

FIRST DIVISION
September 30, 2026

No. 1-25-1646

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Respondent-Appellee,	)	Cook County.
	)	
v.	)	No. 99 CR 0014702
	)	
LAMONTREAL GLINSEY	)	
	)	Honorable
Petitioner-Appellant.	)	Thomas J. Byrne,
	)	Judge Presiding.
	)	

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

ORDER

- ¶ 1 *Held:* The circuit court's second-stage dismissal of the petitioner's successive postconviction petition is reversed and the matter is remanded for a third-stage evidentiary hearing, where the petitioner established cause and prejudice and made a substantial showing to support his claim that his sentence violated the proportionate penalties clause (Ill. Const. 1970, art. I, § 11).
- ¶ 2 Following a jury trial in the circuit court of Cook County, the petitioner, aged 18, was

found guilty of first-degree murder on a theory of accountability and sentenced to 45 years' imprisonment. The petitioner appeals from the second-stage dismissal of his third successive postconviction petition filed pursuant to the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2020)). On appeal, he contends that the circuit court erred when it dismissed his petition on the basis that he failed to establish the requisite cause and prejudice as to his as-applied proportionate penalties challenge to his 45-year *de facto* life sentence. See Ill. Const. 1970, art. I, § 11. For the following reasons, we reverse and remand for further proceedings under the Act.

¶ 3

I. BACKGROUND

¶ 4 Because the procedural history of this case spans over 25 years and has been detailed several times in our prior rulings, for purposes of brevity, we set forth only those facts and evidence relevant to the resolution of the issues raised herein.

¶ 5 In 1998, together with codefendant Antoine Anderson, the petitioner was charged with, *inter alia*, first degree murder for his involvement in the November 6, 1998, shooting death of the victim, Harry Hudson, near a liquor store at 38th Street and Cottage Grove Avenue in Chicago. The petitioner proceeded with a jury trial at which the following summarized evidence was adduced.

¶ 6 The shooting arose from escalating tensions between two rival street gangs, the Gangster Disciples and the Black Disciples. Chicago Police Detectives John Murray and James O'Brien testified that as part of their murder investigation, they interviewed the petitioner on November 14, 1998. After the petitioner was read his *Miranda* rights, he initially denied his involvement in the shooting and provided an alibi, telling the police that he heard gunshots while walking through the Ida B. Wells housing project and then fled to his girlfriend's home. After being confronted with witness statements contradicting his version of events, however, the petitioner gave a

confession, implicating himself and codefendant Anderson.

¶ 7 Specifically, the petitioner admitted that he was a member of the Gangster Disciples and that they were “at war” with the Black Disciples. Two weeks earlier, codefendant Anderson’s brother had been shot by the Black Disciples, prompting codefendant Anderson to seek retaliation. As a result, on the evening of November 6, 1998, the petitioner accompanied codefendant Anderson and another Gangster Disciple member, Casanova Johnson, to the “rock block,” an area near 37th Street and Rhodes Avenue where the Gangster Disciples sold drugs. There, they obtained a .22-caliber rifle and returned to Johnson’s home, which had been chosen because it faced a liquor store frequented by the Black Disciples and was hidden from view of the nearby police station.

¶ 8 The petitioner admitted that he fired two shots at the liquor store from Johnson’s home. The gun, however, jammed and they had to return to “rock block” to have it fixed. Upon returning to Johnson’s home, codefendant Anderson took over and fired multiple rounds at the liquor store. The petitioner stated that as codefendant Anderson did so, he saw an older man, not a Black Disciple, walking in a nearby vacant lot grab his neck, run and fall to the ground. The petitioner repeated this account to Assistant State’s Attorney (ASA) Laura Forester, who memorialized his statement by handwriting it and having the petitioner sign it.

¶ 9 At trial, Johnson corroborated most of the petitioner’s account. He testified that codefendant Anderson vowed to retaliate after his brother had been shot. Johnson also stated that together with the petitioner and codefendant Anderson he retrieved a rifle from “rock block” after which he observed both the petitioner and codefendant Anderson fire shots toward the liquor store. Johnson also testified that as codefendant Anderson was shooting, he saw a tall man, walking in the field near the liquor store, jerk as if struck and fall to the ground.

¶ 10 The petitioner’s ex-girlfriend, Denise Brown, and codefendant Anderson’s partner, Iesha

Bridewell, both confirmed hearing gunfire and seeing codefendant Anderson armed prior to the shooting. Both also testified that codefendant Anderson announced that he was going to “shoot” after learning weeks earlier that his brother had been shot.

¶ 11 In his defense, the petitioner sought to undermine the voluntariness of his confession and the accuracy of Johnson’s eyewitness account. In that vein, the petitioner called Jesse Lockett, who testified that on the morning of November 6, 1998, he saw codefendant Anderson and Johnson together and heard gunshots later that evening. After Lockett denied that he told police that he saw the shooting, the petitioner called ASA Forester, who testified that when she interviewed Lockett on November 14, 1998, he told her that at the time of the shooting, he was on codefendant Anderson’s back porch with Johnson and saw codefendant Anderson shoot the rifle seven times.

¶ 12 The petitioner testified in his own defense, claiming that he was not with codefendant Anderson or Johnson during the shooting and that detectives beat him until he agreed to provide a statement incriminating himself. The petitioner maintained that his confession was coerced and testified that during the shooting he was at his aunt’s house with a friend, which he told the police and the ASA. The petitioner also claimed that he told ASA Forester that the police beat him but that she asked no questions. In addition, the petitioner testified that he told his mother and a nurse at the Cook County jail what had happened. The petitioner’s mother testified that she observed swelling on the petitioner’s cheek days later. Medical personnel from Cook County jail, however, testified that they observed no injuries when the petitioner was admitted.

¶ 13 In closing, the State argued that the jury should find the petitioner guilty under an accountability theory, and the court instructed the jury on accountability principles. After deliberation, the jury found the petitioner guilty of first-degree murder under an accountability

theory.

¶ 14 A presentence investigation report (PSI) was completed on December 18, 2000, and revealed that the petitioner committed the instant offense 11 days after his 18th birthday. According to the PSI, the petitioner had no prior convictions and no pending cases or warrants. The petitioner had only one prior juvenile conviction for drug possession, for which he was on probation at the time of the instant offense. According to the PSI, the petitioner resided with his parents, who were both employed and had been married throughout the petitioner's life. The petitioner reported that neither parent used drugs or alcohol in his presence and that there was no physical or sexual abuse in his home. Until his arrest, the petitioner had attended high school where he was a below-average student and had worked in a fast-food restaurant. The petitioner reported no physical or mental health problems and denied drug and alcohol use. The petitioner admitted that he had been a member of the Gangster Disciples since he was 12 years old but denied having any rank within organization.

¶ 15 At the sentencing hearing on December 18, 2000, the State first observed that the sentencing range was 20 to 60 years, to be served at 100%. In aggravation, the State submitted a victim impact statement from the victim's family. The State then argued that because the instant offense was gang-motivated, the victim was an innocent bystander, and the petitioner was on juvenile probation for drug possession when he committed the crime, the court should impose a substantial sentence.

¶ 16 In mitigation, defense counsel responded that this was the petitioner's first violent offense. Defense counsel also reiterated that according to the PSI the petitioner was a senior in high school and had been employed. While counsel observed that the petitioner was "approximately 18 years old" at the time of the offense, he made no arguments regarding the petitioner's age or any age-

related factors, such as peer pressure, except to remark that the petitioner had “bad friends” like codefendant Anderson. Stressing that the petitioner did not pull the trigger, counsel argued for a sentence between 20 and 25 years.

¶ 17 After considering the parties’ arguments, the court sentenced the petitioner to 45 years’ imprisonment. In doing so, the court noted that it was mindful that the petitioner had no prior violent convictions, but that the “fact remain[ed] that he did[,] during the upper end of juvenile years[,] find himself involved with the criminal justice system” on a drug case and was on probation for that case, while he committed the instant offense. In addition, the court explicitly found that even though codefendant Anderson, and not the petitioner, was “the motivating force” behind this crime, after considering the “seriousness of [the] offense, the potential for rehabilitation, [and] the character of the [petitioner,]” it found nothing in the PSI that would explain or justify the petitioner’s actions, or “shed[] light on what it w[as] within [the petitioner’s] character that would cause him to willingly and actively” involve himself with codefendant Anderson in this crime. The court ultimately concluded that because the petitioner intended the same result as codefendant Anderson, a 45 year sentence was appropriate.

¶ 18 On January 17, 2001, the petitioner filed a written motion to reconsider, arguing that his sentence was “excessive in view of [his] background and the nature of his participation in the offense.” At the hearing on the motion, defense counsel opted not to argue the motion, and the trial court stated that it denied the motion based on the reasons that it had already articulated at the sentencing hearing.

¶ 19 On direct appeal, the petitioner challenged the court’s evidentiary rulings and the State’s improper remarks in closing argument. This court affirmed the petitioner’s conviction and sentence on June 19, 2003. See *People v. Glinsey*, No. 1-01-0089 (2003) (unpublished order pursuant to

Illinois Supreme Court Rule 23). The petitioner subsequently filed several collateral pleadings, none of which are relevant to this appeal.

¶ 20 Over ten years later, on July 28, 2017, the petitioner, proceeding *pro se*, sought leave to file his third successive postconviction petition, which is at issue in this appeal. Therein, the petitioner argued that his 45-year *de facto* life sentence was unconstitutional under both the federal and state constitutions because the sentencing court had failed to take into account his youth and its attendant circumstances as required under *Miller v. Alabama*, 567 U.S. 460 (2012), and its progeny.

¶ 21 After the circuit court denied the petitioner leave to file, he appealed to this court. On appeal, we held that while the petitioner could not raise an eighth amendment claim (U.S. Const., amend VIII) because he was not a juvenile under *Miller* where the sentencing court's pronouncement did not include any consideration of the petitioner's "age or any age-related factors," and he was found guilty on a theory of accountability for a crime he committed "a mere 11 days past his eighteenth birthday," the petitioner had made a "sufficient factual and legal showing" of a proportionate penalties claim such that the circuit court erred in denying him leave to file his successive petition. *People v. Glinsey*, 2021 IL App (1st) 191145, ¶ 38. We therefore reversed and remanded for further second stage proceedings on the petitioner's proportionate penalties claim to "allow [the petitioner] to fill in the blanks *** with recent evidence and research concerning the developing teenage brain." We then instructed the court on remand "to consider whether, as applied to [the petitioner], as someone under 21 years old, his sentence of 45 years without the possibility of parole violate[d] the proportionate penalties clause of our state." *Id.* ¶ 52.

¶ 22 On remand, the circuit court docketed the *pro se* petition for second-stage proceedings and

the petitioner was appointed counsel. After several years of continuances, on March 7, 2024, postconviction counsel filed an amended petition reasserting the petitioner's as-applied proportionate penalties challenge to his 45-year *de facto* life sentence. The amended petition alleged that based on his family and social history, at the time of the instant offense, the petitioner was more akin to a juvenile than an adult such that the imposition of a 45-year *de facto* life sentence violated the proportionate penalties clause as applied to him.

¶ 23 In support, the amended petition attached: (1) a mitigation report prepared by licensed clinical psychologist, and former federal and state public defender, Helen Kim Skinner; (2) a 2022 journal publication on adolescent brain science; (3) the transcript from the original sentencing hearing; and (4) numerous certificates of completion for courses completed by the petitioner while incarcerated.

¶ 24 In her 22-page mitigation report, Skinner detailed the circumstances of the petitioner's life before and after the offense, much of which was "not presented at his original sentencing hearing." Relying on neuroscientific research regarding young-adult brains, she concluded that because of "poverty, trauma and the violence he endured" for the first 18 years of his life, the petitioner "repeatedly learned that the world was unsafe," and was conditioned "to be on guard, to fight back, [and] to expect tragedy[.]" Nonetheless, according to Skinner, despite these obstacles, since his incarceration the petitioner had "surpassed the confines of his circumstances," and demonstrated that he had matured and was now self-aware and in possession of coping and practical skills necessary to be a productive member of society.

¶ 25 Skinner explained that in preparing the mitigation report she spent 85 hours interviewing the petitioner, his mother, his maternal grandmother, and his two brothers, as well as reviewing

the petitioner's court, school, and prison files.

¶ 26 Noting the significance of intergenerational trauma on the petitioner's development, in her report, Skinner first detailed the trauma suffered by the petitioner's family and passed down to him. Living in the Jim Crow South, the petitioner's grandfather witnessed a lynching when he was only 5 years old. The petitioner's father witnessed the murder of his own mother when he was only 7, after which his brother killed the murderer in revenge. When the petitioner's mother was 15 years old, she stabbed and killed another teenage girl in self-defense, for which she was charged with murder and held in a juvenile detention center before receiving a probationary sentence. Afterwards, she lived in constant fear for her safety and resorted to alcohol and marijuana as coping mechanisms. When the petitioner was 4 years old, the petitioner's mother was assaulted again and stabbed in the neck by a neighbor, requiring hospitalization. As a result, she always taught her children to fight when faced with a threat.

¶ 27 Skinner next detailed the petitioner's own exposure to domestic violence to show how it impacted his childhood development. According to Skinner, after the petitioner's mother and father separated, the petitioner's mother initially moved in with her sister. For the next few years, the petitioner repeatedly witnessed his mother engage in physical altercations with her family. Finding the living situation unbearable, the petitioner's mother eventually moved out, but struggling financially with 4 children under the age of 9, she ended up with a slew of physically abusive boyfriends, who violently and regularly beat her in front of her children. One such boyfriend, named Melvin, hit her in the eye "so hard she thought her eye was pushed back into the back of her head." The petitioner's mother eventually married a man named Allen, who was a Gangster Disciple, and who once choked her for so long that she thought he was trying to kill her. The petitioner reported that he "naturally fe[lt] [that] he [wa]s a timid person" but watching his

mother be abused every day “forced upon him the need to fight back when under attack.”

¶ 28 Skinner next detailed the impact of the petitioner’s neighborhood on his childhood development. According to her report, the Robert Tylor Homes, where the petitioner lived from kindergarten until his arrest, were among Chicago’s most dangerous and neglected public housing complexes. The buildings of the housing project were structurally unsafe, dirty, run-down and riddled with crime. Approximately 95% of the residents were unemployed and the complex was controlled by gangs. An estimated \$45,000 worth of drugs exchanged hands there daily, with dealers effectively controlling the buildings. Violence was constant, with police sometimes receiving up to 300 shooting-related calls in a single weekend.

¶ 29 Growing up in this environment, the petitioner was exposed to gunfire daily and recalled his mother instructing him to just “lay on the floor” or “try to find cover if you can.” Two of the petitioner’s close friends were hit by stray bullets. When the petitioner was 11, his friend Robert was shot in the head and became permanently blind. Afterwards, for months, the petitioner was anxious and hypervigilant—afraid that something similar would happen to him. When the petitioner was 14, his friend Gerald was shot and killed. The petitioner struggled greatly afterwards, and his mother admitted that she did not know how to help him because mental health treatment was both unavailable to her and something she did not understand at that time.

¶ 30 In her report, Skinner next detailed the petitioner’s struggles in school. The petitioner’s mother recalled that after he was hit in the head by a brick, at around age 10, the petitioner was placed in special education classes. When other children began to bully him, the petitioner’s mother threatened to beat him if he did not stand up and fight for himself. The petitioner recalled that she had walked him to school to watch him fight with the boys that had made fun of him. The petitioner was also instructed to take care of his younger siblings and often had to fight to protect

them. If the petitioner disobeyed, his mother beat him with a belt or ordered him out of the house.

¶ 31 Amidst this violence and chaos, the petitioner had no stable adult figures he could turn to. The petitioner's father was nonexistent, and his mother drank and smoked marijuana heavily. While the petitioner briefly turned to his grandmother for support, she died of cancer when the petitioner was just 12 years old.

¶ 32 According to Skinner, as the petitioner entered preadolescence—a developmental stage marked by hormonal and physical changes, as well as attempts to find one's individual identity—because of his mother's relationship with Allen, he was already familiar with the Gangster Disciples who ran the Robert Taylor Homes. Allen introduced the petitioner to the concept of gang membership when the petitioner was only 11 or 12 years old. For the next several years, until Allen left to join the military, he offered the petitioner and his brothers protection within the neighborhood. Afterwards, older boys began recruiting the petitioner to act as “security” and shout when the police approached. Because he was given small payments and was still shielded by Allen's warning to local gang members to leave him alone, the petitioner felt belonging. That changed after the family temporarily left the Robert Taylor Homes to stay with the petitioner's grandfather. Upon their return, leadership within the Gangster Disciples had shifted, and a new figure, known as “Sko,” who had no relationship with the now-absent Allen, had assumed authority.

¶ 33 The petitioner was 15 years old when Sko told him that if he was going to live in the Robert Taylor Homes, he needed to be “on count,” after which the petitioner felt he had no choice but to sell drugs for him. According to the petitioner, although Sko seemed “cool” and understanding in the beginning and promised to keep the petitioner “well protected,” as time passed, his less-benevolent side came through. Once, believing that the petitioner had stolen money from him, Sko

ordered a “violation,” after which the petitioner was beaten so badly his entire face was swollen. Another time, Sko hit the petitioner across the knee with a bat for losing a gun to the police.

¶ 34 After he was placed on juvenile probation for possession of a controlled substance, the petitioner did not want to sell drugs for Sko anymore, but Sko would not leave him alone. After other gang members intervened, the petitioner was briefly “taken off Sko’s count,” but was then told he had to sell drugs for someone else. The petitioner reported that “at least that person never mistreated him like Sko.” The petitioner used the money from his drug sales to help his mother and siblings financially.

¶ 35 Soon thereafter, the petitioner was expelled from high school for fighting with another boy who expressed interest in his girlfriend. Having no more structure in his life, the petitioner began to spend more time with the gang. His siblings recalled that they could see that “the petitioner was going in the wrong direction,” but they felt helpless. It was at this time that the petitioner met codefendant Anderson who was a more experienced Gangster Disciple and who took him under his wing.

¶ 36 According to Skinner, the petitioner’s involvement in the instant crime directly resulted from his relationship with codefendant Anderson and Anderson’s desire to retaliate for his brother’s shooting. Skinner found relevant that the petitioner was only 18 years and 10 days old at that time he agreed to help the codefendant.

¶ 37 In her report, Skinner next discussed the petitioner’s rehabilitative efforts since his incarceration 25 years ago. According to Skinner, although as a young man in a maximum security prison the petitioner initially associated himself with the Gangster Disciples in order to survive, as he grew older he was able to remove himself from the “gang count.” Although he did not pursue formal renunciation of the gang, which would have required him to “snitch,” he was able to

withdraw from gang life and could now acknowledge gang members in the communal parts of the prison but walk away without any repercussions.

¶ 38 According to Skinner, the petitioner was now housed in a medium security prison and was focusing on his religion, family, personal values, and rehabilitative goals. The petitioner had sought mental health treatment for depression and anxiety, acknowledged his past conduct and recognized that he had adopted many of the volatile traits and behaviors he saw growing up, which reflected his present maturity. He listened to religious music and wrote poetry as a coping mechanism. The petitioner had worked as a janitor and completed numerous courses while incarcerated. Certificates of achievement for these courses were attached to the amended petition, and reveal, among other things: numerous 12-step meetings, religious retreats and programs, a full-year Bible study course, programs for incarcerated fathers, and an implicit bias awareness program.

¶ 39 In her report, Skinner further noted that for the past 11 years, the petitioner had mentored his cell mate, who had been admitted to IDOC at 19 years old. The petitioner taught his cell mate how to write, and helped him complete legal work and keep a positive mindset. The petitioner was also in touch with his nieces and nephews, who all spoke fondly of him and indicated that he would have strong family support if he were to be released from prison.

¶ 40 In support of the petitioner's proportionate penalties claim, the amended petition also attached a 2022 journal article, titled "White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers" that summarizes "mainstream" thought in "developmental neuroscience" as of "the time it was produced." Catherine Insel *et al.*, *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers*, Ctr. for L., Brain & Behav. At Mass. Gen. Hosp. (2022). Briefly summarized, this journal article concludes

that brain development in the areas that control executive functioning, such as self-control, future planning, and emotional processes, continues well past the age of 18 into the early 20s. Because the reward-processing regions of the brain mature faster than the cognitive control networks of the prefrontal cortex, young adults over the age of 18 continue to be vulnerable to peer pressure, sensation-seeking and impulsive behavior. However, because adolescent brains exhibit high neuroplasticity, young offenders have a strong capacity for rehabilitation and a high statistical likelihood of outgrowing antisocial behavior.

¶ 41 On April 10, 2025, the State filed a motion to dismiss the petitioner’s amended petition, arguing that the petitioner had failed to establish the cause and prejudice necessary to proceed with his as-applied proportionate penalties claim. The State cited recent precedent by our supreme court holding that the unavailability of *Miller* and its progeny was not sufficient to establish cause for purposes of raising such a claim by way of a successive petition. See *People v. Dorsey*, 2021 IL 123010; *People v. Clark*, 2023 IL 127273; *People v. Moore*, 2023 IL 126461. The State also argued that the petitioner could not establish prejudice because he was not a juvenile and his 45-year *de facto* life sentence was discretionary.

¶ 42 After a hearing, the circuit court granted the State’s motion to dismiss. In doing so, the court found that even though, as instructed by this appellate court, on remand the petitioner had “put meat on the bones” of his as-applied proportionate penalties claim, “under the current state of the law,” which it was obligated to follow, it was compelled to conclude that the petitioner had failed to establish the requisite cause to permit him to proceed with his claim. The petitioner now appeals.

¶ 43 II. ANALYSIS

¶ 44 On appeal, the petitioner argues that the circuit court erred when it dismissed his petition

because he established both cause and prejudice and made a substantial showing that his 45-year *de facto* life sentence was unconstitutional as applied to him under the proportionate penalties clause (Ill. Const. 1970, art. I, § 11). The petitioner asserts that, together, Skinner’s report and the 2022 journal article establish that at the time he committed the instant offense he was more akin to a juvenile than a young adult. Accordingly, because the sentencing court did not have the benefit of either document and did not consider his age or its attendant characteristics when it sentenced him to *de facto* life imprisonment, he should have been permitted to proceed to an evidentiary hearing on his claim.

¶ 45 In response, the State solely argues that dismissal was proper because the petitioner failed to establish the requisite cause and prejudice for his failure to raise this claim in an earlier proceeding. For the following reasons, we disagree with the State.

¶ 46 The Act (725 ILCS 5/122-1 *et seq.* (West 2020)) provides a mechanism by which criminal defendants may address substantial violations of their constitutional rights that occurred either at trial or at sentencing. See *People v. Cotto*, 2016 IL 119006, ¶ 26; *People v. English*, 2013 IL 112890, ¶ 22. Because the Act is not a substitute for an appeal, but rather, a collateral attack on a final judgment, issues that were not presented in an original postconviction petition are waived. *Clark*, 2023 IL 127273, ¶ 38 (citing 725 ILCS 5/122-3 (West 2020)); see also *People v. Sanders*, 2016 IL 118123, ¶ 24. Consistent with these principles, the Act contemplates the filing of only one petition without leave of court and codifies the cause-and-prejudice test as the prerequisite to obtaining such relief. 725 ILCS 5/122-1(f) (West 2020). *People v. Lusby*, 2020 IL 124046, ¶ 27; *People v. Edwards*, 2012 IL 111711, ¶ 23; *Clark*, 2023 IL 127273, ¶ 44 (“The cause-and-prejudice test is ‘the analytical tool that is to be used to determine whether fundamental fairness requires’ an exception to section 122-3’s statutory waiver.”) To obtain leave, the petitioner

must make a *prima facie* showing of: (1) cause, by identifying an objective factor that impeded his ability to raise a specific claim during his initial postconviction proceedings; and (2) prejudice, by demonstrating that the claim not raised earlier so infected the trial that the resulting conviction or sentence violated due process. *Id.*

¶ 47 If, as here, the petitioner is granted leave to file a successive petition, the petition is docketed for second-stage proceedings, where the petitioner is appointed counsel and must make a substantial showing of a constitutional violation. *People v. Bailey*, 2017 IL 121450, ¶ 26; see also *People v. Thames*, 2021 IL App (1st) 180071, ¶ 78 (citing *Sanders*, 2016 IL 118123, ¶¶ 25, 28) (Where the successive petition has already satisfied the higher cause-and-prejudice standard, the first stage is rendered unnecessary). At the second stage, the State may file responsive pleadings, and seek dismissal of the petition on any ground, including procedural default. See *Bailey*, 2017 IL 121450, ¶ 26. This permits the State to, once again, argue that dismissal is proper because the petitioner failed “to prove cause and prejudice for not having raised the claims in the initial postconviction petition.” *Id.*

¶ 48 Where, as here, the circuit court dismisses the petition without an evidentiary hearing, our review is *de novo*. *Sanders*, 2016 IL 118123, ¶ 31. Under the *de novo* standard, we perform the same analysis that the circuit court would, and the question on review becomes whether the circuit court’s decision was correct as a matter of law. *People v. McDonald*, 2016 IL 118882, ¶ 32.

¶ 49 A. Cause

¶ 50 In the present case, the State first argues that the circuit court correctly concluded that the petitioner failed to establish the requisite cause for his failure to raise his proportionate penalties claim in an earlier proceeding. Because of recent changes in Illinois law, which we discuss below,

we disagree with the State.

¶ 51 To understand the circuit court’s ruling, we briefly summarize the case law concerning youth-based sentencing challenges as it evolved since the petitioner was sentenced in 2000.

¶ 52 Under the proportionate penalties clause, all penalties must “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; *People v. Spencer*, 2025 IL 130015, ¶ 42. A sentence violates the proportionate penalties clause when, *inter alia*, the penalty imposed is “ ‘cruel, degrading, or so wholly disproportionate to the offense as to shock the moral sense of our community.’ ” *Clark*, 2023 IL 127273, ¶ 51 (quoting *People v. Leon Miller*, 202 Ill. 2d 328, 338 (2002)). “Cruel” and “degrading” have never been defined because “as our society evolves, so too do our concepts of elemental decency and fairness, which shape the ‘moral sense’ of [our] community.” *Id.* (quoting *Leon Miller*, 202 Ill. 2d at 339).

¶ 53 In sentencing young adult offenders, our community’s standard of moral decency derives from the legal developments governing the sentencing of juveniles that began in 2012 with the United States Supreme Court decision in *Miller*, 567 U.S. at 465. Recognizing that minors are constitutionally different from adults for sentencing purposes, being less mature and responsible, more impulsive, and more vulnerable to negative influences and peer pressure than adults, and not having the fully formed character of adults so that their actions do not necessarily indicate irreversible depravity, in *Miller* the Supreme Court held that for juveniles, mandatory life sentences without parole violated the eighth amendment’s prohibition against cruel and unusual punishment. *Id.* at 465, 471-74. Following *Miller*, our supreme court extended similar protections to juvenile defendants who received *de facto* life sentences that do not allow for a meaningful opportunity for release within 40 years. *Dorsey*, 2021 IL 123010, ¶ 65; *People v. Buffer*, 2019 IL

122327, ¶ 40.

¶ 54 While our supreme court declined to apply the logic of *Miller* directly to young adult offenders (18 years or older), by 2021 when the petitioner’s case was remanded for second-stage proceedings, it had “opened the door” for “emerging adult offenders” (18 or 19 years old), such as the petitioner here, to demonstrate through an adequate factual record that their own “specific characteristics were so like those of *** juvenile[s] that imposition of a life sentence absent the safeguards established in *Miller* was cruel, degrading, or so wholly disproportionate to the offense that it shocks the moral sense of the community.” *People v. Daniels*, 2020 IL App (1st) 171738, ¶ 25 (citing *People v. Thompson*, 2015 IL 118151; *People v. Harris*, 2018 IL 121932); see also *People v. House*, 2021 IL 125124.

¶ 55 Before the State filed its motion to dismiss, however, in *Clark* and *Moore*, our supreme court held that “the essential legal tools” to raise a proportionate penalties claim were always available for petitioners during initial postconviction proceedings. See *Clark*, 2023 IL 127273, ¶ 93; *Moore*, 2023 IL 126461, ¶ 42. And, because “*Miller* did not change the law applicable to young adults[,]” a petitioner could not rely on the unavailability of *Miller* or *Miller*-based precedent as cause for failure to make such a claim in an earlier proceeding. *Id.*; see also *People v. Hilliard*, 2023 IL 128186, ¶ 28; *People v. Horshaw*, 2024 IL App (1st) 182047-B, ¶ 62 (citing *Dorsey*, 2021 IL 123010, ¶ 74).

¶ 56 Accordingly, when the circuit court decided the State’s motion to dismiss, pursuant to our supreme court’s precedent in *Clark*, 2023 IL 127273, and *Moore*, 2023 IL 126461, it was obligated to conclude that the petitioner had failed to show the requisite cause for not raising his as-applied proportionate penalties sentencing challenge earlier.

¶ 57 That is no longer the case. While the petitioner’s appeal was pending in this court, our

legislature amended the Act to eliminate the cause requirement for youth-based as-applied proportionate penalties claims raised in successive petitions. Specifically, on July 10, 2026, section 122-1 of the Act was amended to include subsection (g), which provides:

“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 (eff. July 10, 2026) (amending 725 ILCS 5/122-1).

¶ 58 On appeal, the State acknowledges that this new legislation would eliminate the petitioner’s need to establish cause, but argues that the amendment does not apply retroactively. Contrary to the State’s position, however, in *People v. Sparkman*, 2026 IL App (1st) 240715, ¶ 39, this appellate court recently considered the retroactive application of the amendment and held that because the legislature did not specify the amendment’s temporal scope, and “because the amendment would affect only whether a procedural hurdle applie[d] to a particular filing,” pursuant to section 4 of the Statute of Statues (5 ILCS 70/4 (West 2020)), the amendment applied retroactively. We agree with the rationale of *Sparkman* and therefore find that the petitioner does not need to demonstrate cause to proceed with his proportionate penalties claim.

¶ 59 B. Prejudice

¶ 60 Turning to prejudice, we reiterate that it is established where a defendant demonstrates “that the claim not raised during his or her initial post-conviction proceeding so infected the trial that the resulting conviction or sentence violated due process.” 725 ILCS 5/122-1(f) (West 2024); *Thames*, 2021 IL App (1st) 180071, ¶ 77. Our supreme court has explained that dismissal for failure to state prejudice is appropriate “ ‘when it is clear, from a review of the successive

petition and the documentation submitted by the petitioner, that the claim[] alleged by the petitioner fail[s] as a matter of law or where the successive petition with supporting documentation is insufficient to justify further proceedings.’ ” *Clark*, 2023 IL 127273, ¶ 70 (quoting *People v. Smith*, 2014 IL 115946, ¶ 35).

¶ 61 For the following reasons, we find that the petitioner has established prejudice. In inviting young adult offenders to raise as-applied proportionate penalties claims, our supreme court has repeatedly held that such claims require an adequate factual record as to how the evolving science regarding maturity and brain development applies to the petitioner’s specific circumstances. See *Thompson*, 2015 IL 118151, ¶ 37; *Harris*, 2018 IL 121932, ¶¶ 38-40, 120; *House*, 2021 IL 125124, ¶¶ 27-28; *Spencer*, 2025 IL 130015, ¶¶ 34, 44-45 (“recogniz[ing] [that] the science that helped form the basis for the *Miller* decision may assist emerging adult defendants in supporting an as-applied proportionate penalties clause challenge” but noting that such a challenge requires that “the record be sufficiently developed in terms of those facts and circumstances”).

¶ 62 In the present case, the amended petition did just that. The proportionate penalties claim was supported by scientific evidence showing that the brain development that occurs during adolescence directly affects an individual’s sensation-seeking and decision-making. The petition further presented evidence of the petitioner’s incomplete brain development as a young adult stemming from: the violent, impoverished, gang-controlled, and drug-infested environment in which he grew up; the lack of his father in his life; his repeated exposure to domestic violence by his mother’s paramours, one of whom introduced him to gang life at the age of 12; the physical abuse by his mother; his low self-esteem arising from the need for special education classes; the early appeal of gang life as a replacement for stable adults in his life and the subsequent inability to extricate himself from it; and the necessity for relationships with more experienced gang

members, including his relationship with codefendant Anderson, which ultimately resulted in his participation in the instant crime. The petitioner further offered evidence that he was capable of rehabilitation and documented the efforts he had made in that direction since his incarceration. In addition, the sentencing transcript showed that none of these facts were either presented to or considered by the trial court in sentencing. Under this record, after considering the precluded mitigation evidence, we are unable to find that the petitioner has failed to provide us with sufficient factual support of his proportionate penalties claim such that his claim fails as a matter of law. See *Sparkman*, 2026 IL App (1st) 240715, ¶ 41. Accordingly, we conclude that he has demonstrated the requisite prejudice to proceed with his claim under the Act.

¶ 63 The State, nonetheless, argues that the petitioner cannot establish prejudice because his 45-year *de facto* life sentence was discretionary. In support, the State relies on *Hilliard*, 2023 IL 128186, ¶ 28, in which our supreme court stated that its prior decisions in *Thompson*, *Harris* and *House*, opening the door to young adult offenders to raise as-applied proportionate penalties claims, “were directing the possibility” of such challenges “to young adults who received mandatory [rather than discretionary] life sentences.” *Id.* For the following reasons, we disagree and find the State’s reliance on *Hilliard* misplaced.

¶ 64 After making the aforementioned statement in *Hilliard*, our supreme court went on to clarify that the “Illinois constitution does not limit a proportionate penalties challenge to just juveniles or individuals with life sentences,” and that the clause permits defendants to challenge a sentence of any length. *Id.* ¶ 28. As such, the court concluded that while *Thompson*, *Harris* and *House* may not be invoked to argue that, under the proportionate penalties clause, *Miller* safeguards apply to all sentences for young adults, “these cases do not preclude a defendant from bringing such a claim or the court from considering them.” *Id.* In other words, while the safeguards

in *Miller* apply automatically only to mandatory sentences, the science regarding the development of young adult brains, which came about as a result of *Miller*, may nonetheless be utilized in raising a youth-based proportionate penalties claim to a sentence of any length.

¶ 65 Two years after *Hilliard*, in *Spencer* our supreme court reaffirmed this principle and explicitly held that the absence of a *de facto* life sentence does not preclude an as-applied proportionate penalties claim based on developmental science that stems from *Miller*. See *Spencer*, 2025 IL 130015, ¶ 42. In that case, the 20-year-old defendant argued that his 100-year *de facto* life sentence violated the proportionate penalties clause under the principles articulated in *Miller*. *Id.* ¶¶ 3, 23. The State responded that because the defendant was eligible for parole after serving only 20 years of that sentence (citing 730 ILCS 5/5-4.5-115(b) (West 2020)), he was not subject to a *de facto* life sentence, and therefore his *Miller*-based as-applied proportionate penalties claim failed. *Id.* While our supreme court agreed that the defendant’s sentence did not amount to *de facto* life (*id.* ¶¶ 34-40), it nonetheless held that this fact, in and of itself, did not foreclose the defendant from raising a proportionate penalties claim. *Id.* ¶ 42 (“Notwithstanding the fact that [the defendant] is not serving a *de facto* life sentence, he is not foreclosed from bringing an as-applied challenge to his sentence under the Illinois proportionate penalties clause.”). The court held it was error for the appellate court to conclude that “because [the defendant] did not receive a *de facto* life sentence he could not establish that his sentence violated the proportionate penalties clause.” *Id.* The court reiterated that “a defendant may challenge a sentence of any length,” and that the Illinois Constitution “does not limit a proportionate penalties challenge to just juveniles or individuals with life sentences.” *Id.* ¶ 43. The court then emphasized that it “has not barred young adult defendants from raising as-applied proportionate penalties clause challenges to life sentences based on the evolving science regarding juvenile maturity and brain development.” *Id.* Because

the record in that case was not sufficiently developed as to the “application of the law to the specific facts and circumstances” alleged by the defendant, which is “paramount” for any as-applied constitutional challenge, the court concluded that “the proper venue” for the defendant’s proportionate penalties claim was in “a postconviction proceeding.” *Id.*

¶ 66 Under the rationale of *Spencer*, we find that, contrary to the State’s position, the discretionary nature of the petitioner’s sentence has no bearing on his ability to challenge its validity under the proportionate penalties clause, much less that for that reason alone his sentencing claim fails as a matter of law. As this court has aptly explained once before: “If the challenged sentence does not need to be a life sentence at all, it certainly does not need to be a mandatory life sentence.” *People v. Hewitt*, 2025 IL App (1st) 231294, ¶ 93.

¶ 67 To the extent that the State relies on *Hilliard* for the proposition that the petitioner’s sentence was fully justified by the severity of his conduct and outweighs whatever rehabilitative potential he might have had, such that his proportionate penalties claim fails as a matter of law, we find *Hilliard* factually distinguishable. In *Hilliard*, our supreme court rejected an 18-year-old offender’s challenge to the 25-year mandatory-firearm enhancement portion of his 40-year sentence. *Hilliard*, 2023 IL 128186, ¶ 28. In doing so, our supreme court held that under the particular circumstances of that case, in which the defendant shot at the victim multiple times at close range and with no provocation, 40 years’ imprisonment, which is not a *de facto* life sentence under Illinois law, was not cruel, degrading, or so wholly disproportionate to the offense as to shock the moral sense of the community. *Id.* ¶¶ 27-28. Unlike in *Hilliard*, where the defendant was the principal actor, here the petitioner was convicted solely on accountability principles, and his 45-year sentence is *de facto* life. *Hilliard*, 2023 IL 128186, ¶ 5. Moreover, unlike *Hilliard*, where the defendant solely relied on his PSI during which he had declined to answer most questions, and

on generalized claims regarding evolving scientific research into the development of young adult brains, here the petitioner supported his as-applied proportionate penalties claim with an individualized expert report from Skinner explaining how his particular circumstances rendered him developmentally stunted and therefore less culpable than an adult such that his sentence shocked the moral sense of our community. See *Id.*, ¶¶ 8, 12. Accordingly, the *Hilliard* analysis does not apply here.

¶ 68

C. Substantial Showing

¶ 69 Having determined that the petitioner has met the requisite prejudice to proceed with his proportionate penalties claim, we next address whether he has made a substantial showing of that claim so as to require a third-stage evidentiary hearing under the Act.

¶ 70 “The substantial showing of a constitutional violation that must be made at the second stage is ‘a measure of the legal sufficiency of the petition’s well-pled allegations ***, which if proven at an evidentiary hearing, would entitle petitioner to relief.’ ” (Internal citations omitted.) *People v. Dupree*, 2018 IL 122307, ¶ 29. At this stage, we may not engage in any fact-finding of credibility determinations but must take as true all well-pleaded facts that are not positively rebutted by the original trial record. *People v. Domagala*, 2013 IL 113688, ¶ 35. The pleadings are positively rebutted by the record if it is clear from the trial evidence that no fact finder could ever accept the truth of the averments. See *People v. Robinson*, 2020 IL 123849, ¶ 60; *People v. Simms*, 2021 IL App (1st) 161067-B, ¶ 28. Contradictions between the petitioner’s averments and the trial record are not enough, because recognizing the existence of a conflict with the trial evidence is not the same as finding that the averments are positively rebutted. See *Simms*, 2021 IL App (1st) 161067-B, ¶ 35 (citing *Robinson*, 2020 IL 123849, ¶ 60).

¶ 71 In the present case, the State offers no argument as to the sufficiency of the amended

petition. As such it has forfeited any argument regarding whether the petitioner has made a substantial showing of his proportionate penalties claim.

¶ 72 Regardless, after a review of the amended petition and its supporting documentation, we believe that the petitioner has met this burden such that his petition must be remanded for a third-stage evidentiary hearing. From the record before us, it is undisputed that at the time he committed the instant offense the petitioner was only 18 years and 11 days old and had just crossed the threshold into adulthood. In addition, it is undisputed that the petitioner was found guilty on accountability principles and was involved in the crime principally because of his association with codefendant Anderson. The amended petition alleged that because of his unique circumstances, the petitioner was comparable to a juvenile offender, thus diminishing his culpability and enhancing his rehabilitative potential. As already detailed above, Skinner's report identified several adverse events and environments in the petitioner's childhood and explained how those hampered his development and made him more likely to associate himself with codefendant Anderson and fall prey to peer pressure. Moreover, Skinner's report explained that the petitioner was amenable to rehabilitation and detailed the efforts he had already taken in prison to that effect. These attempts were further documented by the numerous certificates reflecting the petitioner's course completions. The transcript of the sentencing hearing, attached to the amended petition, further established that in imposing the 45-year *de facto* life sentence, the trial court did not consider the petitioner's age, nor any of the evidence offered in Skinner's report explaining how the petitioner's particular circumstances affected his brain development or his capacity for future rehabilitation in the context of neuroscientific research into young adult brains. Taking, as we must at this stage of postconviction proceedings, this information as true, we are compelled to conclude that the petitioner has made a legally sufficient substantial showing that at the time of the offense

his individual characteristics made him more akin to a juvenile than an adult such that the imposition of his sentence violated the proportionate penalties clause, *i.e.*, his sentence was disproportionate to the offense because it did not take into account the “objective of restoring [him] to useful citizenship.” See *People v. Robinson*, 2026 IL App (1st) 231149-U, ¶ 64 (holding that a defendant made a substantial showing of an as-applied youth based proportionate penalties challenge to his aggregate 48-year sentence where his postconviction petition was supported by an individualized report by a psychologist explaining why his particular circumstances made him more akin to a juvenile than an adult at the time he committed the offense, requiring remand for a third-stage evidentiary proceeding).

¶ 73

III. CONCLUSION

¶ 74 For these reasons, we reverse the dismissal of the petitioner’s successive petition and remand the matter for further proceedings under the Act.

¶ 75 Reversed and remanded.

¶ 76 PRESIDING JUSTICE ELLIS, dissenting:

¶ 77 I respectfully dissent. I agree that the sentence imposed here was harsh, and I am sympathetic to the evidence petitioner now sets forth about his childhood. But my sympathy cannot overcome basic legal principles that prevent this claim from being heard at this very late juncture. Defendant could have raised a constitutional challenge to his sentence at the post-trial stage, immediately after it was imposed. He did challenge the sentence post-trial as excessive, but he did not raise a proportionate-penalties challenge. His claim is thus forfeited.

¶ 78 The legislature removed one level of forfeiture when it eliminated “cause” as a prerequisite to filing a successive post-conviction petition alleging a proportionate-penalties claim. See Pub. Act 104-564 (eff. July 10, 2026) (amending 725 ILCS 5/122-1). A petitioner must establish

“cause” to justify “his or her failure to bring the claim in his or her initial post-conviction proceedings.” 725 ILCS 5/122-1(f) (West 2024). So petitioner is no longer required to overcome his forfeiture at the initial post-conviction stage.

¶ 79 But that still leaves *trial* forfeiture, which the recent statutory amendment did not address. Constitutional claims may be forfeited just like any other claim. See *People v. Clark*, 2024 IL 127838, ¶ 33 (fourth-amendment claim); *People v. Hillier*, 237 Ill. 2d 539, 547 (2010) (fifth-amendment claim); *People v. Hood*, 2016 IL 118581, ¶ 17 (sixth-amendment claim); *People v. Hughes*, 2015 IL 117242, ¶ 37 (involuntary confession claim invoking various amendments). Sentencing challenges, of course, have always been subject to forfeiture as well. See *Clark*, 2024 IL 127838, ¶ 69 (claim that court did not adequately consider defendant’s youthful characteristics per statute); *People v. Fort*, 2017 IL 118966, ¶ 18 (claim that sentence was unauthorized).

¶ 80 While its application may feel harsh, the forfeiture principle is crucial to incentivizing litigants to raise their claims when they can surely have the greatest impact—at trial, while memories are fresh and evidence is most recent. When claims are raised years or even decades later, the absence of a factual record makes them nearly impossible to adjudicate.

¶ 81 We recognize a “very narrow” exception to forfeiture for claims arising under *Miller v. Alabama*, 567 U.S. 460 (2012). *People v. Holman*, 2017 IL 120655, ¶ 32, *overruled on other grounds by People v. Wilson*, 2023 IL 127666, ¶ 42. But that’s because we don’t *need* a factual record there. *Id.* All we need to know for a *Miller* claim is (i) the defendant’s age at the time of the offense; (ii) the length of the sentence; (iii) whether the sentence was mandatory or discretionary; and (iv) whether the sentencing hearing reflects that the court adequately considered the defendant’s youth and its attendant characteristics. *Id.*; *People v. Harris*, 2018 IL 121932, ¶ 44. If the sentencing hearing does not so reflect, we have our answer—a constitutional violation and new

sentencing hearing. So the lateness of a *Miller* challenge does not hinder our review at all, and the record, however meager or ample it may be, is literally all we need.

¶ 82 But the claim before us is not a *Miller* claim. An underlying factual record is surely necessary for his constitutional claim that his sentence shocks the moral sense of our community. His claim thus remains subject to the “typical rules of forfeiture and procedural bars” that apply to the proceeding at hand. *People v. Thompson*, 2015 IL 118151, ¶ 39.

¶ 83 It is unfortunate, to say the least, that some of this evidence about petitioner’s childhood was not raised at the sentencing hearing or at least the post-sentencing stage, when petitioner challenged his sentence as excessive. There is a remedy for that: a *Strickland* challenge. A post-conviction petitioner “can avoid the procedural bar of forfeiture by casting his claims as ineffective assistance of [the relevant] counsel.” *People v Williams*, 2024 IL 127304, ¶ 20. Neither petitioner nor appointed counsel at the second stage alleged that trial counsel was ineffective for failing to raise a proportionate-penalties challenge at sentencing.

¶ 84 The petition likewise could have faulted trial counsel for not emphasizing petitioner’s youth and the immaturity of his brain development. True, the recent “white paper” petitioner cites was not available at his sentencing hearing, but several decisions have recognized that recent neuroscientific research is simply the latest in decades of research recognizing adolescent and young-adult brain development, which our courts have long recognized. See, e.g., *People v. Ascencio*, 2026 IL App (1st) 241534-U, ¶ 36; *People v. Ross*, 2026 IL App (1st) 232431-U, ¶ 22; *People v. Searles*, 2024 IL App (1st) 210043-U, ¶¶ 13-17; *People v. Sanchez*, 2026 IL App (1st) 240305, ¶ 78 (Gamrath, J., dissenting) (collecting cases).

¶ 85 These decisions discussed the research in the context of “cause” under the post-conviction statute, but their discussion applies with equal force to the notion that petitioner could have alleged

counsel's deficient performance for not emphasizing petitioner's youth and immature brain development at the sentencing hearing.

¶ 86 Because the post-conviction petition did not allege a *Strickland* violation to avoid trial forfeiture, I agree with the State that we have no choice but to honor that forfeiture.

¶ 87 My views here are consistent with *People v. Hewitt*, 2025 IL App (1st) 231294, ¶¶ 44-49, *appeal allowed*, No. 132458 (January 28, 2026), cited here by the State, which is now in the hands of our supreme court. Perhaps our supreme court will disagree with the appellate opinion in *Hewitt* and hold that proportionate-penalties claims, like true *Miller* claims, merit an exception to trial forfeiture, but that is not how I read current case law. As I would find the proportionate-penalties claim forfeited, I respectfully dissent.