2025 IL App (1st) 221749-U

No. 1-22-1749

Order filed June 30, 2025

Third Division

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. 07 CR 7156
	)	
OLIVER CRAWFORD,	)	Honorable
	)	Adrienne Davis,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE LAMPKIN delivered the judgment of the court.
Justices Reyes and D.B. Walker concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's judgment dismissing defendant's second-stage petition for postconviction relief is reversed and remanded for further second-stage proceedings because defendant did not receive the reasonable assistance of postconviction counsel.

¶ 2 Defendant Oliver Crawford was convicted of first degree murder and three counts of aggravated discharge of a firearm stemming from his involvement in a drive-by shooting on February 1, 2004, and sentenced to an aggregate term of 40 years' imprisonment. He now appeals

the dismissal of his second-stage petition for postconviction relief pursuant to the Postconviction Hearing Act (the Act), 725 ILCS 5/122-1 *et seq*. (West 2020). Before this court, defendant maintains that he made a substantial showing of both an actual innocence claim and constitutional violations and, alternatively, that he did not receive the reasonable assistance of postconviction counsel.

¶ 3 For the reasons that follow, we reverse the judgment of the trial court and remand for further second-stage proceedings.[1]

¶ 4 I. BACKGROUND

¶ 5 On February 1, 2004, at about noon, a drive-by shooting occurred at 332 East 58th Street in Chicago, Illinois. Christopher Dorbin, Desi Jones, Kentrae Wade, and Carol Holt were all wounded, and Dorbin died of his injuries. Defendant and his codefendants Ricardo Lee and Chad Johnson were charged with various offenses arising from the shooting.

¶ 6 At defendant's bench trial, Jones testified that he was a member of a sect of the Gangster Disciples (GD) gang that was at war with a rival sect of the same gang. On the date and time in question, Jones was in front of a liquor store at 332 East 58th Street talking to Dorbin, another GD member. Wade, who was also a GD member, and Holt, were standing nearby. Jones saw a car speeding the wrong way down a one-way street with all its windows open. The car slowed and Jones made eye contact with two people in the car, defendant and Johnson. Johnson was in the front passenger seat while defendant was in the back passenger seat. Both Johnson and defendant

[1]In adherence with the requirements of Illinois Supreme Court Rule 352(a) (eff. July 1, 2018), this appeal has been resolved without oral argument upon the entry of a separate written order.

drew automatic weapons and opened fire. Jones fled and was struck in the back and right leg before he fell to the ground. Dorbin then fell on top of him. Jones never saw who was driving.

¶ 7 Wade testified that Lee was driving the car, Johnson was in the front passenger seat, and defendant was in the back passenger seat. As the car slowed, Johnson and defendant produced weapons and began shooting. Wade was struck in both legs.

¶ 8 Holt testified similarly to Jones and Wade, but was unable to identify anyone inside the vehicle. When she attempted to flee into the liquor store, she was shot in the left knee.

¶ 9 Stacey Murray testified that he was a GD member and was driving toward the liquor store when he heard multiple gunshots and saw a car speeding down 58th Street. As the car drove by, Murray saw Lee in the driver's seat, Johnson in the front passenger seat, and defendant in the rear passenger seat.

¶ 10 Chicago Police Officer Vanessa Muhammad testified that she received a call at 11:50 a.m. on February 1, 2004, that a person was shot at 332 East 58th Street. Officer Muhammad arrived by noon where she spoke with the victims and then began searching for defendant, Johnson, and Lee. She then testified that she spoke with Dorbin after the shooting and that she obtained defendant's name from him.

¶ 11 Defendant presented five witnesses and testified on his own behalf. Solomon Bey testified that he was in close proximity to Dorbin when Dorbin was shot in front of the liquor store, but that he was unable to determine the identities of either of the two shooters or the driver of the car because they were masked. Bey's testimony was later impeached with a stipulation that he gave a statement to police identifying "Debo" (Johnson) and "Ceaster" as the shooters.

¶ 12 Juliette Washington testified that she had a child with defendant and that in the early months of 2004, she was dating Radsheen Shephard. Prior to dating Shephard, she also dated Dorbin. Sometime in February 2004, Shephard told Washington that he and Lafayette Singleton went to Mr. G's liquor store on "Superbowl Sunday" and Shephard shot Dorbin. After Washington learned of defendant's arrest, she told defendant's parents that Shephard was the shooter. In January 2005, she told defendant's attorney that information, but she never went to the police because Shephard threatened her.

¶ 13 Shirley Crite, defendant's cousin, testified that on the date in question she had a Superbowl party at her residence in Streamwood. The night before the Superbowl, defendant was at Crite's house at 11:30 p.m. At 9 a.m. the following day, Crite left her house and defendant remained there. Crite returned home between 12:30 p.m. and 1 p.m. to find defendant there. Shortly thereafter, defendant left to return to his own apartment before going to the hospital to visit his grandmother. Defendant returned to Crite's house later in the afternoon and stayed for the party. A few weeks later, Crite learned that defendant had been arrested, so she spoke to defendant's attorney. However, she never went to the police with what she knew.

¶ 14 Dominique Manuel testified that defendant was her cousin through marriage and that she was present at Crite's home with defendant the night before the shooting. Manuel woke up the following day around noon and saw that Crite was gone, but defendant was still there. Crite returned around 1 p.m. and defendant left soon after. Defendant then returned about an hour later for the party. Manuel contacted defendant's attorney, but never spoke with the police.

¶ 15 Annette Crawford, defendant's sister, testified that at about noon on February 1, 2004, defendant called her from Crite's house, after which she went to visit their grandmother at the

hospital. Defendant arrived at the hospital at about 3 p.m. After defendant was arrested, she went to defendant's attorney, but never went to the police.

¶ 16 Defendant testified similarly to Crite, Manuel, and Crawford. He denied being at the liquor store or being involved in the shooting. He also denied being a GD member or that he socialized with Johnson or Lee in January or February 2004.

¶ 17 The trial court found defendant guilty of one count of first degree murder and three counts of aggravated discharge of a firearm. The trial court found defendant's alibi witnesses incredible, citing their failure to ever report their claims to the police while the case was pending. Defendant was sentenced to 25 years' imprisonment for first degree murder, and three five-year terms for aggravated discharge of a firearm, to be served consecutively. We affirmed defendant's conviction on direct appeal.

¶ 18 On March 29, 2012, defendant, represented by counsel, filed a postconviction petition. That petition alleged that defendant received the ineffective assistance of counsel at trial and that he was actually innocent based on newly discovered evidence. On May 3, 2012, defendant filed a supplement to his petition which claimed that defendant's codefendant Johnson was found guilty of first degree murder and three counts of aggravated battery by a jury, but that this court reversed Johnson's conviction. *People v. Johnson*, 2012 IL App (1st) 091730. Johnson was subsequently acquitted upon retrial and granted a certificate of innocence on March 18, 2019.

¶ 19 On June 7, 2012, the trial court summarily dismissed defendant's petition as being frivolous and without merit. On May 8, 2015, we reversed the trial court's dismissal of defendant's petition, holding that defendant demonstrated the gist of a constitutional claim. *People v. Crawford*, 2015 IL App (1st) 123134-U, ¶¶ 33-34.

¶ 20 On November 20, 2020, defendant, represented by different postconviction counsel, filed a first amended postconviction petition. Because our disposition does not reach the merits of defendant's claims, we only recite defendant's claims in detail where necessary for an understanding of defendant's unreasonable assistance of counsel claims. Defendant's petition first alleged his innocence based in part on an affidavit from Jerry Dorbin, Christopher Dorbin's brother. This claim did not appear in defendant's initial petition in 2012.

¶ 21 Jerry averred that he was with his brother at the time of the shooting and that he saw a dark-colored car heading west on 58th Street. The car, which Jerry had never seen in the neighborhood, stopped in front of the liquor store. Two men were in the front seats and one man was in the backseat. All of the men in the car were wearing masks, and Jerry described them as small men. He averred that he knew defendant and Johnson to be at least 6 feet tall. He stated that the car was so small that defendant and Johnson would not have fit comfortably. He knew the men in the car were not defendant and Johnson because the occupants were "little boys." Lastly, Jerry averred that trial counsel never attempted to contact him.

¶ 22 Police reports attached to defendant's petition reflect that Jerry was a known witness and that police attempted to interview him, but that Jerry's mother turned them away, informing them that Jerry did not wish to cooperate with them.

¶ 23 Defendant also alleged his innocence based on newly discovered evidence from his codefendant, Lee, who pled guilty. Defendant attached two letters to his petition which purportedly originated from Lee. One of the letters was addressed to defendant, but the return address did not belong to Lee and the letter was signed "Wody." The other was not addressed to defendant, but the return address bore Lee's name and was signed by Lee. Neither letter was notarized nor were

they accompanied by an affidavit from Lee. Both letters indicate regret that the recipient was incarcerated for something he did not do.

¶ 24 Next, defendant claimed that he received ineffective assistance of trial counsel based on trial counsel's failure to investigate and call a number of witnesses or present certain evidence. Of particular note to the issues before us, defendant claimed that trial counsel should have called a gas station attendant and defendant's neighbor who would have corroborated his alibi defense. He also alleged that trial counsel should have obtained phone records which would have corroborated defendant's alibi. The petition included no affidavits or other evidence to support these claims, nor did it explain their absence. Finally, defendant alleged that the State violated *Brady v. Maryland* by suppressing a 9-1-1 call from Stacey Murray that would have impeached Murray's trial testimony.

¶ 25 On May 25, 2021, the State filed a motion to dismiss defendant's postconviction petition, claiming that defendant failed to make the requisite showing of an actual innocence claim or a constitutional violation. On October 17, 2022, the trial court dismissed defendant's petition. Among its reasoning, the trial court noted the lack of attached evidence for defendant's claims regarding his neighbor, the gas station attendant, and phone records. With respect to the letters reportedly sent by Lee, the trial court noted their lack of authentication or accompanying affidavit. Finally, with respect to Jerry Dorbin, the trial court noted the lack of any evidence that trial counsel had exercised due diligence attempting to find him. Defendant filed a notice of appeal on November 15, 2022, and this appeal followed.

¶ 26 II. ANALYSIS

¶ 27 On appeal, defendant raises a number of arguments that the trial court erred in dismissing his postconviction petition, as well as multiple claims that he received unreasonable assistance of postconviction counsel. Because defendant's unreasonable assistance claims are dispositive, we need not reach the remainder of his claims.

¶ 28 In postconviction cases, there is no constitutional right to counsel. *People v. Addison*, 2023 IL 127119, ¶ 19. Instead, the right to counsel is provided by statute, and defendants are only entitled to a "reasonable level of assistance," which is less than that afforded by the federal and state constitutions. *Id*. This distinction is a rational one because trial counsel plays a different role than postconviction counsel. *Id*. At trial, counsel acts as a shield to protect a defendant from being stripped of the presumption of innocence. *Id*. But defendants in a postconviction posture have already been stripped of their presumption of innocence and have generally failed to obtain relief on direct appeal. *Id*. Thus, postconviction counsel is meant not to protect a defendant from the prosecutorial forces of the State, but to shape defendants' claims into the proper legal form, and present those claims to the court. *Id*.

¶ 29 Illinois Supreme Court Rule 651(c) requires an attorney in a postconviction proceeding to certify that he or she has: (1) consulted with the defendant to ascertain his contentions of deprivations of constitutional rights; (2) examined the record of the proceedings at trial; and (3) made any necessary amendments to the petition that are necessary for an adequate presentation of the defendant's claims. Ill. S. Ct. R. 651(c) (eff. July 1, 2017). However, postconviction counsel is only required to file a Rule 651(c) certificate when the petition which initiates the proceedings is filed *pro se*. *People v. Cotto*, 2016 IL 119006, ¶ 41. Nevertheless, the reasonable assistance

standard applies to both appointed and retained counsel. *Id*. Rule 651(c) is merely a vehicle for ensuring a reasonable level of assistance and should not be viewed as the only guarantee of reasonable assistance in postconviction proceedings. *Id*. Given that it is the filing of a Rule 651(c) certificate that creates the rebuttable presumption of reasonable assistance, *Addison*, 2023 IL 127119, ¶ 21, it appears that we need not afford any such presumption where defendant did not file a *pro se* petition and no certificate was filed by retained counsel. This conclusion is consistent with Rule 651(c) which contemplates that appointed postconviction counsel is presented with a *pro se* petition that was crafted without the guiding hand of counsel. Ill. S. Ct. R. 651(c) (eff. July 1, 2017). Presumably the concerns that motivated Rule 651(c)'s certificate requirement do not exist when retained counsel was responsible for defendant's petition from its inception. After all, there are no amendments to be made to a *pro se* petition if there is no *pro se* petition.

¶ 30 Thus, the question simply becomes whether defendant received the reasonable assistance of counsel, which in part obligates counsel to make all necessary amendments, shape defendant's claims into the proper legal form, and present those claims to the court. *Addison*, 2023 IL 127119, ¶¶ 19, 21. The Act cannot serve its purpose properly unless postconviction counsel fulfills that obligation. *People v. Owens*, 139 Ill. 2d 351, 359 (1990).

¶ 31 We review *de novo* the question of whether a defendant received the reasonable assistance of counsel. *People v. Profit*, 2012 IL App (1st) 101307, ¶ 17.

¶ 32 In this case, defendant's initial postconviction petition was filed by retained counsel, and, upon remand for second-stage proceedings, his first amended petition and addendum were completed and filed by different, unrelated postconviction counsel. No Rule 651(c) certificate was filed. Defendant argues that his second-stage postconviction counsel provided unreasonable

assistance by: (1) failing to allege an alternative theory of ineffective assistance of counsel regarding Jerry Dorbin; (2) failing to allege that trial counsel provided ineffective assistance for failing to impeach Muhammad's trial testimony; (3) failing to provide evidentiary support for various ineffective assistance of counsel claims; (4) failing to obtain any verification for the letters allegedly sent by Lee; and (5) failing to attach the correct 9-1-1 call recording as an exhibit.

¶ 33 We address defendant's unreasonable assistance claim regarding Jerry Dorbin first. In particular, defendant argues that postconviction counsel was unreasonable for only claiming that the contents of Jerry's affidavit were newly discovered evidence, and failing to make an alternative claim that trial counsel failed to provide effective assistance by investigating Dorbin's claims.

¶ 34 The State counters that postconviction counsel at the second stage was only obligated to properly present defendant's claims, and did not have an obligation to present new claims that were not included in defendant's initial petition. See *People v. Smith*, 2022 IL 126940, ¶ 29 (postconviction counsel is only obligated to investigate and properly present a petitioner's claims). But this argument is unpersuasive because defendant's petition at the first stage did not raise any claims regarding Jerry. Postconviction counsel at the second stage obtained his affidavit and used it as part of a new actual innocence claim. Thus, while postconviction counsel at the second stage may not have been obligated to investigate and add new claims, it did so, and had an obligation to present those claims properly.

¶ 35 The problem is that defendant's petition and its attached exhibits reveal that Jerry was a known witness who had refused to cooperate with the police investigation. To properly allege that the contents of his affidavit were evidence that defendant is actually innocent, defendant had to demonstrate, among other elements, that the evidence was newly discovered. *People v. Robinson*,

2020 IL 123849, ¶ 47. Newly discovered evidence is evidence that was discovered after trial and that the petitioner could not have discovered earlier through the exercise of due diligence. *Id*. Nothing substantiates how the exercise of due diligence would have failed to produce Jerry's assistance when his affidavit makes it clear he was more than willing to assist defendant and that trial counsel never tried to contact him. Moreover, the police reports in this case document the clear efforts of the police to contact Jerry and interview him, so trial counsel certainly should have been aware of his existence. The State's motion to dismiss highlighted this deficiency with respect to the actual innocence claim, noting that Jerry was identified in discovery.

¶ 36 Postconviction counsel could have alleged an alternative theory of ineffective assistance of trial counsel. The failure to make a simple amendment to cure the pleading's deficiency was unreasonable, especially where the record reflects that trial counsel never investigated or contacted Jerry. See *People v. Burns*, 2019 IL App (4th) 170018, ¶¶ 21-22 (failure to ameliorate pleading deficiency constitutes unreasonable assistance). In this respect, we cannot say that postconviction counsel fulfilled its obligation to properly shape and present defendant's claims.

¶ 37 Next, defendant argues that postconviction counsel at the second stage was unreasonable for failing to include evidentiary support for a number of his claims. In the first amended petition, postconviction counsel included claims that trial counsel was ineffective for failing to call a gas station attendant and defendant's neighbor, who would have supported defendant's alibi, and failing to subpoena phone records. But, as defendant argues, postconviction counsel did not provide any evidence to support these claims or explain the absence of that evidence.

¶ 38 The State argues that nothing in the record rebuts the presumption of reasonable assistance. But it has provided no explanation of why a presumption should exist outside the filing of a Rule

651(c) certificate. It also points out that our supreme court has said, "in the ordinary case, a trial court ruling upon a motion to dismiss a postconviction petition which is not supported by affidavits or other documents may reasonably presume that postconviction counsel made a concerted effort to obtain affidavits in support of the postconviction claims." *People v. Johnson*, 154 Ill. 2d 227, 241 (1993); *People v. Urzua*, 2023 IL 127789, ¶ 62. But reading *Johnson* and *Urzua* together indicates that "the ordinary case" is one in which postconviction counsel files a Rule 651(c) certificate. In *Johnson*, postconviction counsel adopted the defendant's claims, failed to provide evidentiary support for them, and did not file a Rule 651(c) certificate. *Johnson*, 154 Ill. 2d at 238-39, 242-45. Notably, *Johnson* did not cite to any authority for the proposition that postconviction counsel is presumed to have attempted to obtain evidence. *Johnson*, 154 Ill. 2d at 241. In *Urzua*, postconviction counsel did file a Rule 651(c) certificate but made no amendments to the defendant's petition. *Urzua*, 2023 IL 127789, ¶¶ 16-17. There, the supreme court's discussion of a presumption that postconviction counsel attempted to obtain evidence was specifically in the context of the filing of a Rule 651(c) certificate. *Urzua*, 2023 IL 127789, ¶ 62.

¶ 39 This was not the "ordinary case." No Rule 651(c) certificate was filed here, nor was one required to be filed. Moreover, unlike *Johnson* and *Urzua*, this is not a scenario where postconviction counsel stood on the defendant's unsupported *pro se* claims. See *People v. Huff*, 2024 IL 128492, ¶¶ 14-15 (leaving open the question of whether appointed postconviction counsel is unreasonable for standing upon meritless *pro se* claims). Defendant made no *pro se* claims. He was always represented by retained counsel, and it was retained counsel that crafted the claims that defendant now argues constituted unreasonable performance. While this case may lack the affirmative admissions in *Johnson* and *Urzua* that postconviction counsel did not look for the

evidence or did not think it was necessary, respectively, *Johnson*, 154 Ill. 2d at 242-45; *Urzua*, 2023 IL 127789, ¶ 63, we are nevertheless left with a situation where postconviction counsel took the affirmative step of creating and filing a petition with unsupported, meritless claims. This was not simply a problem that counsel carried over verbatim from *pro se* allegations. This was a problem of postconviction counsel's own making.

¶ 40 The State argues that postconviction counsel obtained numerous exhibits for the petition, and therefore we should presume from counsel's efforts that they tried to locate the evidence in question. First, the petition included multiple exhibits, including the letters purportedly written by Lee and notes purportedly written by trial counsel, which were not authenticated and did not conform to the Act's requirements. See *People v. Johnson*, 183 Ill. 2d 176, 190 (1998) (evidence supporting postconviction allegations must be accompanied by an affidavit which identifies with reasonable certainty the source, character, and availability of the alleged evidence). These exhibits only further demonstrate the unreasonableness of postconviction counsel's efforts. Second, if the attached exhibits are meant to be evidence of postconviction counsel's efforts and awareness of the Act's requirements, then presumably postconviction counsel would have also been aware of the Act's requirement that explanations be provided for missing evidence. 725 ILCS 5/122-2 (West 2020). But these explanations were not provided. Postconviction counsel did not even include an affidavit from defendant attesting to some of these facts outside the record. See *People v. Turner*, 187 Ill. 2d 406, 414 (1999) (postconviction counsel performed unreasonably for, among other things, failing to attach an affidavit from the defendant attesting to facts outside the record.).

¶ 41 It is the Rule 651(c) certificate that gives rise to the presumption of reasonable assistance, and not the class or type of representation. See *Addison*, 2023 IL 127119, ¶ 34 ("the certificate

merely creates a rebuttable presumption of reasonable assistance of counsel."). Our standard is simply whether retained postconviction counsel provided reasonable assistance. *Cotto*, 2016 IL 119006, ¶ 41. While we may permit postconviction counsel to stand on frivolous *pro se* claims without amendment and without withdrawing, see *e.g*. *People v. Malone*, 2017 IL App (3d) 140165, ¶ 10, that is no justification to also hold that postconviction counsel may draft an original petition on behalf of his client that includes, *ab initio*, unsupported claims which must be dismissed and will be forever lost to *res judicata*.

¶ 42 Postconviction counsel had an obligation to put defendant's claims in the proper form. *Addison*, 2023 IL 127119, ¶¶ 19, 21. It was unreasonable to raise unsubstantiated claims, with no explanation why that support was missing, and which were guaranteed to fail. We make no judgment on the ongoing conflict as to whether appointed counsel performs unreasonably when he stands on a frivolous *pro se* petition without withdrawing—that debate is outside the scope of this appeal. But we cannot escape the fact that the Act is a safeguard. And the Act cannot serve as a safeguard if we rubber-stamp the dismissal of an attorney-crafted pleading such as this one which makes unsubstantiated claims that cannot succeed and will be forever lost to defendant. See *Addison*, 2023 IL 127119, ¶ 33 ("where counsel does not adequately complete the duties mandated by the rule, the limited right to counsel conferred by the Act cannot be fully realized.").

¶ 43 For similar reasons, defendant's claim about Lee's letters is persuasive. The letters purportedly from Lee are not authenticated, and the petition contains no affidavit from Lee nor an explanation for its absence, ensuring that this portion of defendant's actual innocence claim would be dismissed for a lack of evidentiary support.

¶ 44 Next, defendant argues that postconviction counsel failed to properly plead an ineffective assistance of counsel claim related to Muhammad. He argues that Muhammad testified at a pretrial motion to quash defendant's arrest and, with the aid of her notes, did not testify that Christopher Dorbin identified defendant. Defendant insists that postconviction counsel should have alleged the ineffectiveness of trial counsel for failing to impeach Muhammad at trial. But postconviction counsel could not have raised this issue as, being evident in the record, it could have been raised on direct appeal. *People v. Davis*, 2014 IL 115595, ¶ 13 (issues that were raised and decided on direct appeal are barred from consideration by the doctrine of *res judicata*; issues that could have been raised, but were not, are considered forfeited.). Therefore, on this point we disagree with defendant.

¶ 45 We also find defendant's claim that postconviction counsel was unreasonable for attaching the wrong 9-1-1 call to the petition to be unavailing. Defendant's petition claimed that the State suppressed Stacey Murray's 9-1-1 call and noted that the 9-1-1 call was submitted to the trial court by way of a flash drive. On appeal, defendant asserts that postconviction counsel actually submitted the 9-1-1 call made by Wade, thus leaving the trial court with the incorrect evidence. During the pendency of this appeal, defendant supplemented the record with DVDs which included the correct 9-1-1 call.

¶ 46 But as the State points out, the record on appeal contains no flash drive, only DVDs which defendant's motion for leave to supplement the record acknowledged are copies of the original files obtained from postconviction counsel. Moreover, defendant's motion to supplement the record also acknowledged that he was not seeking to supplement the record with evidence not presented in the trial court. The trial court's order discusses Murray's 9-1-1 call and gave no

indication that it listened to Wade's 9-1-1 call instead. Given that we cannot ascertain for certain what was on the flash drive, defendant's concession that the correct 9-1-1 call was submitted to the trial court, and the fact that the trial court's order does not indicate it reviewed anything other than the correct exhibit, the record does not sustain defendant's claim of unreasonable assistance here.

¶ 47 Whether defendant can make a substantial showing of a constitutional violation once postconviction counsel has provided reasonable assistance is an entirely separate matter. Before we can reach that step, we must be assured that defendant has received the reasonable assistance necessary to ensure that the Act functions as intended. The record here does not provide us with the assurance that postconviction counsel has properly shaped and presented defendant's claims.

¶ 48 Given our disposition, we are required to reverse and remand defendant's petition for further second-stage proceedings. "[I]t would not be appropriate to affirm the dismissal of the petition when counsel had not shaped the claims into the proper form." *Addison*, 2023 IL 127119, ¶ 41. By extension then, it is inappropriate to consider the merits of the claims in the petition when postconviction counsel has not provided reasonable assistance by shaping the claims into the appropriate form. *Id.* ¶ 42.

¶ 49 As such, we do not reach the merits of whether defendant made a substantial showing of a constitutional violation or a claim of actual innocence. The judgment of the trial court is reversed and the cause remanded for further second-stage proceedings consistent with the requirements of the Act.

III. CONCLUSION

¶ 51 For the foregoing reasons, we reverse the judgment of the trial court, and remand for further second-stage proceedings.

¶ 52 Reversed and remanded.