

NOTICE
Decision filed 09/18/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250579-U
NO. 5-25-0579
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

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

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Champaign County.
	)	
v.	)	No. 20-CF-1378
	)	
LAWRENCE P. LEWIS,	)	Honorable
	)	Roger B. Webber,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE CLARKE delivered the judgment of the court.
Justices Barberis and McHaney concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court did not err when it denied the defendant’s *pro se* motion to correct the mittimus, which was not supported by fact or law. Because no argument to the contrary would have arguable merit, this court grants appellate counsel leave to withdraw, and affirms the judgment of the circuit court.
- ¶ 2 The defendant, Lawrence P. Lewis, appeals the judgment of the circuit court of Champaign County that denied his *pro se* motion to correct the mittimus. The defendant’s appointed counsel on appeal, the Office of the State Appellate Defender (OSAD), has concluded that this appeal lacks arguable merit. On that basis, OSAD has filed a motion for leave to withdraw as counsel (see *Pennsylvania v. Finley*, 481 U.S. 551 (1987)), along with a supporting memorandum of law. OSAD served the defendant with notice. This court provided the defendant the opportunity to file a written response to OSAD’s motion. The defendant has not filed a response. This court has

examined OSAD's *Finley* motion and memorandum of law, as well as the record on appeal. This court concludes that OSAD is correct that this appeal lacks arguable merit. Accordingly, we grant OSAD leave to withdraw as counsel, and we affirm the circuit court's judgment.

¶ 3

I. BACKGROUND

¶ 4 On March 14, 2022, the defendant entered a plea of guilty to the charge of armed habitual criminal, a Class X felony. The information by which the defendant was charged with the offense alleged that on December 4, 2020, the "defendant knowingly possessed a firearm, namely [an] American Tactical AR [p]istol, after having been previously convicted of the" following Class 2 felony offenses: (1) manufacture or delivery of a controlled substance, in McClean County case No. 18-CF-171 and (2) unlawful delivery of a controlled substance, in Champaign County case No. 13-CF-496. In exchange for the defendant's plea of guilty, the State agreed to dismiss four additional felony counts pending against the defendant in this case, dismiss three additional felony cases against the defendant, and withdraw and dismiss its petition to revoke probation in another felony case against the defendant. The circuit court stated that the plea agreement would constitute "an open plea, other than the State has agreed to cap their sentencing recommendation at 20 years provided that" the defendant did "not violate any criminal statute of any jurisdiction between today and the date of" sentencing, and provided that the defendant cooperated "with the presentence investigation in the preparation of that report, and" that he appeared at sentencing.

¶ 5 The defendant was admonished as to the rights he was giving up by entering a plea of guilty, and the circuit court made multiple inquiries of the defendant to ensure that the defendant's plea was knowingly, voluntarily, and intelligently made. The defendant was informed that the range of penalties he faced included "a mandatory prison sentence of at least 6 years, up to a maximum of 30 years," which would have to "be served at 85 percent under the truth-in-sentencing

laws,” and which “would be followed by a period of mandatory supervised release of” 3 years. The defendant was further informed that he “could also be ordered to pay a fine up to a maximum of \$25,000.”

¶ 6 As a factual basis for the plea agreement, the State informed the circuit court that if the matter proceeded to trial, the State would call members of the Champaign County Sheriff’s Department, who would testify that on December 4, 2020, they were involved in “an investigation into a shooting.” They would testify that the vehicle that was involved in the shooting fled from officers and ultimately crashed. The officers would testify that “[t]he defendant was one of the individuals [who] fled from that vehicle,” and that when officers searched the vehicle, one of the weapons they recovered was the American Tactical AR pistol the defendant was charged with possessing in the count to which he was entering his plea of guilty. Defense counsel and the defendant stipulated that the State could produce the aforementioned evidence.

¶ 7 The circuit court found that the defendant’s plea was “made knowingly, intelligently, and voluntarily,” and that it was “supported by a factual basis.” The court accepted the plea, then set the matter for sentencing. Thereafter, the circuit court noted that there was a written waiver of his right to a trial by jury, which the court ensured the defendant understood and signed. The court also ensured the defendant was entering the plea of his “own free will,” and that he was not “forced or threatened or coerced *** in any way.”

¶ 8 Following an extensive sentencing hearing held on April 20, 2022, the circuit court sentenced the defendant to “the cap of 20 years.” The defendant received credit for 503 days spent in presentence custody. The circuit court thereafter admonished the defendant of his appeal rights and ensured that he understood those rights and had no questions about them. The defendant did not file a motion to reconsider his sentence, and did not file an appeal.

¶ 9 A little over two years later, on July 29, 2024, the defendant filed, *pro se*, a petition for relief from judgment, as well as an accompanying request for appointed counsel. In the petition, the defendant alleged that one of the predicate felonies underlying his armed habitual criminal conviction in this case was his conviction in case No. 11-CF-1110 for aggravated unlawful use of a weapon (AUUW). The defendant alleged that the offense of AUUW was found unconstitutional in *People v. Aguilar*, 2013 IL 112116, and that therefore his conviction for that offense was void *ab initio*.

¶ 10 On August 14, 2024, the State filed a motion to dismiss the defendant’s petition. Therein, the State contended, *inter alia*, that the defendant’s petition was untimely, and that the defendant’s AUUW conviction was not one of the predicate felonies underlying the defendant’s armed habitual criminal conviction in the present case. The circuit court granted the State’s motion to dismiss, agreeing that the defendant was factually mistaken in his contention that his AUUW conviction was used as a predicate felony in this case. The defendant did not appeal the circuit court’s judgment.

¶ 11 On May 16, 2025, the defendant filed the motion to correct the mittimus (motion) that is the subject of this appeal. In the motion, the defendant alleged that he was entitled, pursuant to Illinois Supreme Court Rule 472 (eff. Feb. 1, 2024) and section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401(West 2024)), to have the mittimus in this case corrected. He stated that he did “not challenge [his] underlying conviction or the factual basis of the plea and sentence, but rather [sought] correction of the mittimus to comply with statutory amendments that are explicitly retroactive and materially alter the sentencing consequences.” Specifically, the defendant contended that Public Act 103-822, which took effect on January 1, 2025, and which renamed the offense of “armed habitual criminal” to “unlawful possession of a firearm by a repeat

felony offender,” was “retroactive” and required that his sentence be served at 50 percent, rather than at 85 percent. He further alleged that the change meant that his term of mandatory supervised release must be corrected to 18 months, rather than 3 years. The defendant contended that section 99 of Public Act 103-822 contained “an explicit retroactivity clause, affirming that the Act’s sentencing modifications apply to all individuals sentenced under the prior version of the statute who remain incarcerated *** on or after January 1, 2025.” He argued that his “current mittimus improperly reflect[ed] an outdated sentencing structure and impose[d] punitive consequences that have since been repealed.” He further argued that “[f]ailing to correct [the mittimus] would amount to the continued enforcement of a legally void sentencing provision.”

¶ 12 On June 10, 2025, the State filed a motion to dismiss. Therein, the State contended that (1) the motion was untimely under section 2-1401, (2) the defendant’s sentence was not “void,” (3) Supreme Court Rule 472 did not provide for sentencing corrections such as that sought by the defendant, (4) the legislative changes in question were not retroactive, and (5) there was no substantive merit to the motion because another amendment to the law provided that the renamed offense of which the defendant was convicted still must be served at 85 percent. On the following day, June 11, 2025, the circuit court filed an order in which it granted the State’s motion to dismiss, agreeing with all of the arguments therein. The present appeal followed.

¶ 13 II. ANALYSIS

¶ 14 In the legal memorandum that accompanies its *Finley* motion to withdraw, OSAD notes the following two potential issues: whether the circuit court erred by (1) denying the defendant’s motion and (2) rendering its decision without first allowing the defendant to respond to the State’s motion to dismiss, thereby denying the defendant procedural due process. However, OSAD

concludes the circuit court did not err in either way, and that, accordingly, both potential issues lack arguable merit. For the following reasons, we agree.

¶ 15 As OSAD first points out, the plain language of Illinois Supreme Court Rule 472(a) (eff. Feb. 1, 2024) lists the limited sentencing errors that a circuit court retains jurisdiction to correct under the rule: “(1) Errors in the imposition or calculation of fines, fees, assessments, or costs; (2) Errors in the application of *per diem* credit against fines; (3) Errors in the calculation of presentence custody credit; and (4) Clerical errors in the written sentencing order or other part of the record resulting in a discrepancy between the record and the actual judgment of the court.” As OSAD correctly notes, the defendant’s present claim does not involve any of these types of errors. Accordingly, there is no arguable merit to any claim that Rule 472 provides the defendant with a vehicle by which to raise the errors he has alleged in the motion.

¶ 16 As OSAD next points out, the plain language of section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401(c) (West 2024)) states that any petition for relief from judgment filed thereunder must, with certain exceptions, be filed not later than two years after the entry of the order or judgment that is being challenged. In this case, the defendant’s motion was filed more than three years after he was sentenced and is therefore untimely on its face. Although the timeliness requirement does not apply to void judgments, OSAD is correct that the defendant’s sentence is not a void judgment under applicable Illinois law. As the Illinois Supreme Court has held, in Illinois there are “only two circumstances when a judgment will be deemed void: (1) when the judgment was entered by a court that lacked jurisdiction[,] or (2) when the judgment was based on a statute that is facially unconstitutional and void *ab initio*.” *People v. Abdullah*, 2019 IL 123492, ¶ 13.

¶ 17 The defendant in the present case has not alleged—nor could he—that the circuit court lacked jurisdiction, and he has not alleged that his judgment is based on a statute that is facially unconstitutional and is therefore void *ab initio*. Instead, the defendant has alleged that the changes brought about by Public Act 103-822, which took effect on January 1, 2025, and which renamed the offense of “armed habitual criminal” to “unlawful possession of a firearm by a repeat felony offender,” are “retroactive” and require that his sentence be served at 50 percent, rather than the 85 percent stated on his mittimus. Accordingly, the untimeliness of his motion is not excused in this case, and there is no arguable merit to any contention to the contrary.

¶ 18 Moreover, there is no substantive merit to his contention. As OSAD correctly points out, Public Act 103-822 changed only the title of the offense; it did not make any substantive changes to its definition. See, *e.g.*, *People v. Lanier*, 2025 IL App (1st) 242603, ¶ 60 (pursuant to Public Act 103-822, “[a]lthough the name [of the offense] has changed, the elements of the offense have not.”). As OSAD notes, the sentencing provision at issue, which is found in section 3-6-3(a)(2)(ii) of the Unified Code of Corrections (730 ILCS 5/3-6-3(a)(2)(ii) (West 2024)), and which also was amended by Public Act 103-822, effective on January 1, 2025, clearly states that the newly-renamed offense of “unlawful possession of a firearm by a repeat felony offender” is subject to the 85 percent truth-in-sentencing requirement, just as the offense of “armed habitual criminal” was. Thus, there is no arguable substantive merit to the motion.

¶ 19 OSAD states that it also considered raising the issue of whether the circuit court erred when it rendered its decision without first allowing the defendant to respond to the State’s motion to dismiss, thereby denying the defendant procedural due process. As OSAD points out, the Illinois Supreme Court has held, in the context of a section 2-1401 proceeding, that a petitioner has the procedural due process right to respond if the State files a motion to dismiss the proceeding. *People*

v. Stoecker, 2020 IL 124807, ¶¶ 17-22. Accordingly, the circuit court must not rule on the State’s motion to dismiss without giving the petitioner a meaningful opportunity to respond to it. *Id.* ¶ 22. However, as OSAD correctly notes, the *Stoecker* court held that such a “procedural violation is subject to harmless error review.” *Id.* ¶ 23. In a subsequent case, the Illinois Supreme Court held that even if the circuit court fails to provide a petitioner a meaningful opportunity to respond to the State’s motion to dismiss a proceeding brought pursuant to section 2-1401, that procedural due process violation is harmless if “the petitioner’s claims are patently incurable as a matter of law and no additional proceedings would result in the petitioner’s prevailing on his or her claims.” (Internal quotation marks omitted.) *People v. Wells*, 2023 IL 127169, ¶¶ 25-26. In this case, we have already determined that the defendant’s claims were without merit. Thus, they were patently incurable as a matter of law, and no additional proceedings would have resulted in the defendant’s prevailing on his claims. Accordingly, we conclude that OSAD is correct that there would be no arguable merit to a claim that the circuit court committed reversible error when it ruled on the State’s motion to dismiss without giving the defendant a meaningful opportunity to respond to the State’s motion.

¶ 20

III. CONCLUSION

¶ 21 For the foregoing reasons, the circuit court did not err when it denied the defendant’s *pro se* motion to correct the mittimus. No argument to the contrary would have arguable merit. Therefore, we grant OSAD leave to withdraw, and we affirm the circuit court’s judgment.

¶ 22 Motion granted; judgment affirmed.