

2026 IL App (1st) 241694-U
No. 1-24-1694
Order filed September 3, 2026

Fourth Division

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 DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County
	)	
v.	)	No. 14 CR 10651
	)	
LEVONTAE LAWSON,	)	Honorable
	)	Timothy Joseph Joyce,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE NAVARRO delivered the judgment of the court.
Presiding Justice Quish concurred in the judgment.
Justice Ocasio dissented.

ORDER

¶ 1 *Held:* We affirm the circuit court's second-stage dismissal of defendant's successive postconviction petition where his retained postconviction counsel did not provide unreasonable assistance.

¶ 2 Following a bench trial, defendant, Levontae Lawson, was found guilty of attempted first degree murder and sentenced to 23 years' imprisonment. Lawson filed a direct appeal and an original postconviction petition under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2022)), neither of which was successful. Thereafter, Lawson filed the instant

successive postconviction petition through retained counsel, where, in relevant part, he claimed that his trial counsel was ineffective for failing to file a pretrial motion to suppress and relatedly, his direct appellate counsel was ineffective for failing to raise the issue. However, postconviction counsel neither attached evidence to support the claims nor explained its absence, and counsel did not attempt to establish cause and prejudice, which was necessary to proceed with a successive petition. See *id.* § 122-1(f). As a result, on the State's motion, the circuit court dismissed Lawson's petition. Lawson now appeals that dismissal, contending that postconviction counsel provided unreasonable assistance by failing to: (1) include evidence to support his claims of ineffective assistance of counsel or explain its absence; and (2) address cause and prejudice in either the petition itself or in response to the State's motion to dismiss. For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4

A. Trial and Direct Appeal

¶ 5 A grand jury indicted Lawson and a codefendant with several offenses, including multiple counts of attempted first degree murder, in connection with a shooting that occurred in May 2014 when Lawson was 17 years old.

¶ 6 At his bench trial, the State presented multiple witnesses who identified Lawson as one of the shooters. One of the witnesses was Dale Jones, who was a shooting victim and had known Lawson for almost his entire life. Additionally, Chicago Police Detective Joseph McGuire testified that, during his investigation of the shooting, multiple witnesses, including Jones, identified Lawson as one of the shooters. The defense presented Arthur Harris as an alibi witness, who claimed that he was with Lawson all day on the day of the shooting and never observed Lawson commit a shooting. In rebuttal, Detective McGuire testified that, after Lawson was arrested, he interviewed Lawson in the presence of Lawson's mother and attorney. Detective McGuire asserted

that, prior to any questioning, he informed Lawson of his *Miranda* rights. Detective McGuire and Lawson proceeded to discuss Lawson's whereabouts on the day in question.

¶ 7 Following the trial, the trial court found Lawson guilty of three counts of attempted first degree murder, three counts of aggravated battery and two counts of aggravated discharge of a firearm. After merging the aggravated battery and aggravated discharge of a firearm counts into the attempted murder counts, the court sentenced Lawson to a total of 23 years' imprisonment.

¶ 8 Lawson filed a notice of appeal. However, his appointed appellate counsel filed a motion for leave to withdraw under *Anders v. California*, 386 U.S. 738 (1967). We granted appellate counsel's motion and affirmed the trial court's judgment. See *People v. Lawson*, No. 1-17-1887 (2019) (unpublished summary order under Supreme Court Rule 23(c)).

¶ 9 B. Postconviction Proceedings

¶ 10 In November 2019, Lawson filed a *pro se* postconviction petition, claiming that the truth-in-sentencing statute (730 ILCS 5/3-6-3 (West 2014)) was unconstitutional as applied to him because he was 17 years old at the time of the shooting. The circuit court summarily dismissed Lawson's petition. Lawson appealed, but his appointed appellate counsel filed a motion for leave to withdraw under *Pennsylvania v. Finley*, 481 U.S. 551 (1987). We granted appellate counsel's motion and affirmed the circuit court's judgment. See *People v. Lawson*, No. 1-20-0466 (2021) (unpublished summary order under Supreme Court Rule 23(c)).

¶ 11 In September 2022, through retained counsel, Lawson filed a successive postconviction petition, although the petition was captioned as an original postconviction petition. Because the petition was captioned as an original petition, Lawson did not include a motion for leave to file the petition or otherwise request leave to file the petition. In the successive petition, Lawson alleged that his trial counsel was ineffective for failing to file a motion to suppress his statements to the

police based on him being only 17 years old and those statements occurring outside the presence of his mother. While the successive petition stated “exhibits” were “attached” to support this claim, no such exhibits were attached. Relatedly, Lawson alleged that his appellate counsel was ineffective for not raising a claim that trial counsel was ineffective for failing to file the motion to suppress. Finally, Lawson alleged that he was actually innocent based on an affidavit and video statement from Jones, both of which were attached to the petition.

¶ 12 During a court appearance, the circuit court asked Lawson’s postconviction counsel whether the matter was “still at the first stage” to which counsel agreed. The court observed that it had reviewed the petition, found that it “state[d] the gist of the constitutional claim” and advanced the matter to second-stage proceedings. During second-stage proceedings, postconviction counsel filed a certificate pursuant to Illinois Supreme Court Rule 651(c) (eff. July 1, 2017), asserting that he had consulted with Lawson to ascertain his claims and examined the trial record.

¶ 13 In March 2024, the State filed a motion to dismiss Lawson’s petition, highlighting that his petition was a successive petition and that, in order to proceed, he needed to establish cause and prejudice. Concerning Lawson’s ineffective assistance of counsel claims, the State argued that he did not satisfy either factor because he failed to identify an impediment to bringing the claims earlier and because the allegations were rebutted by the record. Concerning Lawson’s actual innocence claim, the State argued that he failed to show that the evidence would have altered the outcome of his trial. In response, postconviction counsel requested from the circuit court additional time to respond to the State’s motion.

¶ 14 During the hearing on the State’s motion, postconviction counsel noted that he “incorporated in [his] response in the motion to my answer to their motion to dismiss.” Though postconviction counsel suggested he had filed a written response to the State’s motion, no such

filing appears in the record. Postconviction counsel proceeded to argue why Lawson's actual innocence claim should proceed to an evidentiary hearing. As for Lawson's ineffective assistance of counsel claims, postconviction counsel stood on the petition.

¶ 15 In August 2024, the circuit court granted the State's motion to dismiss. The court observed that Lawson's petition was a successive petition, and to proceed, he had to establish cause and prejudice. Concerning Lawson's ineffective assistance of counsel claims, the court found that he had failed to establish either factor. Concerning Lawson's actual innocence claim, the court noted that Jones had never asserted that Lawson was not one of the shooters, resulting in such evidence not being true evidence of actual innocence.

¶ 16 This appeal follows.

¶ 17 II. ANALYSIS

¶ 18 Lawson contends that his postconviction counsel provided unreasonable assistance when filing his successive petition by failing to include evidence supporting his ineffective assistance of counsel claims or explain the absence of such evidence, and by failing to address the cause-and-prejudice standard applicable to claims in a successive petition, either in the petition itself or in response to the State's motion to dismiss.

¶ 19 A. Leave to File a Successive Postconviction Petition

¶ 20 At the outset, we briefly address the procedure involved with respect to Lawson's successive postconviction petition. In 2019, Lawson filed a *pro se* postconviction petition, which the circuit court summarily dismissed and this court affirmed. See *Lawson*, No. 1-20-0466 (2021) (unpublished summary order under Supreme Court Rule 23(c)). Despite previously filing a postconviction petition, Lawson, through retained postconviction counsel, captioned the instant postconviction petition as if it were an original petition rather than a successive petition.

¶ 21 The Act contemplates a defendant filing only one postconviction petition and provides that claims not raised in the original petition are forfeited. 725 ILCS 5/122-1(f); 122-3 (West 2022); *People v. Lusby*, 2020 IL 124046, ¶ 27. As a result, “successive postconviction petitions are highly disfavored.” *People v. Bailey*, 2017 IL 121450, ¶ 39. To file a successive petition, the defendant must first obtain “express[]” leave of the circuit court. *People v. LaPointe*, 227 Ill. 2d 39, 45 (2007). The court may grant that leave *sua sponte* or at the defendant’s request. *People v. Tidwell*, 236 Ill. 2d 150, 158 (2010). In either circumstance, the court may grant leave only in two situations: (1) if the defendant establishes cause and prejudice for not raising the claim in his original petition; or (2) if the successive filing would avoid “a fundamental miscarriage of justice” because the defendant has shown actual innocence. (Internal quotation marks omitted.) *People v. Griffin*, 2024 IL 128587, ¶¶ 32-33. A defendant “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.” 725 ILCS 5/122-1(f)(1) (West 2022). A defendant “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.” *Id.* § 122-1(f)(2). Until the court grants leave, “a successive petition, though received or accepted by the circuit clerk, will not be considered ‘filed’ for purposes of further proceedings under the Act.” *Tidwell*, 236 Ill. 2d at 158.

¶ 22 The standard for obtaining leave to file a successive petition is more demanding than the frivolous-or-patently-without-merit standard applicable during first-stage initial postconviction proceedings. *People v. Smith*, 2014 IL 115946, ¶ 35; *People v. Robinson*, 2020 IL 123849, ¶ 43. Thus, if the circuit court determines that the defendant has satisfied either exception, first-stage proceedings are unnecessary and the court may advance the petition directly to second-stage proceedings. *People v. Sanders*, 2016 IL 118123, ¶¶ 25-28; *Robinson*, 2020 IL 123849, ¶ 43.

¶ 23 With those principles in mind, we turn to the present case. Although the instant petition was successive, Lawson’s postconviction counsel captioned the pleading as an original petition. In turn, believing it was addressing an original petition, the circuit court found that Lawson’s petition stated the gist of a constitutional claim, the standard applicable to an original petition at the Act’s first stage. See *People v. Williams*, 2024 IL 127304, ¶ 15. Then, the court advanced the petition to second-stage proceedings without expressly granting leave to file the successive petition or analyzing each of Lawson’s three constitutional claims, as required when reviewing a successive petition. See *Griffin*, 2024 IL 128587, ¶ 67. During the second-stage proceedings, in the State’s motion to dismiss, it argued, in part, that Lawson had failed to establish cause and prejudice on his ineffective assistance of counsel claims. It appears that the court did not realize Lawson’s petition was successive until after the State filed its motion to dismiss. And so, when dismissing the petition, the court found that Lawson failed to establish cause and prejudice on his ineffective assistance of counsel claims. The result of this unusual procedural posture is that the court never performed a preliminary screen of Lawson’s petition for cause and prejudice, and never expressly granted Lawson leave to file the successive petition.

¶ 24 However, a similar situation arose in *Sanders*, 2016 IL 118123, ¶¶ 14, 18, in which a defendant submitted a successive postconviction petition alleging an actual innocence claim without requesting leave. After the defendant submitted the petition, retained counsel appeared on his behalf and informed the circuit court that the matter “was a first-stage proceeding,” but counsel never informed the court that it was a successive petition. *Id.* ¶ 17. After reviewing the petition, the court found there was “ ‘at least a gist of the claim’ ” and advanced the petition to the second stage. *Id.* ¶ 18. Thereafter, the State filed a motion to dismiss, arguing, in part, that the defendant’s

purported evidence did not show actual innocence. *Id.* ¶ 19. Ultimately, the court granted the State’s motion to dismiss, and the case reached our supreme court. *Id.* ¶¶ 19-22.

¶ 25 Before addressing the merits of the defendant’s actual innocence claim, our supreme court observed that the defendant’s postconviction counsel did not file a motion for leave to file the successive petition or otherwise advise the circuit court that it was a successive petition. *Id.* ¶ 25. Based on the proceedings below, the court observed that it was “unclear whether the [circuit] court was aware that the petition before it was a successive petition.” *Id.* ¶ 26. The supreme court continued: “Whatever the [circuit] court believed, however, it did in fact set the petition over to the second stage, and we have held that even when no request for leave to file a successive petition is made, the [circuit] court may nonetheless rule on the petition, but is not obliged to do so.” *Id.* ¶ 27. As such, our supreme court found that, while “no request for leave to file was made in the instant case, the [circuit] court had the authority to *sua sponte* consider whether the successive petition should be docketed for second-stage proceedings.” *Id.* ¶ 28. The supreme court proceeded to discuss the merits of the defendant’s claim. *Id.* ¶¶ 30-55.

¶ 26 In the present case, like *Sanders*, the parties and the circuit court apparently assumed that Lawson’s successive postconviction petition was actually an original petition. The parties and the court operated under that assumption from the time Lawson’s petition was filed in September 2022 until around March 2024, when the State filed its motion to dismiss, where, for the first time in the record, someone noted that Lawson’s petition was actually successive. But before the State realized, the court found Lawson’s petition had stated the “gist” of a constitutional claim, and it had the authority to *sua sponte* docket the petition for second-stage proceedings even without explicitly finding that Lawson established cause and prejudice with respect to his ineffective assistance of counsel claims. See *id.* ¶¶ 27-28. As established by *Sanders*, the court here made an

explicit finding about the claims in the petition, namely, the “gist,” and implicitly granted Lawson leave to file his successive petition by advancing the matter to second-stage proceedings. In turn, Lawson’s petition was filed for purposes of the Act and advanced to the second stage.

¶ 27 B. Reasonable Assistance of Postconviction Counsel

¶ 28 At the second stage of the Act, the State can file a motion to dismiss, including raising the argument that the defendant failed to establish cause and prejudice. 725 ILCS 5/122-5 (West 2022); *Bailey*, 2017 IL 121450, ¶ 26. At this stage, the court must determine whether the defendant’s petition, along with any supporting evidence, makes a substantial showing of a constitutional violation. *Bailey*, 2017 IL 121450, ¶ 18. In other words, the critical question is whether “the legal sufficiency of the petition’s well-pled allegations of a constitutional violation, *which if proven* at an evidentiary hearing, would entitle petitioner to relief.” (Emphasis in original.) *People v. Domagala*, 2013 IL 113688, ¶ 35. The defendant has the burden of making the substantial showing. *Id.* The court must take all well-pleaded facts in the petition as true unless they are refuted by the record. *Id.*

¶ 29 Lawson claims that the circuit court dismissed his petition on the State’s motion because his postconviction counsel provided unreasonable assistance. Under the Act, a defendant does not have a constitutional right to counsel. *People v. Huff*, 2024 IL 128492, ¶ 21. Rather, in postconviction proceedings, the right to counsel is statutory. See *id.* Regardless of whether counsel is appointed or retained, or whether the defendant has filed an original or successive petition, he is entitled to reasonable assistance from postconviction counsel. *People v. Cotto*, 2016 IL 119006, ¶¶ 41-42; *People v. McGee*, 2025 IL App (1st) 240445, ¶ 35. “Reasonable assistance” is a lesser obligation than “effective assistance,” which applies to trial and direct appellate counsel. See *Strickland v. Washington*, 466 U.S. 668 (1984); *People v. Zareski*, 2017 IL App (1st) 150836, ¶ 50.

¶ 30 Generally, when postconviction counsel files a certificate pursuant to Illinois Supreme Court Rule 651(c) (eff. July 1, 2017), as was the case here, there is a rebuttable presumption that counsel provided reasonable assistance. *People v. Custer*, 2019 IL 123339, ¶ 32. However, the duties imposed by Rule 651(c) apply only “to a postconviction petition initially filed by a *pro se* defendant.” *Cotto*, 2016 IL 119006, ¶ 41. Because retained postconviction counsel filed Lawson’s successive petition, Rule 651(c) does not apply (see *People v. Smith*, 2022 IL 126940, ¶ 32) and no rebuttable presumption arises even though postconviction counsel filed a Rule 651(c) certificate. See *People v. Robinson*, 2025 IL App (1st) 231594-U, ¶ 18. We review the circuit court’s dismissal of a petition and whether postconviction counsel provided reasonable assistance *de novo*. *People v. Williams*, 2025 IL 129718, ¶ 41.

¶ 31 When examining whether postconviction counsel provided unreasonable assistance, we are guided by *Zareski*, 2017 IL App (1st) 150836, in which this court determined that a “*Strickland*-like analysis” should be used in evaluating retained postconviction counsel’s performance. *Id.* ¶¶ 58-59. Accordingly, prejudice is a critical component of the analysis. *Id.* ¶ 59. According to this court, not including a prejudice component would result in “pointless remands to trial courts for repeated evaluation of claims that have no chance of success.” *Id.* In turn, the merits of the underlying claim are essential to determining whether retained postconviction counsel provided unreasonable assistance. *Id.* ¶ 61; see also *People v. Nicasio*, 2026 IL App (1st) 240992-U, ¶¶ 43-45 (agreeing with the *Zareski* standard); *People v. Bell*, 2026 IL App (1st) 241499-U, ¶ 28 (same); *People v. Robinson*, 2025 IL App (1st) 231594-U, ¶ 19 (same); *People v. Davis*, 2025 IL App (1st) 241094-U, ¶ 22 (same); *People v. Jones*, 2024 IL App (5th) 190088-U, ¶¶ 36-38 (same); *People v. Perez*, 2023 IL App (4th) 220280, ¶ 54 (same).

¶ 32 Although the vast majority of Illinois appellate decisions have agreed with *Zareski* when evaluating the performance of retained postconviction counsel, *People v. Williams*, 2024 IL App (5th) 220752-U, ¶ 33, rejected *Zareski*'s standard because it concluded that the decision had been "effectively overruled" by *People v. Johnson*, 2018 IL 122227. However, other decisions have rejected that conclusion. See *Nicasio*, 2026 IL App (1st) 240992-U, ¶ 44; *Perez*, 2023 IL App (4th) 220280, ¶¶ 48-54. Both *Nicasio* and *Perez* explain in detail why *Johnson* did not overrule *Zareski*. We agree with the reasoning in those two cases and need not repeat it here.

¶ 33 Still, citing *People v. Addison*, 2023 IL 127119, Lawson posits that when postconviction counsel fails to fulfill his duties, remand is required regardless of whether the claims have merit. In *Addison*, a defendant filed a *pro se* postconviction petition, raising several claims of ineffective assistance of appellate counsel, which was advanced to second-stage proceedings where the circuit court appointed counsel for him. *Id.* ¶¶ 7-8. In turn, postconviction counsel filed an amended petition and a Rule 651(c) certificate. *Id.* ¶ 8. However, in amending the petition, postconviction counsel removed several of the ineffective assistance of appellate counsel claims, which were necessary to prevent forfeiture because the underlying claims could have been raised on direct appeal. *Id.* ¶¶ 23-24. Our supreme court characterized postconviction counsel's conduct as making "the *pro se* petition worse by amending it." Our supreme court therefore found that counsel violated Rule 651(c) and provided unreasonable assistance. *Id.* ¶¶ 24-27.

¶ 34 After finding postconviction counsel's performance unreasonable, our supreme court confronted the proper remedy. *Id.* ¶ 32. The court explained that it is inappropriate to consider the merits of a postconviction petition's underlying claims when postconviction counsel fails to comply with Rule 651(c). *Id.* ¶¶ 33, 42. And thus, according to the court, when postconviction counsel fails to comply with Rule 651(c), remand is automatically required. *Id.* ¶ 42.

¶ 35 However, Lawson’s reliance on *Addison* is misplaced because he acknowledges that Rule 651(c) does not apply to his case because retained postconviction counsel drafted his successive petition (see *Cotto*, 2016 IL 119006, ¶ 41; *Smith*, 2022 IL 126940, ¶ 32), notwithstanding the fact that postconviction counsel here filed a superfluous Rule 651(c) certificate. See *People v. Kuehner*, 2015 IL 117695 (observing that the primary purpose of Rule 651(c) is to “to move the process forward by cleaning up the defendant’s *pro se* claims and presenting them to the court for adjudication”). Because Rule 651(c) did not apply to Lawson’s postconviction counsel, his counsel could not have failed to comply with the rule. And, as previously discussed, in situations like Lawson’s, where he had retained counsel to draft his successive petition, the merits of his claims matter. See *Zareski*, 2017 IL App (1st) 150836, ¶¶ 58-61.

¶ 36 With the standard by which to evaluate retained postconviction counsel established, we now turn to counsel’s performance. We begin with Lawson’s argument that postconviction counsel failed to include evidence supporting his ineffective assistance of trial and appellate counsel claims, or explain the absence of such evidence, founded on trial counsel not filing a pretrial motion to suppress his statements to Detective McGuire based on the allegation that he interviewed Lawson without his mother present. Under the Act, a postconviction petition “shall have attached thereto affidavits, records, or other evidence supporting its allegations or shall state why the same are not attached.” 725 ILCS 5/122-2 (West 2022). Indeed, the failure to attach evidence or explain its absence can result in the petition’s dismissal. See *People v. Collins*, 202 Ill. 2d 59, 66 (2002). But the omission of affidavits from Lawson or his mother, or an explanation for their omission, was immaterial because Lawson could have raised these ineffective assistance of counsel claims in his original postconviction petition. Because Lawson could have raised the claims earlier, they

are forfeited. See 725 ILCS 5/122-3 (West 2022). Consequently, the lack of evidence to support these claims was inconsequential and did not prejudice Lawson.

¶ 37 Perhaps anticipating that this claim would be subject to forfeiture, Lawson further argues that his postconviction counsel failed to present any argument to establish cause and prejudice, either in response to the State’s motion to dismiss or during argument at the hearing on the State’s motion. As we have discussed, “successive postconviction petitions are highly disfavored in Illinois” (*Bailey*, 2017 IL 121450, ¶ 39), and a defendant may overcome forfeiture for failing to include a claim in an original petition (see 725 ILCS 5/122-3 (West 2022)) by establishing cause and prejudice. See *id.* § 122-1(f); *People v. Jones*, 213 Ill. 2d 498, 505 (2004).

¶ 38 It is undisputed that retained postconviction counsel made no argument regarding cause or prejudice in Lawson’s successive postconviction petition, apparently because counsel was unaware that the petition was not Lawson’s first. It is likewise undisputed that, after the State filed its motion to dismiss based, in part, on a lack of cause and prejudice, postconviction counsel did not attempt to establish that Lawson could satisfy the cause-and-prejudice requirement in a written response or at the hearing on the State’s motion. Nevertheless, on appeal, Lawson has not identified what arguments his postconviction counsel could have raised to combat the State’s argument about a lack of cause and prejudice. Under these circumstances, we cannot conclude that postconviction counsel provided unreasonable assistance when Lawson fails to identify the arguments that counsel should have raised. See *People v. Profit*, 2012 IL App (1st) 101307, ¶ 29 (rejecting the defendant’s contention that his postconviction counsel provided unreasonable assistance by failing to address “procedural bars raised by the State in its motion to dismiss, in particular, the cause-and-prejudice test ***” where the “defendant has not identified what arguments in particular counsel could have made in such a response”).

¶ 39 Additionally, even if Lawson could overcome forfeiture by establishing cause and prejudice, his ineffective assistance of counsel claims would still fail because they lacked merit. At the core of both claims is the allegation that trial counsel should have filed a pretrial motion to suppress his statements to Detective McGuire because he was interviewed without his mother present. However, the trial record affirmatively rebuts this allegation. At trial, Detective McGuire testified without contradiction that he interviewed Lawson in the presence of both his mother and his attorney. As such, this claim would have been subject to dismissal because it was positively rebutted by the trial record. See *Domagala*, 2013 IL 113688, ¶ 35; see also *People v. Williams*, 2025 IL App (4th) 240885-U, ¶ 58 (affirming the second-stage dismissal of a defendant’s postconviction petition where he “failed to make a substantial showing” that “he was denied the right to testify” because such “allegations were positively rebutted by the record”).

¶ 40 We acknowledge that, in Lawson’s successive petition on the ineffective assistance of trial counsel claim, the petition stated that “[t]he exhibits attached [to this issue] are relevant an[d] incorporated herein for this issue” yet no exhibits were attached to support the claim. Despite this statement, we cannot assume that postconviction counsel actually had affidavits from Lawson or his mother in his possession, and failed to attach them to the successive petition. This reference may have been a mistake, a typographical error or a misplaced reference to the exhibits supporting Lawson’s actual innocence claim. Regardless, even assuming counsel possessed affidavits from Lawson and his mother, and attached them to the petition, the claim would still have been forfeited (see 725 ILCS 5/122-3 (West 2022)) and, on appeal, Lawson has identified no argument that could establish cause and prejudice to overcome that forfeiture. See *Profit*, 2012 IL App (1st) 101307, ¶ 29. Moreover, the allegation would still be positively rebutted by the trial record. As a result,

Lawson cannot show that he was prejudiced by his postconviction counsel's alleged unreasonable assistance.

¶ 41 Finally, Lawson does not challenge any aspect of the circuit court's dismissal of his ineffective assistance of counsel claims or his actual innocence claim. Lawson also does not challenge any aspect of the performance of postconviction counsel with respect to his actual innocence claim. Thus, he has forfeited review of any such issues on appeal. See *Cotto*, 2016 IL 119006, ¶ 49.

¶ 42 III. CONCLUSION

¶ 43 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 44 Affirmed.

¶ 45 JUSTICE OCASIO, dissenting:

¶ 46 I respectfully dissent. Lawson's postconviction counsel provided unreasonable assistance. The record demonstrates that Lawson's counsel failed to include supporting evidence for the ineffective assistance claims and did not adequately identify or secure the necessary documentation to substantiate those claims. Although counsel attached documents related to actual innocence, there was a clear absence of evidence for the other claims, and the petition lacked proper affidavits or statements to support allegations of ineffective assistance. This deficiency mirrors the shortcomings identified in *People v. Turner*, 187 Ill.2d 406 (1999), where failing to amend the petition and omitting crucial affidavits led to reversal and remand. Because Lawson's counsel did not fulfill the requirements of diligence and substantive support, the record supports the conclusion that counsel's representation was legally inadequate and fell below the standard of reasonable assistance required for meaningful postconviction review.

¶ 47 Lawson’s postconviction petition states, “The exhibits attached to Issue I are relevant an [sic] incorporated herein for this issue.” Based on the representation made in the petition, Lawson’s postconviction counsel conceivably possessed affidavits or statements from Lawson and his mother. However, the petition did not include any supporting evidence relating to Lawson’s claim of ineffective assistance of counsel. Therefore, we must conclude that Lawson’s postconviction counsel’s representation fell below the standard of reasonableness. The defendant has the right to raise issues pertaining to alleged violations of constitutional rights. For these issues to be properly addressed from the outset, it is crucial that the defendant receives quality legal representation. This representation must not only begin at the earliest stage but also continue seamlessly throughout the state postconviction process.

¶ 48 Moreover, the successive postconviction petition filed by counsel was deficient. The petition made no argument related to cause and prejudice. Further, while counsel stated during the hearing on the State’s motion to dismiss that he “incorporated in [his] response in the motion to my answer to their motion to dismiss,” it does not appear in the record. Any argument Lawson had regarding cause and prejudice was, seemingly, not presented to the trial court. Because Lawson’s counsel did not fulfill the requirements of diligence and substantive support, the record supports the conclusion that counsel’s representation was legally inadequate and fell below the standard of reasonable assistance required for meaningful postconviction review.

¶ 49 The effectiveness of postconviction counsel is a critical factor in determining whether constitutional errors identified during trial or appeal are properly considered by postconviction courts. What the counsel does, as well as the timing and quality of their actions, often dictates if proven constitutional violations are recognized and addressed during postconviction reviews.

¶ 50 When a defendant files a postconviction petition, Illinois, like most states, treats this as a civil proceeding, which means the constitutional right to an attorney doesn't apply, at least not in the same way. Instead, "the right to counsel is 'a matter of legislative grace,' derived from the Act." *People v. Huff*, 2024 IL 128492, ¶ 21 (quoting *People v. Custer*, 2019 IL 123339, ¶ 30). Reasonable assistance is a "slightly lower" standard than the effective assistance standard mandated by state and federal constitutions. *Custer*, 2019 IL 123339, ¶ 30. Hence, if someone is trying to challenge a wrongful conviction or an unfair sentence, the difference between "effective" and merely "reasonable" representation amounts to a barrier to true fairness. The reasoning that an individual deprived of a constitutional right in a postconviction civil proceeding is entitled only to less than effective representation is comparable to providing a COVID-19 palliative rather than a vaccine.

¶ 51 To ensure postconviction representation is not hollow, Illinois must raise the bar beyond minimal compliance and include substantive, defendant-centered safeguards. Roscoe Pound once wrote: "Law must be stable and yet it cannot stand still."

¶ 52 I respectfully dissent.