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).

2026 IL App (4th) 260081-U

NO. 4-26-0081

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 5, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
JAROB KABELL GRINNAGE,	)	No. 23CF663
Defendant-Appellant.	)	
	)	Honorable
	)	J. Jason Chambers,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Steigmann and Justice Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the summary dismissal of defendant's *pro se* postconviction petition, concluding the petition was frivolous and patently without merit.

¶ 2 Defendant, Jarob Kabell Grinnage, was convicted of a drug offense, and the trial court sentenced him to an extended-term sentence. We affirmed defendant's conviction and sentence on direct appeal. *People v. Grinnage*, 2025 IL App (4th) 240841-U, ¶ 52. Thereafter, defendant filed a petition under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2024)), in which he asserted trial counsel was ineffective for failing to move to suppress certain evidence tending to show his possession of cocaine. The court summarily dismissed defendant's petition (see *id.* § 122-2.1(a)(2)). On appeal, defendant asserts the dismissal was improper. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant with possession with intent to deliver 1 gram or more but less than 15 grams of a substance containing cocaine (720 ILCS 570/401(c)(2) (West 2022)) and a lesser included offense. He waived his right to a jury trial.

¶ 5 At defendant's bench trial, Officer Andrew Chambers, who identified himself as a Bloomington Police Department canine officer, testified "Officer [Tyler] Elston" observed a white 2023 Tesla "fail[ing] to signal." Chambers thereafter caught up to the car and pulled it over. Elston arrived and spoke to K.H., the driver, while Chambers spoke to defendant, the sole passenger. (Throughout our disposition in the direct appeal, we erroneously used the initials "K.W." to refer to K.H. That error has been replicated elsewhere. See *Grinnage*, 2025 IL App (4th) 240841-U, ¶ 5 *et passim*. We have corrected the error where it appears in quotations.)

¶ 6 Chambers asked K.H. and defendant to exit the car so he and his dog could "conduct a free-air sniff." The dog "indicate[d] positive for drugs on the Tesla." A search of the car revealed cannabis residue on the floor and a tetrahydrocannabinol vape pen in the center console but no other controlled substances.

¶ 7 Officer Logan Fosdick of the Bloomington Police Department testified he spoke to K.H. during the stop, and she initially said "she didn't have anything on her." However, after he "informed her that due to a positive alert from [the] canine we were going to be doing a search of the vehicle and her person," K.H. "pulled a small clear bag from the front section of her pants." The bag contained six smaller baggies whose contents tested positive for cocaine.

¶ 8 K.H. testified, before the traffic stop, defendant had handed her a baggie and asked her to "hide it in the best place [she] could." She agreed, when she was initially stopped, she denied having cocaine or cannabis on her person. She also agreed, after this denial, "[t]he officers then communicated that the dog had *** alerted and that they could search [her]." She further agreed

they had told her she could be held responsible for anything found in the car. Only after this did she admit she had drugs on her person.

¶ 9 K.H. also testified she knew defendant as "Shortie" and that he was the one who had the white Tesla. She had driven defendant in the Tesla "seven or eight" times.

¶ 10 The trial court found defendant guilty of possession with intent to deliver 1 gram or more but less than 15 grams of a substance containing cocaine and then sentenced him to 18 years' imprisonment.

¶ 11 On direct appeal, defendant asserted the evidence was insufficient to support his conviction and contended the trial court's decision to impose an 18-year sentence was first-prong plain error. *Id.* ¶ 31. We rejected both claims and affirmed. *Id.* ¶ 52.

¶ 12 Defendant then filed a petition under the Act, in which he raised a single claim: defense counsel was ineffective because he failed to "suppress [K.H.'s] statements and evidence found in [her] underwear during the traffic stop."

¶ 13 On November 13, 2025, the trial court dismissed the petition as frivolous and patently without merit (see 725 ILCS 5/122-2.1(a) (West 2024)), ruling, *inter alia*, (1) defendant forfeited his claim by failing to raise it on direct appeal and (2) defendant lacked standing to raise a claim based on K.H.'s rights.

¶ 14 On Monday, December 15, 2025, defendant filed a notice of appeal with the circuit clerk seeking review of "the decision entered on 11-13-2025." However, the clerk did not transmit the notice to this court. On January 22, 2026, the clerk filed a notice of appeal on defendant's behalf seeking review of the trial court's November 13, 2025, dismissal of defendant's petition under the Act.

¶ 15 On March 17, 2026, defendant filed a motion for leave to file a late notice of appeal

in this court, referencing the sequence of events we have just described. We granted this motion. *People v. Grinnage*, No. 4-26-0081 (2026) (unpublished minute order).

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 On appeal, defendant argues the trial court erred in dismissing his petition because (1) the petition, read charitably, should be understood to include the allegation appellate counsel was ineffective for failing to raise the claim on direct appeal and (2) the court was incorrect in concluding defendant necessarily lacked standing to challenge the admission of K.H.'s statements to police and the cocaine she had on her person.

¶ 19 On the second point, defendant contends it was arguable a motion to suppress K.H.'s statements to police, and her resulting relinquishment of the bag containing cocaine, could be legally framed as a violation of his rights as the result of an improper search of his car. He contends, "[W]hile the cocaine was recovered from K.H., not [defendant], officers used their unlawful search and seizure of [his] car to justify compelling K.H. to turn over the contraband."

¶ 20 The State responds, arguing, *inter alia*, the following: (1) the trial court correctly determined defendant forfeited his claim by failing to raise it on direct appeal and (2) "[d]efendant's argument on appeal is a red herring that attempts to shift the focus from [K.H.'s] handing the cocaine over to the police and her subsequent statement to the search of his vehicle and the canine alert."

¶ 21 A. Applicable Law

¶ 22 1. *Postconviction Petitions*

¶ 23 The Act permits an incarcerated defendant to challenge their convictions or sentences by asserting the judgment resulted from a substantial violation of their federal or state

constitutional rights. *People v. House*, 2021 IL 125124, ¶ 15. However, any claims which could have been raised on direct appeal, but were not, are forfeited. *People v. Pitsonbarger*, 205 Ill. 2d 444, 456 (2002). The bar of forfeiture is "relaxed" where it is a consequence of ineffective assistance of appellate counsel. *People v. Williams*, 209 Ill. 2d 227, 233 (2004).

¶ 24 The Act provides for a three-stage process for adjudicating postconviction petitions. *People v. Allen*, 2015 IL 113135, ¶ 21. At the first stage, the trial court reviews the petition independently (*People v. Bailey*, 2017 IL 121450, ¶ 19), and if the petition is frivolous or patently without merit, the court must dismiss the petition (725 ILCS 5/122-2.1(a)(2) (West 2024)).

¶ 25 The trial court may determine a petition is frivolous or patently without merit "only if the petition has no arguable basis either in law or in fact." *People v. Hodges*, 234 Ill. 2d 1, 11-12, (2009).

> "To survive dismissal at this stage, a petition need only present the gist of a constitutional claim. [Citation.] This is a low threshold and a defendant need only present a limited amount of detail in the petition. At this stage, a defendant need not make legal arguments or cite to legal authority." *People v. Gaultney*, 174 Ill. 2d 410, 418 (1996).

¶ 26 A petition lacks an arguable legal basis when it is based on an indisputably meritless legal theory, such as one the record completely contradicts. *Hodges*, 234 Ill. 2d at 16. A petition lacks an arguable factual basis when it is based on a fanciful factual allegation, such as one that is clearly baseless, fantastic, or delusional. *Id.* at 16-17. "[A] petition alleging ineffective assistance may not be *** dismissed [at the first stage] if (i) it is arguable that counsel's performance fell below an objective standard of reasonableness and (ii) it is arguable that the defendant was

prejudiced." *Id.* at 17.

¶ 27 A first stage dismissal of a petition is subject to *de novo* review. *People v. Williams,* 2024 IL 127304, ¶ 17.

¶ 28 2. *An Individual's Right to Seek the Suppression of Evidence*

¶ 29 Illinois courts require defendants to establish how *their own* constitutional rights were violated as a condition of suppressing evidence. See *People v. McCarty*, 223 Ill. 2d 109, 156 (2006) ("Illinois courts adhere to the rule requiring a defendant to establish the manner in which his constitutional rights have been violated before permitting him to challenge the validity of the search and seizure." (Internal quotation marks omitted.)). Thus, for instance, where a defendant has no privacy interest in the area law enforcement officers search, they cannot assert a violation of the fourth amendment (U.S. Const., amend. IV) to suppress the fruits of the search. See *People v. Johnson*, 237 Ill. 2d 81, 90 (2010) ("[T]he relevant inquiry is whether the person claiming the protections of the fourth amendment had a legitimate expectation of privacy in the place searched."). The requirement that defendants are limited to asserting their own rights in suppression motions is sometimes discussed under "the rubric of 'standing.' " *Id.* at 89.

¶ 30 B. This Case

¶ 31 Here, defendant concedes any suppression motion defense counsel could have filed would necessarily have to be based on a violation of his own rights. However, he states K.H.'s production of the cocaine and statements were arguably the result of such a violation. We disagree. The claim in defendant's postconviction petition was fatally flawed because the record showed defendant's rights were not implicated in K.H.'s decision to cooperate with the police. The trial testimony shows K.H. started cooperating with the police when Fosdick told her the dog's alert allowed the police to search both the car *and her*. Given that K.H. had reason to know defendant

had persuaded her to hide contraband on her person, her paramount concern must have been what the police would find when they searched her. Nothing the police found in the search of the car, and nothing K.H. told the police or to which she testified, suggests she had reason to believe the search of the car would incriminate her. Thus, the search of the car lacked any relationship to K.H.'s statements to the police or her revealing the cocaine to the police. Indeed, the record positively shows K.H. started cooperating with the police based on Fosdick's specific interactions with her and not anything implicating the rights of defendant.

¶ 32 Defendant here tries to show the possible merit of his petition by explaining how a suppression motion could be based on an assertion of his rights, not K.H.'s. He contends it was arguable his detention and K.H.'s were both unlawfully prolonged because the dog's "alert[ ]" to the car did not provide probable cause for the police to search the car. First, he asserts, "[T]he drug dog was not able to differentiate contraband from non-contraband or burnt cannabis from raw cannabis, so arguably could not provide probable cause to justify prolonging the stop or searching the car and its occupants." He implies his basis for his assertion about the dog's ability is based on its having alerted near the car when only cannabis was found inside. Second, he argues, "[The] officers used their unlawful search and seizure of [his] car to justify compelling K.H. to turn over the contraband."

¶ 33 Defendant's argument on appeal is not supported by the facts. First, as we discussed, K.H.'s decision to cooperate with the police was the result of Fosdick's telling her she was subject to a search and was not a result of the police search of defendant's car. Second, defendant's assertion the drug dog was alerting to the smell of cannabis is pure speculation. The record contains nothing relating to the dog's training or abilities. As such, we do not know whether it was trained to alert to cannabis. We also do not know whether it had the ability to detect traces

of cocaine the police might not have found during the search. Thus, defendant's argument does not provide a basis for us to conclude either K.H.'s cooperation was induced by the search or the search was without probable cause.

¶ 34 III. CONCLUSION

¶ 35 For the reasons stated, we affirm the trial court's judgment.

¶ 36 Affirmed.