did not abide by Rule 651(c) because both of his attorneys failed to amend his petition. *Id.* at 689. The Second District said that it was “apparent” that “any failure of [the petitioner's] attorneys to comply with Rule 651(c) resulted from [the petitioner's] own actions.” *Id.* at 690. Relying on *Curtis*, the court concluded that the petitioner could not claim unreasonable assistance of counsel. *Id.* It also found that the petitioner waived his right to appointed counsel when he stated that he wanted to represent himself. *Id.*

¶ 43 The Second District reaffirmed these principles in *People v. Richardson*. 2018 IL App (2d) 150737, ¶ 18 (“In [*French*], we held that a defendant who discharged his postconviction counsel and elected to proceed *pro se* could not later complain about counsel's representation. So too here.”).

¶ 44 This court is bound by supreme-court authority, and we agree with the Second District's reasoning. A petitioner who discharges postconviction counsel prevents counsel from representing him. Discharge precludes counsel from fulfilling the tasks encompassed by representation, such as amending a petition. See *People v. Moore*, 189 Ill. 2d 521, 534 (2000) (a petitioner “has no right to both self-representation and the assistance of counsel”). Petitioner's termination of the attorney-client relationship prevented successive postconviction counsel from amending the petition. We hold that a petitioner who discharges his postconviction attorney and

elects to proceed *pro se* cannot later claim that counsel gave unreasonable assistance for failing to make any amendments. *Richardson*, 2018 IL App (2d) 150737, ¶ 18.

¶ 45 Because petitioner cannot argue that successive postconviction counsel was unreasonable by failing to amend his petition before his termination of her representation, and he has not raised another challenge to the circuit court's dismissal, we see no reason to disturb the court's decision.

¶ 46 Public Act 104-564

¶ 47 Petitioner alternatively contends that his case should be remanded for new second-stage proceedings under Public Act 104-564. This recent legislative change became effective while this appeal was pending and was first raised in petitioner's reply brief. It removes the requirement that successive postconviction petitioners show cause when challenging sentences for felonies committed before the age of 21 under the proportionate penalties clause. Pub. Act 104-564 (eff. July 10, 2026) (amending 725 ILCS 5/122-1).

¶ 48 Petitioner asserts that Public Act 104-564 is a procedural change and therefore has retroactive effect and applies to his case. Although the issue has not been fully briefed, and was only introduced in petitioner's reply brief, this court assumes for the sake of argument that the law is retroactive and applicable. See *People v. Sparkman*, 2026 IL App (1st) 240715, ¶ 39.

¶ 49 Despite the potential retroactive application of Public Act 104-564, petitioner's claim cannot succeed. The circuit court's dismissal of petitioner's proportionate-penalty and *Miller* claims was not solely based on his failure to demonstrate cause. The court also found that petitioner had not established prejudice. Petitioner has not disputed this conclusion, nor has he contested the court's determination that the record did not support a finding that his brain

functioned analogously to a juvenile's—a necessary component of an as-applied *Miller* claim.

Because these findings were not challenged, there is no basis for remanding the case.

¶ 50 Public Act 104-564 also does not provide relief for petitioner's *Lafler* claims. This legislative change specifically applies to proportionate-penalty challenges, easing the procedural requirements for those seeking relief under this clause by removing the requirement to demonstrate cause. Pub. Act 104-564 (eff. July 10, 2026) (amending 725 ILCS 5/122-1). However, this amendment does not extend to other types of claims. In particular, petitioner's *Lafler* claim is unaffected by this change. Therefore, any claims outside the scope of proportionate-penalty challenges, including the *Lafler* claim, remain subject to the Act's original procedural requirements for successive postconviction petitions.

¶ 51 This court does not address the merits of petitioner's *Lafler* or proportionate-penalty claims, nor does it review the circuit court's decision to dismiss them. These matters were not presented for appellate review. The sole issue before the court is whether successive postconviction counsel provided unreasonable assistance. As previously established, petitioner is barred from bringing such a claim, and the circuit court's dismissal of the petition stands.

¶ 52 Even if Public Act 104-564 applies retroactively, removing the requirement for petitioner to show cause on his proportionate-penalty claim, the outcome remains unchanged. The circuit court's dismissal was based not only on the absence of cause but also on petitioner's failure to demonstrate prejudice. Since petitioner did not appeal the finding of no prejudice, there is no foundation for additional relief.

¶ 53 CONCLUSION

¶ 54 For the foregoing reasons, we affirm the decision of the circuit court of Cook County.

¶ 55 Affirmed.

People v. Johnson, 2026 IL App (1st) 242465

Decision Under Review: Appeal from the Circuit Court of Cook County, No. 02-CR-09846; the Hon. Michele McDowell Pitman, Judge, presiding.

**Attorneys
for
Appellant:** James E. Chadd, Douglas R. Hoff, and Kara Kurland, of State Appellate Defender's Office, of Chicago, for appellant.

**Attorneys
for
Appellee:** Eileen O'Neill Burke, State's Attorney, of Chicago (John E. Nowak, Tasha-Marie Kelly, and Heather Fahrenkrog, Assistant State's Attorneys, of counsel), for the People.
