No. 127169

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Respondent-Appellant, v. ANGELA J. WELLS, Petitioner-Appellee.	) On Appeal From the Appellate Court) of Illinois, Third Judicial District,) No. 3-18-0344)) There on appeal from the Circuit) Court of the Tenth Judicial Circuit,) Peoria County, Illinois,) No. 01-CF-344)) The Honorable) Paul P. Gilfillan,) Judge Presiding.

BRIEF AND APPENDIX OF RESPONDENT-APPELLANT PEOPLE OF THE STATE OF ILLINOIS

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ORAL ARGUMENT REQUESTED

E-FILED
2/16/2022 11:18 AM
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SUPREME COURT CLERK

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POINTS AND AUTHORITIES

NATURE OF THE CASE

In October 2001, pursuant to a fully negotiated plea agreement, petitioner Angela J. Wells was convicted in the Peoria County Circuit Court of first degree murder and sentenced to 40 years in prison. R33-36.[1] More than 16 years later, petitioner filed a petition for relief from judgment under 735 ILCS 5/2-1401(b-5). C553-89. The trial court dismissed the petition. C596. The appellate court reversed, A1-14, and the People appeal that judgment. An issue is raised as to whether petitioner's petition stated a claim for relief under § 2-1401.

ISSUE PRESENTED

Whether the trial court's dismissal of petitioner's § 2-1401 petition should be affirmed because (1) the petition was time-barred, or (2) petitioner's claim failed as a matter of law because her negotiated guilty plea waived any claim related to the length of her sentence and precludes a conclusion that evidence of domestic violence would likely have resulted in a different sentence.

JURISDICTION

Jurisdiction lies under Supreme Court Rules 301, 303, and 315. The Court allowed leave to appeal on September 29, 2021.

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[1] Citations appear as follows: "C__" refers to the common law record; "R__" to the report of proceedings; and "A__" to this brief's appendix.

STATUTE INVOLVED

735 ILCS 5/2-1401. Relief from judgments.

(a) Relief from final orders and judgments, after 30 days from the entry thereof, may be had upon petition as provided in this Section. Writs of error coram nobis and coram vobis, bills of review and bills in the nature of bills of review are abolished. All relief heretofore obtainable and the grounds for such relief heretofore available, whether by any of the foregoing remedies or otherwise, shall be available in every case, by proceedings hereunder, regardless of the nature of the order or judgment from which relief is sought or of the proceedings in which it was entered. Except as provided in Section 6 of the Illinois Parentage Act of 1984, there shall be no distinction between actions and other proceedings, statutory or otherwise, as to availability of relief, grounds for relief or the relief obtainable.

(b) The petition must be filed in the same proceeding in which the order or judgment was entered but is not a continuation thereof. The petition must be supported by affidavit or other appropriate showing as to matters not of record. All parties to the petition shall be notified as provided by rule.

(b-5) A movant may present a meritorious claim under this Section if the allegations in the petition establish each of the following by a preponderance of the evidence:

(1) the movant was convicted of a forcible felony;

(2) the movant's participation in the offense was related to him or her previously having been a victim of domestic violence as perpetrated by an intimate partner;

(3) no evidence of domestic violence against the movant was presented at the movant's sentencing hearing;

(4) the movant was unaware of the mitigating nature of the evidence of the domestic violence at the time of sentencing and could not have learned of its significance sooner through diligence; and

(5) the new evidence of domestic violence against the movant is material and noncumulative to other evidence offered at the sentencing hearing, and is of such a conclusive character that it would likely change the sentence imposed by the original trial court.

Nothing in this subsection (b-5) shall prevent a movant from applying for any other relief under this Section or any other law otherwise available to him or her.

As used in this subsection (b-5):

"Domestic violence" means abuse as defined in Section 103 of the Illinois Domestic Violence Act of 1986.

"Forcible felony" has the meaning ascribed to the term in Section 2-8 of the Criminal Code of 2012.

"Intimate partner" means a spouse or former spouse, persons who have or allegedly have had a child in common, or persons who have or have had a dating or engagement relationship.

(b-10) A movant may present a meritorious claim under this Section if the allegations in the petition establish each of the following by a preponderance of the evidence:

(A) she was convicted of a forcible felony;

(B) her participation in the offense was a direct result of her suffering from post-partum depression or post-partum psychosis;

(C) no evidence of post-partum depression or post-partum psychosis was presented by a qualified medical person at trial or sentencing, or both;

(D) she was unaware of the mitigating nature of the evidence or, if aware, was at the time unable to present this defense due to suffering from post-partum depression or post-partum psychosis, or, at the time of trial or sentencing, neither was a recognized mental illness and as such, she was unable to receive proper treatment; and

(E) evidence of post-partum depression or post-partum psychosis as suffered by the person is material and noncumulative to other evidence offered at the time of trial or sentencing, and it is of such a conclusive character that it would likely change the sentence imposed by the original court.

Nothing in this subsection (b-10) prevents a person from applying for any other relief under this Article or any other law otherwise available to her.

As used in this subsection (b-10):

"Post-partum depression" means a mood disorder which strikes many women during and after pregnancy and usually occurs during pregnancy and up to 12 months after delivery. This depression can include anxiety disorders.

"Post-partum psychosis" means an extreme form of post-partum depression which can occur during pregnancy and up to 12 months after delivery. This can include losing touch with reality, distorted thinking, delusions, auditory and visual hallucinations, paranoia, hyperactivity and rapid speech, or mania.

(c) Except as provided in Section 20b of the Adoption Act and Section 2-32 of the Juvenile Court Act of 1987 or in a petition based upon Section 116-3 of the Code of Criminal Procedure of 1963 or subsection (b-10) of this Section, or in a motion to vacate and expunge convictions under the Cannabis Control

Act as provided by subsection (i) of Section 5.2 of the Criminal Identification Act, the petition must be filed not later than 2 years after the entry of the order or judgment. Time during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years.

(c-5) Any individual may at any time file a petition and institute proceedings under this Section, if his or her final order or judgment, which was entered based on a plea of guilty or nolo contendere, has potential consequences under federal immigration law.

(d) The filing of a petition under this Section does not affect the order or judgment, or suspend its operation.

(e) Unless lack of jurisdiction affirmatively appears from the record proper, the vacation or modification of an order or judgment pursuant to the provisions of this Section does not affect the right, title or interest in or to any real or personal property of any person, not a party to the original action, acquired for value after the entry of the order or judgment but before the filing of the petition, nor affect any right of any person not a party to the original action under any certificate of sale issued before the filing of the petition, pursuant to a sale based on the order or judgment.

(f) Nothing contained in this Section affects any existing right to relief from a void order or judgment, or to employ any existing method to procure that relief.

STATEMENT OF FACTS

I. Petitioner's Fully Negotiated Guilty Plea

In March 2001, petitioner and her husband, Ronald Wells, killed Jamie Weyrick. R27-35. Petitioner was later charged with one count of concealment of a homicidal death and three counts of first degree murder, each alleging a different theory of liability (intentional, knowing, and felony murder). C9-12. During pre-trial proceedings, the trial court appointed petitioner a psychiatrist to evaluate her mental state at the time of the

crimes. R18, 34-35. On October 29, 2001, petitioner's counsel informed the trial court that "the parties ha[d] reached a full plea agreement." R22-23.

Petitioner's counsel explained, and the prosecutor confirmed, the terms of the agreement: petitioner would plead guilty to knowing murder, receive a prison sentence of 40 years, and testify truthfully at her husband's trial; and the People would dismiss the remaining three charges. R23-25. Petitioner agreed that her counsel had correctly stated the plea agreement, and that she could read and write, had attended 12th grade, was not under the influence of any drugs, alcohol, or medication, had discussed her legal rights with her attorney, and was satisfied with her attorney's services. R24-25. The court read the charge to which petitioner had agreed to plead guilty and informed her that it carried a penalty of 20 to 60 years in prison, but that she could receive up to 100 years or natural life if certain aggravating factors were found. R25-26. Petitioner confirmed that she understood the charge and possible penalties. R26. The court also admonished petitioner of her rights and that she would be giving up those rights if she pleaded guilty, R25-26, and petitioner stated that she understood, R26-28.

The trial court then considered the factual basis for the plea. R28. The evidence would show that, on March 18, 2001, Brenda Weyrick reported her 20-year-old son, Jamie, missing; she had last seen him four days earlier. *Id.* Shortly before his disappearance, Jamie had received an income tax refund of more than $2,000. *Id.* Police learned that Jamie had been last seen

in the company of petitioner's husband, Ronald, *id.*; and petitioner confirmed that she saw Jamie when she picked up Ronald on March 15, R29. Police later learned that Jamie's ATM card had been used to withdraw money from a bank on March 16, which ultimately led to a search of petitioner and Ronald's home; Jamie's body was found buried in their backyard. *Id.* An autopsy showed that Jamie had died from multiple blunt and sharp force injuries and asphyxia. R29-30.

After Jamie's body was found, police questioned petitioner again. R30. She waived her rights, and stated that she found Jamie dead in her home when she returned there on March 15. *Id.* Ronald told her that he had killed Jamie, asked her to clean the kitchen, and then disposed of the body. *Id.*

Police later received additional information pertaining to the murder and interviewed petitioner a third time. *Id.* Petitioner waived her rights and provided a videotaped statement. *Id.* She stated that on the evening of March 15, she was home with her four children when Ronald arrived with Jamie. R30-31. Ronald told Jamie to go upstairs and told petitioner that he intended to kill Jamie for "a large sum of money" that Jamie had. R31. Petitioner pleaded with Ronald not to "bring [that] tragedy upon her and the children," but he ignored her and went upstairs. *Id.* Petitioner heard a struggle, then saw Jamie run down the stairs with Ronald in pursuit. *Id.* Ronald stabbed Jamie, and petitioner believed that Jamie was dead. *Id.* Ronald told petitioner to help carry Jamie. *Id.* They carried him to the

basement and placed him in a large freezer. *Id.* Ronald took Jamie's money and left. *Id.*

Later that night, petitioner heard noises from the freezer. R31-32. She went downstairs and discovered that Jamie was not dead. R32. Petitioner hit Jamie with a hammer, but he continued to breathe, so she stabbed him. *Id.* Petitioner summoned her 13-year-old stepson Destin downstairs and ordered him to sit on top of the freezer; they sat there "for a long period of time until [Jamie] was deceased." *Id.* When Ronald returned the next day, they buried Jamie in their backyard. *Id.*

During an interview with police, Destin corroborated aspects of petitioner's videotaped statement. He stated that Ronald came home with Jamie, Ronald and Jamie went upstairs, there was a struggle down the stairs, and Ronald placed Jamie in the freezer. *Id.* Petitioner then summoned Destin downstairs, where Destin saw petitioner injure Jamie. *Id.*

Petitioner's counsel confirmed that the People could present evidence supporting the factual basis, and the trial court found a sufficient factual basis for the plea. R32-33. Petitioner then denied that anyone was forcing or coercing her to plead guilty and confirmed that she was making the decision of her own free will; no one had made any promises other than those stated in court, and she still wished to plead guilty pursuant to the agreement. R33. The court found that petitioner had been advised of her rights and was knowingly and voluntarily waiving them, accepted the plea, found petitioner

guilty of first degree murder, entered judgment on that conviction, and dismissed the remaining counts pursuant to the plea agreement. R33-34.

The court then proceeded to sentencing. R34. Both parties waived the presentence investigation. *Id.* The prosecutor stated that petitioner had a prior misdemeanor case that included two drug-related charges, noted that Jamie's family preferred that petitioner be sentenced to natural life and disagreed with the plea agreement, but further stated that the People believed that the agreed-upon disposition was "in the best interest of justice." *Id.* Petitioner's counsel noted for the record that an appointed psychiatrist had evaluated petitioner before trial for purposes of determining fitness and a possible insanity defense and concluded that she did not suffer from a "major psychiatric illness." R34-35. Petitioner apologized to Jamie's family. R35.

The trial court considered "all of the statutory factors and matters presented to [it]," and, noting that the parties had requested it, sentenced petitioner to 40 years in prison for first degree murder. R35-36. The court stayed the mittimus until petitioner satisfied the plea condition that she testify truthfully in the criminal case against her husband. R36.

The court then advised petitioner of her appellate rights, including that any motion for leave to withdraw her guilty plea had to be filed within 30 days. R36. The court explained that if that motion were allowed, petitioner's "plea of guilty, the judgment, [and] the sentence [she] just

received would be set aside and the case set for trial." *Id.* "Any charges dismissed by the State as part of the plea agreement could be reinstated on their motion and also set for trial." *Id.* If the motion were denied, then petitioner would have 30 days to file a notice of appeal. *Id.*

II. Petitioner's Post-Plea Motion

In November 2001, petitioner testified at Ronald's trial, and her testimony was consistent with the factual basis for the plea. *See People v. Wells*, 346 Ill. App. 3d 1065, 1067-69 (3d Dist. 2004); Docket, *People v. Ronald Wells*, No. 01 CF 344 (Cir. Ct. Peoria Cty.).[2] The trial court then vacated the order staying the mittimus. C52.

Later that month, the trial court received from petitioner what appeared to be a timely motion to withdraw guilty plea, C54, and set the motion for hearing, C53. At the February 2002 hearing, petitioner's counsel informed the court that petitioner had not filed the motion, the motion's factual allegations were false, the supporting affidavit was not hers, she had not signed the documents, and they were prepared and filed without petitioner's input, knowledge, or authority. R43. According to counsel, petitioner "[wa]s serving her sentence and d[id] not wish to withdraw her guilty plea and primarily want[ed] to have no contact or input whatsoever

[2] This Court may take judicial notice of the circuit court's docket report, *see Kramer v. Ruiz*, 2021 IL App (5th) 200026, ¶ 32 & n.3; *Wells Fargo Bank, N.A. v. Simpson*, 2015 IL App (1st) 142925, ¶ 24 & n.4, which establishes the date of Ronald's trial.

from [her husband] Ronald Wells, whom she believe[d] was the author of the[] two documents." R43-44. Counsel added that petitioner had "no interest" in "modifying her sentence which was received pursuant to the guilty plea, that being 40 years in [prison]." R44. Petitioner confirmed that counsel was "correct." *Id.*

The trial court struck the motion to withdraw guilty plea, *id.*, and re-advised petitioner of her appellate rights, R44-45. Petitioner did not appeal. C455.

III. Petitioner's Prior Collateral Attacks

In June 2006, a document seemingly signed by petitioner was filed in the trial court; it purported to give Ronald the authority to represent petitioner in her criminal case. C138 (entitled "power of attorney" (capitalization omitted)). Over the next three months, Ronald signed and filed both a postconviction petition pursuant to 725 ILCS 5/122-1, *et seq.*, and a § 2-1401 petition on petitioner's behalf. C139-49, 153-227. The trial court struck both filings because Ronald was not a licensed attorney authorized to practice law and directed Ronald to stop representing any person other than himself in legal proceedings. C150, 298.

In October 2006, petitioner signed and filed the § 2-1401 and postconviction petitions that Ronald had prepared. C238-297. The trial court docketed the petitions and appointed the public defender to represent petitioner, but petitioner declined the appointment. C299, 312-13, 316-25;

R50-51, 55. In August 2007, the trial court denied both petitions, finding, in relevant part, that petitioner's § 2-1401 "was not timely filed" because it was "filed well after the two year period required by statute and there [wa]s no allegation of legal disability, distress or fraudulent concealment." C360-61. Petitioner appealed, C362, and the appellate court affirmed in December 2008, C454-57; *see also* C398-401.

In August 2009, petitioner filed another § 2-1401 petition, alleging, among other things, that Destin's statements to police were coerced and false, the People prevented her from obtaining an affidavit from Destin to support that claim, and her guilty plea was involuntary. C460-92. The trial court denied the petition. C511.

In June 2015, petitioner filed a third § 2-1401 petition, alleging that she recently discovered evidence that police violated the Fourth Amendment when they interrogated her children, this evidence had been fraudulently concealed, and her convictions were tainted by this constitutional violation. C525-50. The trial court found that it lacked jurisdiction to consider the petition due to petitioner's failure to properly serve it on the State's Attorney's Office, and dismissed it without prejudice. C551. Petitioner did not re-file the petition.

IV. Petitioner's January 2018 § 2-1401 Petition

On January 2, 2018, petitioner filed a fourth § 2-1401 petition. C553-89.[3] The petition asked the trial court to "reduce [petitioner's] current [s]entence" pursuant to § 2-1401(b-5). C554-58.[4] Petitioner noted that both § 2-1401 and 730 ILCS 5/5-5-3.1 (listing factors in mitigation at sentencing), were amended on January 1, 2016, C554, 557-58, and asserted that she "is now allowed to introduce documentation to the Court as [*sic*] mitigating factors of her history of domestic violence by her husband/co-defendant," C555, and this evidence allows her to "receive a lesser [s]entence due to duress and compulsion under [*sic*] her crime," C558.

Among other things, the petition alleged that petitioner's participation in the crime "was related to her previously and currently being a victim of [d]omestic [v]iolence" because Ronald physically, verbally, and emotionally abused petitioner from 1990 through 2001, and her crimes resulted from her fear that Ronald would commit physical violence against her. C555-57. In support, petitioner attached (1) emergency room records that showed that (a) in 1994, petitioner suffered a headache for two days and radiating pain in

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[3] A § 2-1401 petition initiates a new civil action, so the mailbox rule does not apply and the petition's filing date "is when it is received and stamped by the circuit clerk's office." *Wilkins v. Dellenback*, 149 Ill. App. 3d 549, 554 (2d Dist. 1986); *see also Gruszeczka v. Ill. Workers' Comp. Comm'n*, 2013 IL 114212, ¶¶ 19-23 (discussing *Wilkins* with approval).

[4] Petitioner relied on the 2016 version of § 2-1401(b-5), which is identical in all material respects to the current provision reproduced above.

her neck, C567; (b) in 1996, petitioner twisted her foot when she stepped into a hole, C568; and (c) in 1998, petitioner suffered injuries to her finger and knee while she was at work in a nursing home, C569-72; (2) a letter from petitioner's daughter that stated that Ronald had abused petitioner, and petitioner acted to protect her children when she killed Jamie, C574-75; (3) a Department of Children and Family Services record that noted that, after the crimes, petitioner's father stated that Ronald had physically abused petitioner for years, C577; (4) two letters that Ronald sent to petitioner in 2017, in which he expressed anger at petitioner for pursuing relief based on domestic violence, C583-87, but acknowledged that "it wasn't right" that he "put [his] hands on [petitioner]," C586-87; (5) her own "statement of facts," which stated that petitioner believed that Ronald would have harmed her if she did not do as he said during the crime, and she killed Jamie because she was afraid for the safety of her children and herself, C579-80; and (6) her own affidavit, stating that she had maintained a good disciplinary record in prison, C589. Petitioner alleged that this "new evidence" was "material and noncumulative to other [e]vidence offered at the [s]entencing [h]earing and is of such conclusive [c]haracter that it would likely change the sentence imposed by the [o]riginal [t]rial [c]ourt." C558.

On March 14, 2018, the People filed a motion to dismiss, C591, 596, arguing, in pertinent part, that the petition failed as a matter of law under § 2-1401(b-5) because petitioner waived any challenge to her sentence when

she entered a fully negotiated guilty plea, C591-92, and was untimely under § 2-1401(c)'s two-year limitations period, C591-93.

On March 21, 2018, the trial court entered a written order dismissing the petition. C596. As relevant here, the court agreed that the petition lacked a legal basis and was untimely. *Id.*

Petitioner filed a timely motion to reconsider, in which she asked the court to reinstate her petition and grant her a hearing to present mitigating evidence. C597-606. She acknowledged that her petition was untimely under § 2-1401(c), but argued that it would be "fundamentally unfair" to deny her the ability to file a petition because subsection (b-5) was unavailable to her until January 2016, and domestic violence played a "large role in her conviction." C598.

The trial court "considered" petitioner's motion and denied it without a hearing. C607. Petitioner timely appealed. C610.

V. The Appellate Court's Decision

The appellate court reversed the trial court's judgment dismissing the § 2-1401 petition and remanded for further proceedings. A1-14. It found that the trial court violated petitioner's procedural due process rights when it failed to provide her an opportunity to respond to the People's motion to dismiss, and that the error was not harmless because she lacked the opportunity to argue that it would be "inequitable" to enforce the two-year limitations period. A13-14.

The appellate court acknowledged that petitioner filed the petition more than 14 years after § 2-1401's two-year limitations period had expired. A13. The court did not find that petitioner had alleged that any of the statutory grounds for tolling (duress, legal disability, or fraudulent concealment) applied, or that she had invoked the voidness exception to the statute of limitations. A12-13. Instead, the court determined that the error was not harmless because petitioner was deprived the opportunity to "assert and develop" her argument that "it would be inequitable to apply the two-year time limitation period . . . because she could not raise a subsection (b-5) claim in a section 2-1401 petition prior to January 1, 2016 (the effective date of subsection (b-5)) and she did not appreciate the impact of domestic violence." A13. The appellate court did not consider the trial court's remaining grounds for dismissal. A13-14.

STANDARD OF REVIEW

This Court reviews *de novo* the trial court's dismissal of petitioner's § 2-1401 petition, *People v. Abdullah*, 2019 IL 123492, ¶ 13, the appellate court's holding that the dismissal violated procedural due process, *People v. Stoecker*, 2020 IL 124087, ¶ 17, and the underlying legal questions concerning the proper construction of § 2-1401, *People v. Casas*, 2017 IL 120797, ¶ 17.

ARGUMENT

The Trial Court's Procedural Error In Prematurely Dismissing Petitioner's § 2-1401 Petition Was Harmless.

A § 2-1401 petitioner has a procedural due process right to "notice of, and a meaningful opportunity to respond to" a motion to dismiss. *People v. Stoecker*, 2020 IL 124807, ¶¶ 20-22. But a violation of this right may be harmless and thus not warrant reversal of a decision granting the motion to dismiss. *Id.* ¶¶ 23-25.

Here, the trial court dismissed petitioner's § 2-1401 petition a week after the People filed their motion to dismiss, C591, 596, which did not give petitioner a reasonable opportunity to respond to the motion. *See Stoecker*, 2020 IL 124807, ¶¶ 20-22. But, as in *Stoecker*, the error was harmless because (1) the petition failed to comply with § 2-1401(c)'s statute of limitations, and the untimeliness was "patently incurable as a matter of law," *id.* ¶¶ 26-28; and, in any event, (2) petitioner's claim under subsection (b-5) was "untenable as a matter of law," *id.* ¶¶ 26, 33. Accordingly, "because no additional proceedings would have enabled [petitioner] to prevail on [her] claim for relief," *id.* ¶ 26, this Court should reverse the appellate court's judgment and affirm the trial court's dismissal of petitioner's § 2-1401 petition.

A. The petition was untimely and there is no basis in law to excuse the untimeliness.

Section 2-1401 "constitutes a comprehensive statutory procedure authorizing a trial court to vacate or modify a final order or judgment in civil and criminal proceedings." *People v. Thompson*, 2015 IL 118151, ¶ 28. The petition "must be filed not later than 2 years after entry of the order or judgment" being challenged. 735 ILCS 5/2-1401(c). However, "[t]ime during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years." *Id.*

Section 2-1401's time limitation serves "to establish necessary stability and finality in judicial proceedings." *Crowell v. Bilandic*, 81 Ill. 2d 422, 427-28 (1980); *see also People v. Madej*, 193 Ill. 2d 395, 404 (2000) (section 2-1401's limitations period is "reasonable" and "designed to preserve the public's interest in the finality of judgments"). Thus, courts have long "held that this requirement is *mandatory* [and] that any petition under [§ 2-1401] *must* be filed within the 2-year statutory period." *Fisher v. Rhodes*, 22 Ill. App. 3d 978, 981 (2d Dist. 1974) (emphasis in original); *see also People v. Mahaffey*, 194 Ill. 2d 154, 181-82 (2000) (two-year limitations period is mandatory and "must be adhered to"). A litigant may challenge a void judgment — *i.e.*, a judgment entered by a court that lacked jurisdiction or that is based on a facially unconstitutional statute — at any time, *Stoecker*, 2020 IL 124807, ¶ 28, but, absent a voidness challenge or an opponent's

waiver of the statute of limitations, a § 2-1401 petition that is filed beyond the two-year limitations period "cannot be considered," *People v. Caballero*, 179 Ill. 2d 205, 210 (1997); *see also Thompson*, 2015 IL 118151, ¶ 29.

1. Petitioner's § 2-1401 petition was untimely.

Petitioner failed to comply with § 2-1401(c)'s statute of limitations. The petition sought to modify the trial court's October 2001 sentencing order. C558. But petitioner did not file it until January 2018, more than 16 years after entry of that order. C554. Neither the petition nor petitioner's motion to reconsider invoked any of the statutory grounds for tolling or the voidness exception to the statute of limitations. *See generally* C598 (citing only inapposite cases resolved under tolling provision in the Post-Conviction Hearing Act). And the People did not waive their statute of limitations defense: they asserted it as a basis for dismissal. C591-92; A13.

Thus, petitioner's § 2-1401 petition was time-barred. *See People v. Gosier*, 205 Ill. 2d 198, 206-07 (2001) (petition filed more than two years after judgment untimely where petitioner did not contend that any ground for tolling existed or that judgment was void); *Caballero*, 179 Ill. 2d at 211 (same); *Crowell*, 81 Ill. 2d at 427-28 (same where petition "neither referred to the time limitation nor alleged any of the grounds provided in [§ 2-1401(c)'s predecessor] for tolling it," and even "generous construction" of petition "d[id] not support a finding of fraudulent concealment"); *People v. Colletti*, 48 Ill. 2d 135, 137 (1971) (same where petition "d[id] not allege" fraudulent

concealment); *Withers v. People*, 23 Ill. 2d 131, 134-35 (1961) (same where petition "failed to show a legal disability").

2. The appellate court erred in finding that petitioner could potentially excuse her untimeliness.

Despite petitioner's failure to comply with the limitations period, the appellate court concluded that she should be given the opportunity to "assert and develop" the argument that "it would be inequitable to apply the two-year time limitation . . . because she could not raise a subsection (b-5) claim in a section 2-1401 petition prior to January 1, 2016 (the effective date of subsection (b-5)) and she did not appreciate the impact of the domestic violence." A13. This was error, for the General Assembly plainly stated its intent that the two-year statute of limitations apply to subsection (b-5) petitions, and there is no basis in law to disregard that intent.

a. Section 2-1401's plain language clearly shows the General Assembly's intent to apply the two-year statute of limitations to subsection (b-5) petitions.

The General Assembly clearly stated its intent that the two-year limitations period apply to § 2-1401(b-5) petitions, including petitions filed by defendants whose judgments became final before the enactment of subsection (b-5).

When construing a statute, the primary goal "is to ascertain and give effect to the intent of the legislature." *People v. Casas*, 2017 IL 120797, ¶ 18. The statute's plain language is the "most reliable indicator of legislative

intent," *id.*, and must be given effect without resorting to other aids for construction, *Solich v. George & Anna Portes Cancer Prevention Ctr.*, 158 Ill. 2d 76, 81 (1994). "[A] court is not at liberty to depart from the plain language of a statute by reading into it exceptions, limitations or conditions that the legislature did not express," *Kunkel v. Walton*, 179 Ill. 2d 519, 534 (1997), or by "declar[ing] that the legislature did not mean what the plain language of the statute imports," *Solich*, 158 Ill. 2d at 84.

In subsection (c), the General Assembly fixed a two-year statute of limitations for nearly all § 2-1401 petitions. 735 ILCS 5/2-1401(c). This provision (1) provides the start date for the limitations period, *see id.* ("entry of the order or judgment" challenged); (2) states the time that does not count toward the two-year period, *see id.* ("Time during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years."); and (3) lists exceptions to the application of the limitations period, *see id.* (two-year period applies "[e]xcept as provided in Section 20b of the Adoption Act and Section 2-32 of the Juvenile Court Act of 1987 or in a petition based upon Section 116-3 of the Code of Criminal Procedure of 1963 or subsection (b-10) of this Section, or in a motion to vacate and expunge convictions under the Cannabis Control Act as provided by subsection (i) of Section 5.2 of the Criminal Identification Act"); *see also* 735 ILCS 5/2-1401(c-5) (providing an additional exception).

"Where a statute lists the things to which it refers, there is an inference that all omissions [from that list] should be understood as exclusions." *People v. O'Connell*, 227 Ill. 2d 31, 37 (2007) (citations omitted). This rule — referred to as *expressio unius est exclusio alterius* — "'is based on logic and common sense,' as 'it expresses the learning of common experience that when people say one thing they do not mean something else.'" *Schultz v. Performance Lighting, Inc.*, 2013 IL 115738, ¶ 17 (citations omitted). Consistent with this principle, "exceptions to a statute of limitations will not be implied and if the legislature has not seen fit to except a class of persons from the operation of a statute, courts will not assume the right to do so." *Morgan v. People*, 16 Ill. 2d 374, 379 (1959) (interpreting § 2-1401(c)'s predecessor).

When the General Assembly added subsection (b-5), it could have added a tolling provision or provided a different start date for petitions seeking relief under that subsection, but it did neither. And it is clear that the General Assembly knew how to exempt subsection (b-5) petitions from the two-year statute of limitations had it wished to do so. Since the addition of subsection (b-5), the General Assembly has added exceptions to the limitations period for other petitions or petitioners, *see, e.g.*, 735 ILCS 5/2-1401(c-5) (eff. Aug. 27, 2021) (adding exception for certain individuals who pleaded guilty or nolo contendre); 735 ILCS 5/2-1401(c) (eff. Aug. 16, 2019) (adding exception for individuals seeking relief under newly-enacted

subsection (b-10)); 735 ILCS 5/2-1401(c) (eff. June 25, 2019) (adding exception related to specific motions filed under Cannabis Control Act), but it has not done the same with respect to subsection (b-5) petitions.

Thus, § 2-1401's plain language clearly and unambiguously shows the General Assembly's intent to preclude relief under subsection (b-5) for individuals who do not file their petitions within the two-year limitations period, as the appellate court has held. *See People v. Abusharif*, 2021 IL App (2d) 191031, ¶¶ 12-16 (legislature intended § 2-1401(c)'s limitations period to apply to subsection (b-5) petitions); *People v. Bowers*, 2021 IL App (4th) 200509, ¶¶ 33-37 (same); *People v. Donoho*, 2021 IL App (5th) 190086-U, ¶¶ 1, 18-21 (same).

Because the General Assembly's intent is clear from § 2-1401's plain language, the Court need not consider the legislative history to aid in construction of the statute. *Kunkel*, 179 Ill. 2d at 534. However, subsection (b-5)'s history further confirms the General Assembly's intent to limit relief to petitions filed within the two-year limit. *See* 99th Gen. Assem., House Proceedings, May 25, 2015, at 29 (statement by bill's sponsor that statutory change would give courts the option of providing postjudgment relief for "up to two years after the original sentencing," and that this would be an option for only "some" prisoners); *see also Abusharif*, 2021 IL App (2d) 191031, ¶ 16 ("Th[e]se comments show a clear legislative intent to limit the relief under section 2-1401(b-5) to the two-year limitations period in section 2-1401(c).").

In sum, the General Assembly's intent, as reflected in the plain language of the statute and confirmed by the drafting history, demonstrates that subsection (b-5) petitions are subject to the two-year statute of limitations. And because petitioner alleged none of the statutory tolling grounds, her petition, filed beyond the two-year limit, was untimely.

b. The appellate court erroneously added another exception to § 2-1401's statute of limitations.

Rather than enforce the limitations period as the General Assembly intended, the appellate court determined that it was possible for petitioner to excuse her untimely petition because subsection (b-5) was not enacted until after the statute of limitations had expired. A13. This approach is contrary to established statutory construction principles and undermines the legislature's authority to enact statutes of limitations and define the temporal reach of statutory changes. *See People v. Isaacs*, 37 Ill. 2d 205, 229 (1967) (legislature "controls" temporal reach of statutes of limitations, which "are measures of public policy only" (quoting *People v. Buckner*, 281 Ill. 340, 347 (1917)); *see also Morgan*, 16 Ill. 2d at 379-80 (addressing § 2-1401(c)'s predecessor and holding that it was "not justified in reading into [§ 2-1401] an exception" to the statute of limitations that the General Assembly did not provide); *Abusharif*, 2021 IL App (2d) 191031, ¶¶ 13-14 (construing § 2-1401(c) to permit tolling based on "the absence of a statute or amendment

thereto" would "effectively eradicate[]" § 2-1401's time limits); *Donoho*, 2021 IL App (5th) 190086-U, ¶ 19 (similar).

"It is well established that the legislature may impose reasonable limitations and conditions upon access to the courts," *Buzz Barton & Assoc., Inc. v. Giannone*, 108 Ill. 2d 373, 383 (1985), including "prescrib[ing] whatever requirements it might choose to impose on the availability of relief under" a particular statute, *Varelis v. Northwestern Mem. Hosp.*, 167 Ill. 2d 449, 454 (1995). Defining the class of persons subject to a particular statute of limitations "inevitably requires that some persons who have an almost equally strong claim to favored treatment be placed on different sides of the line, [but] the fact [that] the line might have been drawn differently at some points is a matter for legislative, rather than judicial, consideration." *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 315-16 (1993) (second alteration in original) (citation omitted); *see also Cutinello v. Whitley*, 161 Ill. 2d 409, 421 (1994).

Relevant here, the legislature is not required to revive stale claims whenever it creates or alters a statute of limitations, or provides a new right or remedy. To the contrary, "statutory changes must have a beginning," *People v. Richardson*, 2015 IL 118255, ¶ 10, and it is reasonable for the legislature to "distinguish[] between the rights of an earlier and later time," *id.* (citing *Sperry & Hutchinson Co. v. Rhodes*, 220 U.S. 502, 505 (1911)). For example, absent language stating otherwise, a statutory change that extends

a limitations period does not revive an action that was already barred under the previous period. *See, e.g.*, *People v. Thomas*, 45 Ill. 2d 68, 73 (1970); *People v. Reed*, 42 Ill. 2d 169, 171-72 (1969).[5] Likewise, the legislature may determine an amendment's effective date and apply the amendment only to cases arising after that date. *See, e.g.*, *Richardson*, 2015 IL 118255, ¶¶ 10-11. Such policy changes "may appear unfair to a certain extent," *id.* ¶ 10, but that is not a legitimate reason to disregard the legislature's clearly stated intent, *see id.* ¶ 11, which "reflects a value judgment concerning the point at which the interests in favor of protecting valid claims are outweighed by the interests in prohibiting the prosecution of stale ones," *Rotkiske v. Klemm*, 140 S. Ct. 355, 361 (2019) (internal quotations omitted); *see Crowell*, 81 Ill. 2d at 427-28 (section 2-1401's time limitation serves "to establish necessary stability and finality in judicial proceedings").

Accordingly, courts routinely enforce statutory time limits as written. "[S]tatutes [of limitations] are inherently arbitrary in their operation," and, by their nature, produce results that are "harsh," *Sepmeyer*, 162 Ill. 2d at 256, and "seemingly capricious," *Hamil v. Vidal*, 140 Ill. App. 3d 201, 204 (5th Dist. 1985). But the longstanding "general rule is that the language of the [statute of limitations] must prevail, and no reasons based on apparent

[5] Indeed, where private defendants are concerned, "the legislature lacks the power to reach back and breathe life into a time-barred claim" because doing so could violate the defendant's vested due process right to assert the statute of limitations defense. *Sepmeyer v. Holman*, 162 Ill. 2d 249, 254-55 (1994).

inconvenience or hardship can justify a departure." *Amy v. Watertown*, 130 U.S. 320, 324 (1889); *see United States Fidelity & Guaranty Co. v. Dickason*, 277 Ill. 77, 83-85 (1917) (same); *see also Petersen v. Wallach*, 198 Ill. 2d 439, 446-47 (2002) (possibility of harsh or unjust result "not enough to avoid the application of a clearly worded statute" of repose); *Mich. Ind. Condo. Ass'n v. Mich. Place, LLC*, 2014 IL App (1st) 123764, ¶¶ 23-24 (collecting cases observing that a statutory time limit might produce "harsh results," but courts must apply the statute as written); *Olson v. Owens-Corning Fiberglas Corp.*, 198 Ill. App. 3d 1039, 1043 (1st Dist. 1990) (refusing to "carve out an exception" and "deviate from" language of statute of repose, "despite the legitimate concern that the impact of the statute burdens some classes of plaintiffs more harshly than others" and the "result appears unfair"). "'Such consequences can be avoided only by a change of the law, not by judicial construction.'" *Petersen*, 198 Ill. 2d at 446-47 (citations omitted); *see also Hamil*, 140 Ill. App. 3d at 204 (statute of limitations "must not be enlarged by judicial action beyond its legislatively intended scope").

Likewise, whether subsection (b-5) petitions should be excepted from § 2-1401's statute of limitations is a "legislative rather than judicial" question. *Fisher*, 22 Ill. App. 3d at 981-82 (citations omitted) (refusing to assume "authority or dominion" to imply tolling provisions or exceptions to § 2-1401(c)'s predecessor); *see Bowers*, 2021 IL App (4th) 200509, ¶ 43 (observing that legislature may change its mind about time limit for

subsection (b-5) petitions and amend § 2-1401 accordingly). The General Assembly made the considered policy decision *not* to restart, toll, or create any exception to the two-year limit for petitioners seeking relief under subsection (b-5), with full knowledge that § 2-1401(c) would preclude relief to individuals who were sentenced more than two years prior to (b-5)'s enactment. *See Abusharif*, 2021 IL App (2d) 191031, ¶¶ 15-16; *Bowers*, 2021 IL App (4th) 200509, ¶ 36. In doing so, the General Assembly balanced the reasonable public interest in the stability and finality of judgments, *see Madej*, 193 Ill. 2d at 404; *Crowell*, 81 Ill. 2d at 427-28, and the administrative and other costs of reopening judgments older than two years, *see, e.g.*, *Richardson*, 2015 IL 118255, ¶¶ 10-11; *Bowers*, 2021 IL App (4th) 200509, ¶ 36, with its interest in providing a mechanism for some individuals to mitigate their sentences. Therefore, consistent with the General Assembly's clearly stated intent, petitioner's § 2-1401(b-5) petition was time-barred.

The appellate court rested its decision otherwise upon *Warren County Soil & Water Conservation District v. Walters*, 2015 IL 117783, ¶¶ 50-51, and *People v. Cathey*, 2019 IL App (1st) 153118, ¶ 18. *See* A13-14. But neither case supports the court's holding.

In *Warren County*, this Court addressed the extent to which a court may take into account "equitable considerations" when evaluating the *merits* of a § 2-1401 petition, *i.e.*, when determining whether the petitioner has shown "the following elements: (1) the existence of a meritorious defense;

(2) due diligence in presenting this defense; and (3) due diligence in filing the section 2-1401 petition for relief." 2015 IL 117783, ¶¶ 50-51. The Court reaffirmed the longstanding principle that a court may "consider equitable considerations to relax the applicable due diligence standards under the appropriate limited circumstances." *Id.* ¶ 51 (citing *Smith v. Airoom, Inc.*, 114 Ill. 2d 209, 226-29 (1986)). But whether a claim is meritorious and whether it is timely filed are distinct issues; "by its very nature, a statute of limitations works to defeat all claims regardless of whether they are meritorious or not." *People v. Boclair*, 202 Ill. 2d 89, 117 (2002) (Freeman, J., specially concurring). Thus, the showing of due diligence that a petitioner must demonstrate "to obtain relief pursuant to section 2-1401 . . . does not obviate the need to file a section 2-1401 petition within the applicable limitation period." *Madej*, 193 Ill. 2d at 402; *see Bowers*, 2021 IL App (4th) 200509, ¶ 35 (subsection (b-5) petitioner "must both exercise diligence and file her petition within the statute of limitations").

Cathey is also inapposite. There, the appellate court applied the established principle that a statute of limitations is an affirmative defense that is waived when not asserted at the appropriate time. 2019 IL App (1st) 153118, ¶ 18; *see People v. Bernatowicz*, 413 Ill. 181, 183 (1952) (statute of limitations "consistently [has] been treated as an affirmative defense which is waived if not appropriately presented"); *see also People v. Pinkonsly*, 207 Ill. 2d 555, 563-64 (2003) (enforcing waiver of § 2-1401(c)'s statute of limitations).

But, here, the People asserted their statute of limitations defense in their motion to dismiss. C592; A13. And although "fact determinations" may be necessary where a petitioner alleges "delays attributable to disability, duress, or fraudulent concealment," *Cathey*, 2019 IL (1st) 153118, ¶ 18, petitioner raised none of these grounds for tolling in her petition or motion to reconsider, *see* C553-89, 597-606.

In sum, petitioner's § 2-1401 petition did not comply with the statute of limitations, and there is no basis to excuse the untimely filing. Accordingly, the trial court's procedural violation was harmless, and its judgment dismissing the petition should be affirmed. *See Stoecker*, 2020 IL 124807, ¶¶ 26-28 (procedural violation stemming from premature dismissal of § 2-1401 petition harmless because petition was untimely and alleged no basis for avoiding time limit).

B. Petitioner's claim under subsection (b-5) fails as a matter of law.

In addition to being incurably time-barred, petitioner's § 2-1401 petition was meritless because she waived any challenge to the length of her sentence, including claims based on subsequent changes in the law, when she knowingly and voluntarily entered a fully negotiated guilty plea. *See People v. Jones*, 2021 IL 126432, ¶¶ 20-26. Her valid plea also precludes a finding that evidence of domestic violence "would likely" change her sentence. 735

ILCS 5/2-1401(b-5)(5). Thus, as the trial court correctly concluded, C592, 596, the petition lacked a legal basis for relief.

Public Act 99-384 included amendments to two statutes, which together reflect the legislature's policy determination that domestic violence may be a factor that mitigates an offender's culpability for purposes of sentencing. The Act added to the list of statutory mitigating factors that "[a]t the time of the offense, the defendant is or had been the victim of domestic violence and the effects of the domestic violence tended to excuse or justify the defendant's criminal conduct." 730 ILCS 5/5-5-3.1(a)(15) (eff. Jan. 1, 2016). And the Act provided an avenue for some individuals to vacate their sentences (if this mitigating factor was not considered at sentencing) and obtain resentencing. 735 ILCS 5/2-1401(b-5) (eff. Jan. 1, 2016).

Specifically, subsection (b-5) allows a petitioner who was a victim of domestic violence, committed a forcible felony, and asserts that her commission of that felony was related to the prior abuse to bring forth evidence of such abuse after the entry of judgment to mitigate her sentence. *Id.* To obtain a reduced sentence, a petitioner must show, among other things, that her new evidence "is material" and "of such a conclusive character that it would likely change the sentence imposed by the original trial court." *Id.*

But petitioner waived any challenge to the length of her sentence when she entered a fully negotiated guilty plea. "Fundamentally, plea agreements

are contracts," *Jones*, 2021 IL 126432, ¶ 21, governed by contract principles, *People v. Absher*, 242 Ill. 2d 77, 87 (2011). Where, as here, "[t]he plea agreement specifically limited the State from arguing for a sentence from the full range of penalties available under the law," petitioner's "guilty plea and sentence '[went] hand in hand' as material elements of the plea bargain." *People v. Johnson*, 2019 IL 122956, ¶ 43 (alteration in original) (citation omitted). By pleading guilty in exchange for the specific sentence recommendation of 40 years, petitioner waived any claim that her sentence should be less than 40 years. *See id.* ¶¶ 26-32, 38-46; Ill. S. Ct. R. 604(d); *see also Jones*, 2021 IL 126432, ¶ 20 ("'It is well established that a voluntary guilty plea waives all non-jurisdictional errors or irregularities, including constitutional ones.'" (emphasis omitted)).

This waiver encompassed not only known but potential claims that could arise based on favorable legal developments. "Plea agreements, the [United States] Supreme Court has long instructed, may waive constitutional or statutory rights then in existence as well as those that courts may recognize in the future." *United States v. Bradley*, 400 F.3d 459, 463-64 (6th Cir. 2005) (citing *United States v. Ruiz*, 536 U.S. 622, 630 (2002), and *Brady v. United States*, 397 U.S. 742, 757 (1970)) (remaining citations omitted); *see, e.g.*, *United States v. Roque*, 421 F.3d 118, 123 (2d Cir. 2005) ("[Defendant]'s plea was voluntary and was made with full knowledge of federal sentencing law in force at the time. Intervening changes in federal sentencing law do

not provide warrant for withdrawal."). This Court recently applied this principle: "Entering into a contract is generally 'a bet on the future.' 'A classic guilty plea permits a defendant to gain a present benefit in return for the risk that [s]he may have to forgo future favorable legal developments.'" *Jones*, 2021 IL 126432, ¶ 21 (quoting *Dingle v. Stevenson*, 840 F.3d 171, 175 (4th Cir. 2016)) (alterations made by *Jones* omitted). Thus, a valid plea agreement is not "'vulnerable to later attack" because a "'defendant did not correctly assess every relevant factor entering into h[er] decision'" or "'discovers long after the plea has been accepted that h[er] calculus misapprehended . . . the likely penalties attached to alternative courses of action.'" *Id.* ¶ 23 (quoting *Brady*, 397 U.S. at 757); *see also Bradley*, 400 F.3d at 463 ("valid plea agreement . . . requires knowledge of existing rights, not clairvoyance").

Accordingly, "[t]he possibility of a favorable change in the law occurring after [petitioner's] plea agreement [wa]s merely one of the risks that accompanie[d] [her] guilty plea." *United States v. Lockett*, 406 F.3d 207, 214 (3d Cir. 2005). Petitioner evaluated the prosecution's case against her, assessed the potential penalties and evidence in mitigation, and decided to plead guilty and testify against her husband in exchange for a 40-year prison term and the dismissal of other charges. *See generally People v. Fern*, 189 Ill. 2d 48, 55 (1999) (Illinois sentencing court must "consider 'all matters reflecting upon the defendant's personality, propensities, purposes,

tendencies, and indeed every aspect of h[er] life relevant to the sentencing proceeding'"); *see also, e.g.*, *People v. Smith*, 241 Ill. App. 3d 446, 447, 454-57, 464 (2d Dist. 1993) (court considered mitigating evidence of compulsion resulting from domestic abuse in sentencing). This risk-benefit analysis might "seem improvident" more than 16 years later, and after the General Assembly codified domestic violence as a potentially mitigating factor, but it was "perfectly sensible at the time," *Brady*, 397 U.S. at 756-57; indeed, it allowed petitioner to avoid an additional conviction for concealment of a homicidal death and the possibility of being sentenced to natural life, R25-26.

Moreover, petitioner's guilty plea prevents her from establishing that evidence of domestic violence "would likely change the sentence imposed by the original trial court." 735 ILCS 5/2-1401(b-5)(5). The parties reached an agreement based on the information available to them in 2001, and pursuant to that agreement, asked the trial court to sentence petitioner to 40 years in prison. The trial court had discretion to accept or reject the agreement based on the information in the record at that time. *Jones*, 2021 IL 126432, ¶ 27. But it is nearly impossible to determine the probable effect that evidence of domestic violence, weighed against the brutality of a murder in which petitioner struck the victim with a hammer, stabbed him, and then suffocated him in a freezer with the help of her teenaged stepson, would have had on each party's calculus and the court's ultimate sentence.

For example, given the preferences of the victim's family, the prosecution might not have agreed to a sentence of less than 40 years and may have elected to proceed to trial on all charges, after which petitioner's sentence could have been higher than 40 years. *See, e.g.*, *Jones*, 2021 IL 126432, ¶ 25 ("no one, including petitioner, can be certain of the outcome of the case if he had chosen to proceed to trial instead of pleading guilty"); *Wooten v. Thaler*, 598 F.3d 215, 222 (5th Cir. 2010) ("[P]lea bargaining presents a choice captive to one particular moment in time; a defendant's decision to accept an offer risks the state's case getting worse. A rejection risks the case getting better."); *see also generally People v. Stewart*, 121 Ill. 2d 93, 111 (1988) (prosecutor has "'wide discretion . . . to provide individualized justice'" and "'can decline to charge [or] offer a plea bargain'" (citation omitted)); *Weatherford v. Bursey*, 429 U.S. 545, 561 (1977) ("there is no constitutional right to plea bargain; the prosecutor need not do so if he prefers to go to trial"). Because petitioner entered into a negotiated plea agreement, "[i]t would be purely speculative" to conclude, *Jones*, 2021 IL 126432, ¶ 25, that evidence of domestic violence "would likely" have resulted in a sentence of less than the agreed-upon term imposed by the trial court, 735 ILCS 5/2-1401(b-5)(5).

Accordingly, petitioner's knowing and voluntary guilty plea waived any right to "reduce her current [s]entence," C558, based on subsequent changes in law, and precludes a conclusion that evidence of domestic violence would

likely have resulted in a prison sentence of less than 40 years. Because petitioner's subsection (b-5) claim was "untenable as a matter of law," the trial court's error in prematurely dismissing the petition was harmless, and its judgment should be affirmed. *Stoecker*, 2020 IL 124807, ¶ 33.

CONCLUSION

This Court should reverse the appellate court's judgment.

February 16, 2022

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RULE 341(c) CERTIFICATE OF COMPLIANCE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 35 pages.

/s/ Gopi Kashyap
GOPI KASHYAP
Assistant Attorney General

APPENDIX

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2021 IL App (3d) 180344-U

Order filed March 17, 2021

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2021

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 10th Judicial Circuit, Peoria County, Illinois.
Plaintiff-Appellee,	)	
	)	Appeal No. 3-18-0344
v.	)	Circuit No. 01-CF-344
	)	
ANGELA J. WELLS,	)	The Honorable Paul P. Gilfillan, Judge, presiding.
Defendant-Appellant.	)	

JUSTICE DAUGHERITY delivered the judgment of the court.
Justices Holdridge and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's error of failing to give defendant a reasonable opportunity to respond to the State's motion to dismiss her section 2-1401(b-5) petition, which violated defendant's right to due process, could not be said to be harmless.

¶ 2 Pursuant to a negotiated plea agreement, defendant, Angela Wells, pled guilty to first-degree murder (720 ILCS 5/9-1(a)(2) (West 2000)) and was sentenced to 40 years of imprisonment. Defendant filed a petition for relief from judgment pursuant to section 2-1401(b-

5) of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401(b-5) (West 2016)).[1] The State filed a motion to dismiss the petition. The trial court entered an order dismissing defendant's petition on the merits. Defendant appeals, arguing the trial court violated her right to due process by granting the State's motion to dismiss without giving her the opportunity to respond. We vacate the trial court's judgment and remand for further proceedings.

¶ 3 I. BACKGROUND

¶ 4 Defendant and her husband, Ronald Wells, were charged with three counts of first-degree murder (720 ILCS 5/9-1(a)(1), (a)(2), (a)(3) (West 2000)) and one count of concealment of a homicidal death (720 ILCS 5/9-3.1(a) (West 2000)) in connection with the death of Jamie Weyrick.

¶ 5 A. Guilty Plea

¶ 6 On October 29, 2001, defendant entered a negotiated guilty plea to one count of first-degree murder in exchange for a sentence of 40 years in prison and the dismissal of the remaining charges. Under the plea agreement, defendant also agreed to testify truthfully at Ronald's trial.

¶ 7 The factual basis presented for defendant's plea was as follows. On March 18, 2001, Weyrick's mother reported 20-year-old Weyrick missing, indicating that he was last seen on March 14, 2001, at 8:00 p.m. That day, Weyrick had received an income tax refund check for over $2000, which he cashed. Weyrick's girlfriend reported last seeing Weyrick with Ronald at 4:00 p.m. on March 15, 2001, in the area of Flora Avenue and Elizabeth Street (presumably in Peoria, Illinois). Police were informed that someone had used Weyrick's ATM card to withdraw

[1] In the petition, defendant requested for her sentence to be reduced. On appeal, she clarified that her request for sentencing relief included a request for her guilty plea to be vacated.

$10 from his account on March 16, 2001. Police interviewed defendant on April 11, 2001. She indicated that she had seen Wyerick when she picked up Ronald in the area of Flora Avenue and Elizabeth Street on March 15, 2001. On April 14, 2001, police searched defendant and Ronald's home and recovered Weyrick's body from the backyard. Police interviewed defendant again that evening, at which time she stated that Weyrick was already dead when she came home on the night of March 15, 2001, and that Ronald had killed Weyrick. In another interview on April 16, 2001, defendant stated that she was home with her four children when Ronald arrived with Weyrick on the evening of March 15, 2001. Ronald told defendant that he intended to kill Weyrick because Weyrick had a large sum of money. Defendant pleaded with Ronald not to do it, but Ronald ignored her and went upstairs to where Weyrick was waiting. Defendant heard a struggle upstairs. Weyrick ran down the stairs with Ronald in pursuit. Ronald stabbed Weyrick until Weyrick appeared dead. Ronald instructed defendant to help him carry Weyrick downstairs to the basement freezer. Ronald took money from Weyrick and left. Defendant heard noises coming from the freezer and discovered that Weyrick was not deceased, so she hit Weyrick with a hammer. Weyrick continued to breath, so she stabbed him. Defendant summoned her 13-year-old stepson, Destin, to the basement and instructed him to sit on the freezer. They sat there a long time until Weyrick was deceased. Ronald returned home the following day. On that next day, Weyrick's body was removed from the freezer and buried in the backyard. If the case went to trial, the State would call Destin (Ronald's son) to testify. Destin's testimony would corroborate certain aspects of defendant's statement, including that Ronald came home with Weyrick, they went upstairs, there was a struggle, Weyrick was placed in the freezer, defendant summoned Destin, and Destin saw defendant "inflict injuries on Mr. Wells [sic]." An autopsy performed on

April 16, 2001, revealed that the cause of Weyrick's death was multiple blunt force injuries, sharp force injuries, and asphyxia.

¶ 8 The trial court found a factual basis for defendant's guilty plea. Defendant was convicted of one count of first-degree murder (count III) and the remaining three counts of the indictment were dismissed pursuant to the plea agreement.

¶ 9 The trial court then conducted a sentencing hearing. The parties waived the presentence investigation report. The State noted defendant had prior misdemeanor convictions for possession of cannabis and possession of drug paraphernalia. The prosecutor indicated that the victim's family was opposed to the 40-year sentence offered under the plea agreement and, instead, would have preferred that defendant receive a life sentence. Defendant's attorney noted for the record that the defense's expert, a board-certified psychiatrist, opined that defendant was fit and that there was no basis in regard to a major psychiatric illness that would support any type of insanity defense. In allocution, defendant apologized to the victim's family. The trial court sentenced defendant to 40 years of imprisonment in accordance with the plea agreement, noting that a condition of the plea agreement was that defendant truthfully testify at Ronald's trial.

¶ 10 B. Post-Plea Filings

¶ 11 On November 27, 2001, a *pro se* motion to withdraw guilty plea was filed in defendant's name. At a hearing reviewing the motion, defendant's counsel advised the trial court that neither the signature on the motion nor on the supporting affidavit were defendant's signatures and that the documents had been prepared and filed without any input, consent, knowledge, or authority from defendant. Defendant's counsel stated that defendant had told him that the facts alleged were not true and she did not wish to withdraw her guilty plea. Defendant's counsel also indicated that defendant wanted to have no contact or input whatsoever from Ronald, whom she

believed was the author of the documents. Defendant confirmed to the trial court that she had no interest in withdrawing her guilty plea or modifying her sentence. The trial court struck the motion.

¶ 12 In 2006, a power of attorney was filed, purportedly signed by defendant, which gave Ronald the authority to represent defendant. Thereafter, on August 18, 2006, Ronald filed a section 2-1401 petition on defendant's behalf. On September 5, 2006, the trial court found Ronald was not authorized to practice law and had no authority to file pleadings on behalf of anyone other than himself. The trial court struck the petition without prejudice. Ronald filed a motion to reconsider, which was denied. Around the same time in September 2006, Ronald also submitted additional petitions to be filed on defendant's behalf, which were also stricken.

¶ 13 On October 10, 2006, defendant filed both a *pro se* postconviction petition and a *pro se* petition for relief from judgment (filed by and through Ronald but also signed by defendant). On August 13, 2007, the trial court granted the State's motion to dismiss the petitions on the grounds of untimeliness. This court affirmed. *People v. Wells*, No. 3-07-0632 (2008) (unpublished order under Supreme Court Rule 23). On September 20, 2007, the defendant mailed the trial court a motion to reconsider its order of August 13, 2007. On June 17, 2008, the trial court struck the motion to reconsider because defendant had filed a notice of appeal and the motion was untimely. On appeal, this court affirmed, concluding the trial court lacked jurisdiction to rule on the merits of the motion. *People v. Wells*, No. 3-08-0545 (2009) (unpublished order under Supreme Court Rule 23).

¶ 14 On April 15, 2009, the trial court held joint a hearing on defendant and Ronald's joint petition for relief filed on April 1, 2009, and Ronald's separate, but similar, petition filed on October 22, 2008, in which they requested that the trial court vacate its order of June 17, 2008.

The trial court interpreted the petitions as motions to reconsider, concluded it lacked jurisdiction (due to Ronald's pending appeal and defendant's appeal having already been decided), and dismissed the petitions with prejudice. This court affirmed. *People v. Wells*, No. 3-09-0502 (2009) (unpublished order under Supreme Court Rule 23).

¶ 15 On August 3, 2009, defendant filed another petition for relief from judgment, primarily claiming that her conviction was based on the perjured testimony of Destin. Defendant alleged that Destin was threatened and coerced into testifying against Ronald and into making false statements against her. The petition was supported by Destin's affidavit. On July 5, 2011, the trial court denied the petition.

¶ 16 On May 20, 2015, defendant placed *pro se* petition for relief from judgment (and a writ of *habeas corpus*) in the prison mail system for filing, along with a certificate of service indicating that she had also mailed those documents to the circuit clerk and to the State's Attorney's office. The documents were filed-stamped on June 15, 2015. In her *pro se* petition for relief from judgment, defendant alleged that her minor children were illegally interrogated by police in violation of defendant's fourth amendment rights. On August 18, 2105, the trial court found that it did not have jurisdiction to address the petition because defendant did not properly serve the State's Attorney's office with a notice of filing. The trial court denied the petition without prejudice.

¶ 17 C. Section 2-1401(b-5) Petition for Relief

¶ 18 In December 2017, defendant mailed to the circuit clerk for filing a *pro se* petition for relief from judgment pursuant to section 2-1401(b-5) of the Code (735 ILCS 5/2-1401(b-5) (West 2016)). The petition was file-stamped on January 3, 2018.

¶ 19 Section 2-1401(b-5) of the Code provides that a movant may present a meritorious claim for relief pursuant to section 2-1401 if the allegations in the petition establish each of the following by a preponderance of the evidence:

> "(1) the movant was convicted of a forcible felony;
>
> (2) the movant's participation in the offense was related to him or her previously having been a victim of domestic violence as perpetrated by an intimate partner;
>
> (3) no evidence of domestic violence against the movant was presented at the movant's sentencing hearing;
>
> (4) the movant was unaware of the mitigating nature of the evidence of the domestic violence at the time of sentencing and could not have learned of its significance sooner through diligence; and
>
> (5) the new evidence of domestic violence against the movant is material and noncumulative to other evidence offered at the sentencing hearing, and is of such a conclusive character that it would likely change the sentence imposed by original trial court." 735 ILCS 5/2-1401(b-5) (West 2016).

¶ 20 In her petition, defendant noted the crime of first-degree murder was a forcible felony. She also described her history of having been a victim of domestic violence as perpetrated by Ronald. Defendant contended that the crime was related to the domestic violence because she acted out of fear and compulsion that had been "instilled in [her] from [her] home life" and specifically out of fear from "intimidation by the co-defendant/husband of physical violence [she] would suffer and threats of peril." She also contended that she was previously unaware of the significance of the domestic violence and the conclusive character of the domestic violence

evidence. Her petition included numerous attached exhibits, including an affidavit in which she averred that she was "bound by domestic violence since 1990 and was afraid to speak out." Medical records attached to the petition indicated defendant had suffered a fractured toe, a sprained knee, and a fractured finger, which were attributed to working at a nursing home and "stepping in hole." A DCFS form from April 2001 included a statement by defendant's father, indicating that Ronald had physically abused defendant for years but she would not leave him. In what appears to be a request to the then-governor of Illinois for commutation of her sentence, defendant acknowledged that she could have called police at the time of the murder but she was afraid that Ronald was coming back and believed that she "would have met the same fate as [her] victim because imminent bodily harm would have been inflicted upon [her] if [she] didn't do what [her] co-defendant/husband said." Defendant also attached letters from Ronald, in which he acknowledged beating defendant and in which he made negative remarks about defendant.

¶ 21 On February 15, 2018, the trial court gave the State 30 days to respond to defendant's petition. On March 14, 2018, the State filed a motion to dismiss and a certificate of service. The certificate of service indicated that the State served the motion on defendant at the Logan Correctional Center by regular mail the same day. In section I of its motion to dismiss, the State argued that section 2-1401(b-5) was not applicable to defendant because there was no "sentencing" as referred to in subsections (b-5)(3) and (b-5)(5) and defendant waived any claim that her participation in the offense was related to being a victim of domestic violence because she had entered a fully negotiated guilty plea and did not raise the issue in a postplea motion. In section II of the motion, the State argued the petition was untimely and section 2-1401(b-5) did not apply "retroactively" to defendant where that subsection did not exist at the time of defendant's plea. In section III of its motion, the State argued defendant's petition was patently

without merit because defendant failed to show that defendant was a victim of domestic abuse where medical records documented non-abuse reasons for her injuries and defendant failed to show that her participation in the murder was related to being a victim of domestic abuse where the evidence showed that defendant stabbed Weyrick out of her fear of Weyrick and not out of a fear of Ronald.

¶ 22 On March 21, 2018, seven days after the State filed its motion to dismiss and mailed the motion to defendant in prison, without a response from defendant, the trial court entered a written order dismissing defendant's section 2-1401(b-5) petition "on the merits." The trial court entered the order "[u]pon consideration of the pleadings, review of the file contents and the procedural history" of the case. The record gives no indication that a hearing on the motion took place or that defendant was given notice of a proceeding at which the trial court ruled on the State's motion to dismiss.

¶ 23 In its order dismissing defendant's section 2-1401(b-5) petition, the trial court indicated that the petition was "in essence a motion to reduce sentence," which is generally barred after 30 days from the entry of a guilty plea. The trial court also found relief pursuant to sections "2-1401 and 2-1401(b-5) [was] not available to the defendant for those reasons listed in the State's motion to dismiss at section I and II thereof." The trial court further found a lack of due diligence in defendant presenting her claim under section 2-1401 where subsection (b-5) had become effective on January 1, 2016, but defendant did not file her claim until almost two years later. The trial court also noted that defendant had filed a petition for relief from judgment on June 15, 2015, which was denied without prejudice for lack of service on the State but defendant did not timely refile her petition thereafter. The trial court indicated in its written order that the petition

was "dismissed on the merits, no legal basis existing to support same" and "[t]his is a final judgment."

¶ 24 Defendant filed a motion to reconsider. In her motion to reconsider, defendant acknowledged that a petition brought pursuant to section 2-1401 must be brought within two years after the entry of the order or judgment. She contended, however, that it would be "fundamentally unfair" to deny her the ability to file a petition for relief from judgment pursuant to section 2-1401(b-5) in light of the large role domestic violence played in her conviction. She stated in the motion there had been "compulsion and duress" from an intimate partner, noting that Ronald had a very extensive criminal history and a domestic abuse charge in his background. Defendant requested that the trial court reinstate her petition and grant her a hearing to present mitigating evidence and subpoena witnesses. The trial court denied defendant's motion to reconsider.

Defendant appealed.

¶ 25 II. ANALYSIS

¶ 26 On appeal, defendant argues that her petition set forth a meritorious claim for relief from judgment under section 2-1401(b-5) of the Code. She also contends that her right to due process was violated where the trial court failed to give her an opportunity to respond to the State's motion to dismiss her petition. The State acknowledges that the trial court prematurely dismissed defendant's petition, thereby denying defendant due process, but contends that the error was harmless because her petition had no merit.

¶ 27 Section 2-1401 establishes a statutory procedure that allows for the vacatur of a final judgment that is older than 30 days. 735 ILCS 5/2-1401 (West 2016). "[A] section 2-1401 petition can present either a factual or legal challenge to a final judgment or order." *Warren*

County Soil & Water Conservation District v. Walters, 2015 IL 117783, ¶ 31. A fact-dependent challenge is "resolved by considering the particular facts, circumstances, and equities of the underlying case." *Id.* ¶ 50. In such fact-dependent challenges to a final judgment or order, the petitioner "must set forth specific factual allegations supporting each of the following elements: (1) the existence of a meritorious defense; (2) due diligence in presenting this defense; and (3) due diligence in filing the section 2-1401 petition for relief." (Emphasis omitted.) *Id.* ¶ 51. "When the facts supporting the section 2-1401 petition are challenged by the respondent, a full and fair evidentiary hearing should be held." *Id.* "[T]he trial court may also consider equitable considerations to relax the applicable due diligence standards under the appropriate limited circumstances." *Id.* "The quantum of proof necessary to sustain a section 2-1401 petition is a preponderance of the evidence, and the circuit court's ultimate decision on the petition is reviewed for an abuse of discretion." *Id.* If a section 2-1401 petition raises a purely legal issue that does not involve a factual dispute and a judgment is entered on the pleadings or the petition is dismissed for failure to state a cause of action, the reviewing court applies a *de novo* standard of review. *Id.* ¶¶ 47-48.

¶ 28 In this case, the trial court ruled on the State's motion to dismiss seven days after it was mailed to defendant and filed with the court, without giving defendant an opportunity to respond. The State concedes that this premature dismissal of defendant's section 2-1401(b-5) petition was a violation of defendant's right to due process. See *People v. Stoecker*, 2020 IL 124807, ¶ 20 ("Illinois courts have recognized that basic notions of fairness dictate that a petitioner be afforded notice of, and a meaningful opportunity to respond to, any motion or responsive pleading by the State"); *People v. Rucker*, 2018 IL App (2d) 150855 (petitioner was deprived of his right to due process when the trial court granted the State's motion to dismiss his petition for

relief from judgment before he had an opportunity to meaningfully respond to the State's motion); *People v. Bradley*, 2017 IL App (4th) 150527, ¶ 16 ("due process does not allow a trial court to grant a motion to dismiss a complaint without allowing the opposing party notice and a meaningful opportunity to be heard"). The State contends, however, that the error was harmless because defendant failed to meet the timeliness requirement set forth in section 2-1401(c) of the Code for filing the petition. The State further contends, alternatively, that the error was harmless because there is "no chance" the trial court would have changed the imposed sentence of 40 years of imprisonment due to the "ghoulish and heinous nature" of the crime.

¶ 29 The procedural due process violation in this case—the trial court failing to give defendant a reasonable opportunity to respond to the State's dispositive motion and notice prior to the dismissal of her petition—is subject to a harmless error review. *Stoecker*, 2020 IL 124807, ¶¶ 23, 25. The impact of such an error is harmless if the claim was "procedurally defaulted and patently incurable as a matter of law and [if] no additional proceedings would have enabled [the petitioner] to prevail on [the] claim for relief." *Id.* ¶ 26.

¶ 30 Under section 2-1401(c), a petition for relief from a judgment must be filed not later than two years after the entry of the order or judgment. 735 ILCS 5/2-1401(c) (West 2016). Section 2-1401, however, provides for an exception to the time limitation for legal disability and duress or if the ground for relief was fraudulently concealed. 735 ILCS 5/2-1401(c) (West 2016) ("[t]ime during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years"). Also, a void judgment may be attacked at any time through a section 2-1401 petition. *People v. Dodds*, 2014 IL App (1st) 122268, ¶ 19.

¶ 31 Here, the section 2-1401(b-5) petition was filed over 14 years after the expiration of the two-year limitation period under the statute. The State raised the two-year limitation period for filing a section 2-1401 petition in its motion to dismiss. See *People v. Pinkonsly*, 207 Ill. 2d 555, 562-63 (2003) (timeliness under section 2-1401 is an affirmative defense). Defendant does not contend that the judgment entered in 2001 was void. See *Stoecker*, 2020 IL 124807, ¶ 28 (there are only two circumstances in which a judgment will be considered void: (1) when a court lacked personal or subject-matter jurisdiction; or (2) when it is based on a statute that is facially unconstitutional and void *ab initio*). Rather, defendant contends, in essence, that it would be inequitable to apply the two-year limitation period to her subsection (b-5) petition because she could not raise a subsection (b-5) claim in a section 2-1401 petition prior to January 1, 2016 (the effective date of subsection (b-5)) and she did not appreciate the impact of the domestic violence. She also contends she was diligent in raising this claim and in filing the petition because, as she averred in her petition, she was unaware of the mitigating nature of her history of domestic violence. Defendant additionally contends that her petition was timely because she filed it within two years of subsection (b-5) becoming effective on January 1, 2016.

¶ 32 At this juncture, we cannot say that the trial court's error in prematurely dismissing defendant's 2-1401(b-5) petition "on the merits" as a final order, without giving defendant an opportunity to reasonably respond to the State's motion to dismiss, was harmless. See *Stoecker*, 2020 IL 124807, ¶ 26. Defendant was deprived of an opportunity to request to amend her petition or to respond to the State's motion to dismiss so that she could assert and develop the above arguments. See *Warren County*, 2015 IL 117783, ¶¶ 50-51 (in resolving a fact-dependent section 2-1401 petition, the trial court must consider the particular facts, circumstances, and equities of the underlying case; "the trial court may also consider equitable considerations to relax the

applicable due diligence standards *** ”); *People v. Cathey*, 2019 IL (1st) 153118, ¶ 18 (the application of the section 2-1401(c) limitations period “requires a court to make fact determinations because exceptions are allowed for delays attributable to disability, duress, or fraudulent concealment”). We, therefore, vacate the circuit court’s order dismissing defendant’s section 2-1401(b-5) petition on the merits and remand for further proceedings.

¶ 33 III. CONCLUSION

¶ 34 For the reasons stated, the judgment of the circuit court of Peoria County is vacated, and the cause is remanded for further proceedings.

¶ 35 Vacated and remanded.

In the Circuit Court of the 10TH Judicial Circuit
PEORIA County, Illinois
(Or in the Circuit Court of Cook County).

People of the State of Illinois)
)
v.) No. 01-CF-344 -2
)
ANGELA WELLS)
Defendant/Appellant

NOTICE OF APPEAL

An appeal is taken from the order of judgment described below:

1) Court to which appeal is taken: 10TH JUDICIAL CIRCUIT

2) Name of appellant and address to which notices shall be sent:

Name: ANGELA WELLS

Address: P.O. BOX 1000, PEORIA, ILLINOIS 62656

3) Name and address of appellant's attorney on appeal:

Name: N/A

Address: N/A

If appellant is indigent and has not attorney, does he want one appointed?

YES

4) Date of judgment order: MAY 15, 2018

5) Offense of which convicted: FIRST DEGREE MURDER

6) Sentence: 40 YEARS

7) If appeal is not from a conviction, nature of order appealed from:

PETITION FOR RELIEF OF JUDGMENT/ DOMESTIC VIOLENCE

Signed: Angela Wells
(May be signed by appellant, attorney for appellant, or clerk of circuit court)

IN THE

CIRCUIT COURT OF THE TENTH JUDICIAL OF ILLINOIS

PEORIA COUNTY

PEOPLE OF THE STATE OF ILLINOIS	)	
Plaintiff/Petitioner	)	
	)	
Vs.	)	No. **01-CF-344 -2**
	)	
ANGELA WELLS	)	
Defendant/Respondent	)	

NOTICE OF FILING / PROOF OF SERVICE

TO: **THIRD DISTRICT**
1004 COLUMBUS STREET
OTTAWA, ILLINOIS 61350

TO: **ROBERT M. SPEARS**
CLERK OF THE CIRCUIT COURT
324 MAIN STREET
ROOM G-22
PEORIA, ILLINOIS 61602

PLEASE TAKE NOTICE that on 5 / 23 / 18, I placed the attached or enclosed documents in the institutional mail at Logan Correctional Center properly addressed to the parties listed above for mailing through the United States Postal Service.

DATED: 5 / 23 / 18

/s/ Angela Wells
Name: Angela Wells
IDOC #: R36962

Logan Correctional Center
1096 1350th Street
PO Box 1000
Lincoln, Illinois 62656

OFFICIAL SEAL
DEANNA A. BIGGER
Notary Public - State of Illinois
My Commission Expires 10/22/2019

Subscribed and Sworn to Before me this
23 day of May, 2018

Notary Public

Revised September 2009

CAUSE NO. 01-CF-00344-2

The State of Illinois

VS

WELLS, ANGELA JEANETTE

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CAUSE NO. 01-CF-00344-2

The State of Illinois

VS

WELLS, ANGELA JEANETTE

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APPELLATE COURT 3RD DISTRICT

CAUSE NO. 01-CF-00344-2

The State of Illinois

VS

WELLS, ANGELA JEANETTE

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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On February 16, 2022, the **Brief and Appendix of Respondent-Appellant People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, which provided notice to the following registered email address:

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