2026 IL App (1st) 250284-U
No. 1-25-0284
Order filed November 23, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

FIRST DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, Respondent-Appellee,

v.

LORENZO WILSON, Petitioner-Appellant.

Appeal from the Circuit Court of Cook County.
Honorable Charles P. Burns, Judge, Presiding.
No. 07 CR 14511

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Ellis and Justice Howse concurred in the judgment.

ORDER

¶ 1 *Held*: Postconviction petitioner who was 18 years old at the time of offense did not overcome the presumption that he received reasonable assistance from counsel on a claim that his 75-year sentence violated the proportionate penalties clause of the Illinois Constitution as-applied. Ill. Const. 1970, art. I, § 11.

¶ 2 Postconviction petitioner Lorenzo Wilson appeals following the trial court's dismissal of his successive postconviction petition following a third-stage hearing. On appeal, petitioner argues that his postconviction counsel failed to provide reasonable assistance by not adequately substantiating an as-applied claim that his 75-year sentence imposed for first degree murder committed at age 18 violated the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 11). We conclude that petitioner has failed to rebut the presumption that he

received reasonable assistance that arises from counsel's filing of a certificate under Illinois Supreme Court Rule 651(c) (eff. July 1, 2017). Counsel's filing of such certificate without amending the *pro se* petition leads us to presume that counsel's investigation identified no good-faith basis for amending this claim, and petitioner fails on appeal to cite any specific facts or evidence that counsel could have included on this point but did not. Accordingly, we affirm.

¶ 3 BACKGROUND

¶ 4 In our decision on direct appeal, we set forth a detailed account of the trial evidence that led to petitioner's conviction for first degree murder and armed robbery for which he was sentenced to concurrent terms of 75 years in prison for murder and 20 years for armed robbery. See *People v. Wilson*, 2012 IL App (1st) 101038.

¶ 5 In summary, petitioner was tried simultaneously with codefendant Erika Ray before separate juries. The trial evidence showed that on June 14, 2006, Ray had been fired from her job as a waitress at a Leona's restaurant in the Hyde Park neighborhood of Chicago after getting into a disagreement with her manager, Corey Ebenezer, about her ability to handle serving a large party by herself. Ray recruited petitioner, who was then 18 years old, and her cousin Paris Gosha to go to Leona's to beat up Ebenezer in retaliation for getting her fired. The three of them, along with Gosha's younger brother DJ and another friend named Anthony Macon, drove to Leona's and waited in Ray's car for the restaurant to close. Petitioner, Gosha, Macon, and DJ ultimately went inside through the back entrance. They found Ebenezer, and petitioner pointed a pistol at Ebenezer's face while Gosha took money from the cash register. A struggle ensued between petitioner and Ebenezer in which a gunshot was fired. After the struggle was broken up, Ebenezer attempted to stand up but slipped and fell while doing so. Petitioner then fired another shot at him while standing over him. Ebenezer died from the injuries sustained in the shooting. The following

day, petitioner fled to Mississippi with his great uncle Charles Wilson and stayed there and in Florida for several months until his eventual arrest.

¶ 6 Petitioner's sentencing hearing occurred in March 2010. The presentence investigation (PSI) report reviewed by the trial court showed that petitioner had come from an intact home with both a mother and a father living in a single-family residence. It reflected petitioner's statement that he had experienced a good childhood and was raised in a stable environment. He reported no history of abuse and stated he had a good relationship with his siblings. He had never been treated for any psychological problems and had no physical problems. He had no criminal history or gang involvement. He graduated from high school.

¶ 7 In mitigation, petitioner's counsel urged the court to focus on petitioner's rehabilitative potential. Citing factors included his close-knit family, work in construction with his father since the age of 12, lack of criminal background, graduation from high school, and plans to attend college, counsel urged that petitioner be viewed as "more equipped than just about any other defendant who is before you on a murder charge, Judge, to get out and participate productively in society." Petitioner spoke in allocution and apologized to Ebenezer's fiancée and to his own family.

¶ 8 In sentencing petitioner, the trial court recognized that there were various mitigating factors in his case, but it also viewed the killing of Ebenezer as "a senseless and just horrific crime that the defendant has committed." It found that petitioner made "made a very conscious decision to bring this gun with him and to be ready, willing, and able to use it at any opportunity that he in his state of mind felt presented itself." The trial court stated that he was subject to a sentence between 45 years and life, and it found the appropriate sentence to be 75 years in the Illinois Department of Corrections (IDOC) for first degree murder during which he personally discharged a firearm that proximately caused the victim's death. He was also sentenced to 20 years on the

conviction for armed robbery to run concurrently with the sentence for murder.

¶ 9 On direct appeal, this court agreed that the trial court had erred in admitting certain prior statements by petitioner's uncle Charles Wilson but found the error harmless. *Id.* ¶¶ 42, 56. Petitioner also challenged his sentence as excessive on the grounds that the trial court failed to give adequate consideration to his young age and other mitigating factors including his lack of criminal history, educational accomplishments, and work history. *Id.* ¶ 60. At the State's request in this appeal, we take judicial notice of the arguments in petitioner's brief on direct appeal. Although petitioner did not explicitly challenge his sentence as unconstitutional, he cited the proportionate penalties clause of the Illinois Constitution and its requirement that a sentence take into account both the seriousness of the offense and a defendant's rehabilitative potential. See Ill. Const. 1970, art. I, § 11. He argued that by "failing to consider [his] age as a mitigating factor, the trial court neglected its constitutional duty to sentence defendants with an eye towards returning them to useful citizens." He also argued that his sentence exceeded his life expectancy and, being "more than the equivalent of natural life, negates the constitutional directive of returning offenders to useful citizenship." He further cited a series of cases, including *People v. Clark*, 374 Ill. App. 3d 50, 73-75 (2007), and *People v. Moldonado*, 240 Ill. App. 3d 470 (1992), in which the sentences of young adult offenders were reduced based on trial courts' failure to consider mitigating factors of youth, lack of prior criminal history, and educational accomplishments.

¶ 10 In rejecting petitioner's argument, this court first noted that the sentence was within the statutory range for first degree murder and required a mandatory enhancement of 25 years to natural life due to the jury's finding that petitioner had personally discharged the firearm that caused Ebenezer's death. *Wilson*, 2012 IL App (1st) 101038, ¶ 62. This court then reasoned that the trial court had taken into consideration that his lack of criminal history, educational

achievements, and apology were mitigating. *Id.* ¶ 63. We found no basis for concluding that the trial court had failed to consider petitioner's age as a mitigating factor, noting that the trial court had "reviewed the presentence investigation report containing defendant's age and heard defense counsel compare defendant's age upon release under various sentences." *Id.* But this court also reasoned that the trial court had balanced these mitigating factors against the seriousness of the crime, which it had characterized as a " 'senseless and just horrific' " crime in which " 'it didn't take a whole lot from what the evidence shows' " for petitioner to have shot Ebenezer. *Id.* ¶ 64. Accordingly, we concluded that the trial court had appropriately considered all aggravating and mitigating factors and that the sentence it imposed was not an abuse of its discretion. *Id.* ¶ 65.

¶ 11 In 2013, petitioner filed an initial postconviction petition through counsel. It raised various claims of denial of due process and ineffective assistance of trial counsel arising from whether benefits had been given to Charles Wilson or Anthony Macon in exchange for their testimony; nondisclosure of Charles Wilson's criminal record to the jury; failure to challenge Charles Wilson's credibility; failing to appropriately object to certain testimony by Paris Gosha or impeaching him; and not objecting concerning a slang term for robbery. It also raised a claim that the sentence for murder be vacated and petitioner resentenced because it may have been influenced by the sentence for armed robbery that was imposed under an unconstitutional statute. The trial court summarily dismissed all claims as frivolous and patently without merit. Petitioner appealed only as to a claim of ineffective assistance of trial counsel in failing to challenge Charles Wilson's credibility. We affirmed summary dismissal. *People v. Wilson*, 2016 IL App (1st) 142011-U, ¶ 29.

¶ 12 On May 28, 2020, petitioner initiated the proceedings at issue when he filed *pro se* a motion for leave to file a successive postconviction petition along with the proposed successive petition. In it, he raised a claim that his 75-year sentence imposed for a crime he committed at age

18 violated the proportionate penalties clause of the Illinois Constitution as well as the Eighth Amendment's ban on excessive punishment under the principles set forth in *Miller v. Alabama*, 567 U.S. 460 (2012). He argued that his sentence was "unsurvivable" because his life expectancy was only 54 years, thus depriving him of any meaningful chance of being restored to useful citizenship as required by the proportionate penalties clause.

¶ 13 Other than his age at the time of offense and the length of his sentence, no other facts specific to petitioner or his personal circumstances were pled in the *pro se* petition. Instead, his 27-paragraph petition was comprised of lengthy quotations taken from two cases and a law review article. The first such quotation came from *People v. House*, 2019 IL App (1st) 110580-B, ¶ 55, *rev'd in part, vacated in part*, 2021 IL 125124, which in turn quoted two articles for the proposition that emerging research into juvenile brain development and psychology shows that 18-year-olds are more similar to adolescents than to fully mature adults in their susceptibility to peer pressure, ability to consider the consequences of their actions, and volatility. The ongoing development of young adults' brains after age 18 means that offenders that age have a high capacity for reform and rehabilitation.

¶ 14 Petitioner's second lengthy quotation was comprised of excerpts from a 2016 law review article also focused on science showing that brain development continued after age 18 and justified extending various sentencing protections available to juveniles to offenders over age 18. See Alexandra O. Cohen et al., *When Does a Juvenile Become an Adult? Implications for Law and Policy*, 88 Temple L. Rev. 769, 771, 785-88 (2016).

¶ 15 Petitioner's third lengthy quotation came from the later-vacated decision in *Cruz v. United States*, No. 11-cv-787, 2018 WL 1541898 (D. Conn. Mar. 29, 2018), *vacated*, 826 Fed. Appx. 49 (2d Cir. 2020). There the district court, after conducting an evidentiary hearing at which

Dr. Laurence Steinberg testified about the status of scientific research on brain development into young adulthood, ruled as a matter of law that " 'the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole' for offenders who were 18 years old at the time of their crimes." *Cruz*, 2018 WL 1541898, *25. The quotations from *Cruz* set forth by petitioner focused on Dr. Steinberg's testimony, the gist of which was that brain science showed that the factors of impetuosity, susceptibility to peer pressure, and capacity for rehabilitation that justify greater sentencing protections for juvenile offenders apply equally to offenders who are 18 years old at the time of offense. *Id.* at *23-24. Petitioner attached five articles quoted in his petition and cited within these cases. And he cited the recent enactment of legislation in Illinois establishing parole review after 20 years for offenders sentenced after June 1, 2019, for first degree murder committed prior to the age of 21. See 730 ILCS 5/5-4.5-115(b) (West 2020). He requested to be resentenced in accordance with these considerations.

¶ 16 No action appears to have occurred on the petition until April 20, 2021, when privately retained counsel filed an appearance on petitioner's behalf and the successive petition was docketed for second stage proceedings without discussion of allowing leave to file. On September 20, 2022, petitioner's counsel filed an amended certificate pursuant to Illinois Supreme Court Rule 651(c) (eff. July 1, 2017). Counsel stated in that certificate that he had conducted a diligent investigation of the record in the criminal case by reading the trial record and the briefs and proceedings on appeal, that he had consulted with petitioner to ascertain his contentions of deprivations of constitutional rights, and that the *pro se* petition adequately presented petitioner's contentions and submissions. Accordingly, no amendments were made to the *pro se* petition.

¶ 17 On October 24, 2022, the State filed a motion to dismiss. Its primary basis was that the petition failed to establish cause and prejudice for pursuing sentencing challenges in a successive

postconviction petition. See 725 ILCS 5/122-1(f) (West 2020). The State argued that petitioner had in fact raised a challenge on direct appeal as to whether the trial court had adequately considered his age and related factors in imposing such a lengthy sentence, and thus his present claim was barred by *res judicata*. It also argued that because the successive petition set forth no facts showing how the evolving science of juvenile maturity and brain development applies to petitioner's specific facts and circumstances, which was necessary to mount an as-applied challenge under the proportionate penalties clause, petitioner could not establish prejudice from his inability to bring this claim at an earlier time. It also argued that no viable Eighth Amendment claim existed, as *Miller* is inapplicable to an offender who was over the age of 18 at the time of offense.

¶ 18 Petitioner's counsel did not file any written response to the State's motion to dismiss. Oral argument on the motion occurred on October 10, 2023. Petitioner's counsel argued that despite there being no independent expert assessment of petitioner, the articles cited in and attached to his *pro se* petition warranted denial of the motion to dismiss. Counsel confirmed for the trial court that he was not presenting evidence of any neurological studies or other facts specific to petitioner, stating that "not everybody has the resources to do that, Judge."

¶ 19 The trial court took the matter under advisement and, on March 27, 2024, it ruled that the successive petition be advanced for a third-stage hearing. The trial court's comments indicated that its ruling was not based on the merits of petitioner's claim but instead upon this court's then-recent decision in an appeal involving petitioner's codefendant Erika Ray. See *People v. Ray*, 2023 IL App (1st) 211587-U. Ray's case did not involve sentencing issues. Rather, an issue had first arisen at the third-stage evidentiary hearing on Ray's initial postconviction petition about whether a prosecutor had knowingly put on perjured testimony that money had been taken from the cash register at Leona's on the night at issue. On appeal, Ray argued that her own postconviction counsel

had provided unreasonable assistance for failing to investigate and discover publicly available evidence suggesting that the same prosecutor had done this in another case, which could have been used for impeachment. *Id.* ¶ 64. Given the seriousness of the allegations and in the interests of judicial economy, this court remanded Ray's case for a new evidentiary hearing on that specific issue rather than requiring it be raised in a successive postconviction petition. *Id.* ¶¶ 71-73. Thus, in the present case, the trial court stated that "since Erika Ray was remanded to allow *** the petitioner to present additional information, I think I got to do it on this case too."

¶ 20 No action was taken in petitioner's case concerning the issue that arose in Ray's case and led us to remand for a new hearing. Instead, the matter proceeded to a third stage hearing on petitioner's sentencing claim only. At the final court appearance prior to that hearing, petitioner's counsel confirmed that after discussion with his client, no testimony would be presented by petitioner or any other witness on his behalf. Instead, counsel confirmed that he would rest on the successive petition that petitioner had filed.

¶ 21 At the hearing itself, petitioner's counsel introduced into evidence the five articles that were attached to the *pro se* petition. Counsel argued that but for the mischance of his being four months over the age of 18 at the time of this offense, petitioner would clearly have been entitled to resentencing. Counsel argued that based upon the articles attached to his *pro se* petition, that same relief should be extended to petitioner. The trial court stated to petitioner's counsel, "You are not arguing proportionate penalties as applied; is that correct?" Counsel responded, "That is correct. I'm not in a position to do that." In response, the State argued that the trial court should deny the successive petition because the claim raised was "essentially the same claim" that had been raised and rejected on direct appeal.

¶ 22 The trial court issued its ruling on February 5, 2025. It first ruled that any claim under

the Eighth Amendment failed because petitioner was over the age of 18 at the time of offense. It ruled that petitioner failed to establish cause to raise a proportionate penalties claim in a successive postconviction petition because the appellate court had held on direct appeal that the trial court thoroughly considered the mitigating and aggravating factors in determining his sentence. Also, because a youth-based proportionate penalties claim has always been available, citing to *Miller* and the cases that followed it does not establish cause for failing to raise this claim in an initial petition. It ruled that petitioner had failed to establish prejudice from any inability to raise this claim at an earlier time because "the court did not receive any evidentiary support for petitioner's claim that he was the functional equivalent of a juvenile at the time of the offense." The court found he had not demonstrated that his sentence shocked the moral sense of the community or that a 75-year sentence facially violated the proportionate penalties clause. The trial court thus dismissed his successive petition for postconviction relief for failure to show a substantial constitutional violation by a preponderance of the evidence. This appeal followed.

¶ 23 ANALYSIS

¶ 24 Petitioner does not appeal the merits of the trial court's ruling dismissing his petition following the third-stage hearing. Instead, his argument on appeal is that his retained postconviction counsel did not provide him with reasonable assistance because counsel failed to "adequately substantiate" his *pro se* claim that his 75-year *de facto* life sentence for an offense he committed at age 18 violates the proportionate penalties clause of the Illinois Constitution as applied to him. Petitioner contends that the presumption of reasonable assistance that arises due to counsel's filing of a certificate under Illinois Supreme Court Rule 651(c) (eff. July 1, 2017) was affirmatively rebutted because the record shows counsel failed to make three amendments to his *pro se* petition that were necessary for the proper presentation of his claim: (1) information about

his "personal characteristics to show that his brain development was similar to a juvenile, and that the circumstances of the offense were motivated by his youthful characteristics," (2) the addition of a claim that trial counsel and direct appellate counsel had been ineffective because they did not argue that his sentence violated the proportionate penalties clause, and (3) argument showing cause for not raising this claim in his initial postconviction petition.

¶ 25 Initially, the State contends that Rule 651(c) does not apply here because the petition was advanced to the third stage of postconviction proceedings. It contends instead that we should evaluate the assistance provided by counsel under a standard of general reasonableness. See *People v. Pabello*, 2019 IL App (2d) 170867, ¶ 36. However, given the unique circumstances in which this case appears to have been advanced to the third stage for reasons entirely unrelated to the merits of the claim raised and pled in the petition (see *supra* ¶ 19), we accept petitioner's argument to apply the standards of Rule 651(c) and decide whether his counsel unreasonably failed to amend his *pro se* petition at the second stage, which in turn led to a deficient petition being presented on his behalf at the third stage. See *People v. Chambers*, 2025 IL App (4th) 240693-U, ¶ 58 (applying Rule 651(c) standards despite petition being advanced to third-stage hearing).

¶ 26 The Post-Conviction Hearing Act (725 ILCS 5/122-1 *et seq.* (West 2020)) provides a remedy to a criminal defendant whose federal or state constitutional rights were substantially violated at his or her original trial or sentencing hearing. *People v. Pitsonbarger*, 205 Ill. 2d 444, 455 (2002). Postconviction cases are adjudicated in three stages. This case, which involves a successive postconviction petition, was advanced past the leave-to-file stage (725 ILCS 5/122-1(f) (West 2020)) to the second stage. At the second stage, counsel is generally appointed to represent a petitioner who is indigent or, as occurred here, the petitioner may retain private counsel. *Id.* § 122-4. An attorney who takes on the representation of a petitioner who has previously filed a *pro se*

petition is required by Rule 651(c) to file a certificate or other showing that counsel has (1) consulted with the petitioner to ascertain his or her contentions of deprivation of constitutional rights, (2) examined the record of the trial proceedings, and (3) "made any amendments to the petitions filed *pro se* that are necessary for an adequate presentation of petitioner's contentions." Ill. S. Ct. R. 651(c) (eff. July 1, 2017). After counsel has undertaken these duties and filed the Rule 651(c) certificate, the State may file a motion to dismiss the petition. *People v. Marshall*, 375 Ill. App. 3d 670, 680 (2007). Ordinarily, a third-stage evidentiary hearing on the merits is allowed "only where the allegations of the postconviction petition make a substantial showing that the defendant's constitutional rights have been violated." *Id.* at 680-81.

¶ 27 The claim of constitutional violation that petitioner raised here was that his 75-year sentence for an offense he committed at the age of 18 violates the requirement of the Illinois Constitution's proportionate penalties clause that all penalties "shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. Although the State's point is well-taken that the claim pled in his *pro se* petition could be viewed as only a "facial" challenge to the constitutionality of imposing such lengthy sentences on any 18-year-old, we will accept petitioner's assertion on appeal that his intent was to challenge his specific sentence and thus make an "as applied" challenge. See *People v. Harris*, 2018 IL 121932, ¶ 38 (distinguishing facial and as-applied constitutional challenges). We assume that any reasonable counsel would at least investigate the availability of raising an as-applied challenge in this situation.

¶ 28 Petitioner's argument that counsel unreasonably failed to amend his petition arises from our supreme court's recognition that an offender age 18 or slightly older at the time of an offense is "not necessarily foreclosed" from raising an as-applied claim under the proportionate penalties

clause to establish that "the evolving science on juvenile maturity and brain development" that underpinned *Miller v. Alabama*, 567 U.S. 460 (2012), along with the accompanying changes in law and societal attitudes concerning the sentencing of juveniles, applies in that individual's case and warrants his or her resentencing despite the fact that he or she was no longer a juvenile at the time of offense. See *Harris*, 2018 IL 121932, ¶¶ 45-48 (citing *People v. Thompson*, 2015 IL 118151, ¶¶ 38, 44). Further, it has held that a court cannot resolve an as-applied proportionate penalties claim of this nature without a factual record containing "evidence relating to how the evolving science on juvenile maturity and brain development applies to [the young adult offender's] specific facts and circumstances." *People v. House*, 2021 IL 125124, ¶ 29.

¶ 29 However, the appellate court has recognized that while the holdings of *Harris* and *House* address the need for a detailed factual record before a trial court can rule upon this kind of as-applied proportionate penalties challenge, they do not "enlarge the duties of postconviction counsel" owed to a petitioner whom such counsel is tasked with representing. *People v. Riddlespriger*, 2026 IL App (5th) 240746, ¶ 25. It is not required in every case where an attorney is tasked with representing a postconviction petitioner whose *pro se* petition purports to raise the kind of claim contemplated in cases such as *Harris* and *House* that counsel must seek out or retain an expert witness or must otherwise present scientific evidence about the petitioner in order to provide reasonable assistance. *Id.*; accord *People v. Denham*, 2026 IL App (1st) 241578, ¶¶ 26-28.

¶ 30 "Reasonable" assistance is the standard of legal assistance that petitioners are entitled to receive from their attorneys in postconviction cases, where the constitutional right to counsel no longer applies. *People v. Flores*, 153 Ill. 2d 264, 276 (1992). This is a standard of assistance "significantly lower" than the right to effective assistance that is afforded at trial prior to conviction by the federal and state constitutions. *People v. Custer*, 2019 IL 123339, ¶ 30. This distinction

owes to the differing roles of trial counsel and postconviction counsel. *People v. Owens*, 139 Ill. 2d 351, 364 (1990). At trial, counsel acts as a shield to prevent the presumption of innocence from being stripped away from an accused defendant. *Id.* By contrast, postconviction petitioners have already been stripped of the presumption of innocence and in most cases have also failed to obtain relief on direct appeal. *Id.* at 365. It is the petitioner, rather than the State, who initiates the postconviction proceeding by claiming that constitutional violations occurred at trial. *Id.* Thus, the role of counsel in representing postconviction petitioners is "not to protect them from the prosecutorial forces of the State, but to shape their complaints into the proper legal form and to present those complaints to the court." *Id.*

¶ 31 To ensure that postconviction petitioners receive reasonable assistance, Rule 651(c) delineates three specific duties that postconviction counsel must undertake. *People v. Huff*, 2024 IL 128492, ¶ 22. Counsel is required to certify that he or she (1) has consulted with the petitioner to ascertain his contentions of deprivation of constitutional rights, (2) has examined the record of the proceedings and the trial, and (3) has made any amendments to the *pro se* petition that are necessary to adequately present the petitioner's contentions. *Id.* (citing Ill. S. Ct. R. 651(c) (eff. July 1, 2017)). Amendments that would only further a frivolous or nonmeritorious claim are not "necessary" under the rule. *Id.* Where counsel has filed a facially valid Rule 651(c) certificate, as was done in this case, counsel is presumed to have provided reasonable assistance, and the burden is on the petitioner to rebut that presumption. *Id.* ¶¶ 22-23. And if postconviction counsel files a valid Rule 651(c) certificate and fails to amend a petition, we presume there was no good-faith basis to amend. *Denham*, 2026 IL App (1st) 241578, ¶ 19.

¶ 32 In this case, petitioner's counsel filed a Rule 651(c) certificate in which he certified that he had conducted a diligent investigation by reading the trial record and the briefs and proceedings

on appeal and consulting with petitioner to ascertain his contentions of constitutional deprivations, and that the *pro se* petition adequately presented petitioner's contentions and submissions. Given that counsel certified these facts and made no amendments to the *pro se* petition, we presume there was no good-faith basis to amend it.

¶ 33 Petitioner falls far short of rebutting this presumption. In his appellate brief, he identifies no specific facts or evidence about himself or his circumstances that he is claiming could have been included within an amended petition but were unreasonably omitted. Instead, he asserts generically that his counsel "could have attached [his] school and IDOC records, as well as affidavits from [his] family members and [petitioner] himself supporting how he was more like a juvenile than an adult when he committed the instant offense at age 18." But he states nothing specific about what is contained within these records or could be stated by him or his family members to support this notion. Similarly, he faults his counsel generically for failing to attach "scientific evidence to substantiate that he was developmentally equivalent to a juvenile" and for "not hiring an expert or asking the court to appoint one." But again, he makes no specific assertion about what this evidence would show or what an expert could have said about him. At best, petitioner argues that his counsel should have pointed out how his involvement in Ebenezer's murder and his fleeing the next day to Mississippi with his uncle "reflects the recklessness and impulsiveness of youth, as well as susceptibility to peer pressure."

¶ 34 None of the information above is sufficient to rebut the presumption that no good-faith basis existed for amending petitioner's *pro se* petition to substantiate the kind of as-applied proportionate penalties sentencing claim contemplated in *Harris* and *House*. Other than petitioner's age and the length of his sentence, no facts specific to petitioner or his circumstances were pled in the *pro se* petition. There is no suggestion in his appellate brief that he informed

counsel of any specific evidence or witnesses supporting an as-applied claim that counsel failed to investigate or include.

¶ 35 The general rule is that, "[w]hile post-conviction counsel has an obligation to present a *petitioner's claims* in appropriate legal form, he is under no obligation to actively search for sources outside the record that might support general claims raised in a post-conviction petition." (Emphasis in original.) *People v. Johnson*, 154 Ill. 2d 227, 247 (1993). Instead, it is a petitioner's obligation to inform counsel of specific facts that might support such claims. *Id.* at 247-48. Only if such information is provided would postconviction counsel be obligated to move forward with the claim. *Id.* at 248. Counsel is not obligated to engage in a generalized fishing expedition in search of support for claims raised in a *pro se* petition, nor is counsel obligated to seek out or hire experts to investigate or support such claims. *People v. Williams*, 186 Ill. 2d 55, 61 (1999). These principles apply with equal force in the context of claims by young-adult offenders that their sentences violate the proportionate penalties clause as-applied. See, *e.g.*, *Denham*, 2026 IL App (1st) 241578, ¶¶ 27-29; *Riddlespriger*, 2026 IL App (5th) 240746, ¶ 25; *People v. Butler*, 2025 IL App (1st) 242327-U, ¶ 35; *People v. Dyse*, 2023 IL App (1st) 221180-U, ¶¶ 33-37.

¶ 36 Absent a showing by petitioner, we cannot simply assume there were additional facts and allegations that his counsel could have included in the petition. *People v. Williams*, 2025 IL 129718, ¶ 46. Instead, we find no indication in this case that evidence, scientific or otherwise, existed that counsel could have presented in support of a claim that petitioner's brain development was similar to that of a juvenile at the time of the offense. According to his PSI report, petitioner was a high school graduate who earned Bs and Cs and was planning to attend college. He was raised by two parents in a stable home. He reported working for his father doing construction since the age of 12. We find no indication that he experienced any serious problems such as physical or

mental abuse, parental neglect or abandonment, homelessness, gang involvement, juvenile delinquency, substance abuse, limited educational opportunities, learning disabilities, emotional or psychological difficulties, or any other fact suggesting that he was developmentally stunted at the time of the offense despite being over the age of 18. In fact, it appears that the opposite was true, which led his trial counsel at the sentencing hearing to argue that he was "more equipped than just about any other defendant who is before you on a murder charge, Judge, to get out and participate productively in society." Accordingly, we hold that petitioner has failed to rebut the presumption that no good-faith basis existed for amending his petition to substantiate a youth-based claim that his sentence violated the proportionate penalties clause as-applied.

¶ 37 In addition to not showing a substantive basis for a good-faith amendment, petitioner has also failed to specifically identify any amendment counsel could have made in good-faith to overcome the bar of *res judicata* that would have applied due to petitioner's raising of a youth-based sentencing challenge on direct appeal. In postconviction proceedings, legal issues that a petitioner raised on direct appeal are considered barred by *res judicata*, and issues that could have been raised, but were not, are deemed forfeited. *People v. Haines*, 2021 IL App (4th) 190612, ¶ 18. A petitioner cannot overcome these procedural bars and obtain relief in postconviction proceedings by " 'rephrasing previously addressed issues in constitutional terms.' " *Id.* ¶ 19 (quoting *People v. Franklin*, 167 Ill. 2d 1, 23 (1995)). These principles have been applied to hold that youth-based proportionate penalties sentencing challenges are barred by *res judicata* or forfeiture where the petitioner on direct appeal raised a claim that the trial court imposed an excessive sentence that did not account for youth as a mitigating factor, even where the direct appeal argument did not mention the proportionate penalties clause or preceded *Miller* and the developments in juvenile brain research that underpinned its holding. See *id.* ¶¶ 16-22; *People v. LaPointe*, 2018 IL App

(2d) 160903, ¶¶ 62-63; *People v. Gomez*, 2024 IL App (1st) 231355-U, ¶¶ 40-58.

¶ 38 In this case, the Rule 651(c) certificate that counsel filed went beyond that rule's basic requirements and contained specific mention that counsel had reviewed the briefs and proceedings on appeal. We believe there was likely significance in this statement by counsel. As we set forth in greater detail above (*supra* ¶ 9), petitioner's argument on direct appeal made multiple references to the proportionate penalties clause and contended that the trial court's failure to consider his youth in mitigation resulted in an excessive sentence that did not comport with the requirements of that constitutional provision. Accordingly, we presume that postconviction counsel determined that no amendment could be made in good faith to the *pro se* petition that would overcome the procedural bars of *res judicata* or forfeiture. Petitioner has suggested no specific argument on appeal that counsel could have made to overcome these procedural bars, and thus we hold that he has failed to overcome the presumption of reasonable assistance for this reason also.

¶ 39 At best, petitioner asserts that his postconviction counsel needed to add a claim of ineffective assistance of trial counsel and direct appellate counsel for failing to raise a youth-based proportionate penalties claim. It is true that a postconviction petitioner asserting a claim that could have been raised on direct appeal can avoid the procedural bar of forfeiture by casting his claims as ineffective assistance of appellate counsel. *People v. Williams*, 2024 IL 127304, ¶ 20. But to establish such a claim, it must be shown under the familiar standards of *Strickland v. Washington*, 466 U.S. 668 (1984), that his attorney's performance was deficient and that he suffered prejudice as a result. *Williams*, 2024 IL 127304, ¶ 22.

¶ 40 Apart from generically asserting on appeal that his postconviction counsel was "duty-bound" to add an ineffective assistance claim, petitioner does not specifically identify what his postconviction counsel should have alleged concerning deficient performance by his prior

attorneys. After all, his direct appellate counsel did raise a youth-based excessive sentencing challenge heavily intertwined with proportionate penalties principles, and petitioner acknowledges that the scientific evidence cited in his postconviction petition was not available at that time. Where petitioner, with the assistance of appellate counsel, fails to articulate with some specificity how the procedural bars of *res judicata* or forfeiture could have been overcome in this case by an ineffective assistance claim, we decline to find that postconviction counsel provided unreasonable assistance by failing to add this claim. See *People v. Profit*, 2012 IL App (1st) 101307, ¶¶ 28-29.

¶ 41 Also, due to petitioner's failure in this appeal to identify any facts or evidence that suggests his *pro se* petition could have been amended to add a substantively meritorious youth-based proportionate penalties claim, we find no reason to address his argument that postconviction counsel was ineffective for failing to amend it to argue "cause" for not raising this claim in his initial postconviction petition. This again implicates a similar matter of petitioner arguing that his counsel needed to make an amendment necessary to overcome procedural default rules, this one stemming from the "highly disfavored" act of petitioner—who had already filed one postconviction petition—attempting to raise a claim in a successive postconviction petition. See *People v. Clark*, 2023 IL 127273, ¶ 39. For a claim that is raised in a successive petition to be considered on its merits, a petitioner traditionally has had to show "cause and prejudice" for failing to raise the claim earlier. See *Pitsonbarger*, 205 Ill. 2d at 459. This rule, as well as the definition of these terms, is set forth in subsection (f) of section 122-1 of the Post-Conviction Hearing Act:

> "Only one petition may be filed by a petitioner under this Article without leave of the court. Leave of court may be granted only if a petitioner demonstrates cause for his or her failure to bring the claim in his or her initial post-conviction proceedings and prejudice results from that failure. For purposes of this subsection (f): (1) a prisoner shows cause by

identifying an objective factor that impeded his or her ability to raise a specific claim during his or her initial post-conviction proceedings; and (2) a prisoner shows prejudice by demonstrating that the claim not raised during his or her initial post-conviction proceedings so infected the trial that the resulting conviction or sentence violated due process." 725 ILCS 5/122-1(f) (West 2020).

¶ 42 While this case was pending on appeal, the General Assembly amended section 122-1 of the Post-Conviction Hearing Act, leaving the above subsection (f) in place but adding a new subsection (g) that bears upon the requirement of demonstrating cause for certain proportionate penalties sentencing claims by young-adult offenders:

> "A petitioner who was convicted of a felony offense committed when that person was under 21 years of age who seeks leave to file a successive post-conviction petition claiming that his or her sentence violates Section 11 of Article I of the Illinois Constitution does not have to demonstrate cause as set forth in subsection (f) of this Section." Pub. Act 104-564, § 5 (eff. July 10, 2026) (adding 725 ILCS 5/122-1(g)).

In this instance, however, we do not need to resolve the question of whether and how this amendment applies to this appeal. Regardless of whether petitioner needs to demonstrate cause, no "prejudice" exists where petitioner has failed to overcome the presumption that no good-faith basis existed for amending his petition to raise this claim.

¶ 43 Where a court concludes that an underlying claim lacks merit and that therefore the petitioner cannot show prejudice from the failure to bring it earlier, the court need not address the issue of cause. *People v. Smith*, 2014 IL 115946, ¶ 37. Here, as discussed above, petitioner has failed to identify any specific fact or evidence, scientific or otherwise, that suggests his brain development was similar to that of a juvenile at the time of the offense such that he could raise a

substantively meritorious proportionate penalties sentencing claim of the kind contemplated in *Harris* and *House*. Thus, even if we were to conclude that petitioner did not have to show cause for failing to bring this claim at an earlier time, it would not be grounds for remand where there is no indication he suffered any prejudice from his earlier inability to do so.

¶ 44 CONCLUSION

¶ 45 The judgment of the trial court dismissing petitioner's successive postconviction petition is affirmed.

¶ 46 Affirmed.