

NOTICE
Decision filed 10/30/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250243-U
NO. 5-25-0243
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

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

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Champaign County.
	)	
v.	)	No. 12-CF-798
	)	
RONALD S. WILKERSON,	)	Honorable
	)	Randall B. Rosenbaum,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE CATES delivered the judgment of the court.
Justices Barberis and Boie concurred in the judgment.

ORDER

¶ 1 *Held:* Where the defendant failed to make a *prima facie* showing of cause that impeded the defendant's ability to raise his present claims during earlier postconviction proceedings, or prejudice, the trial court did not err in denying the defendant's second successive postconviction petition. Because no argument to the contrary would have arguable merit, this court grants appellate counsel leave to withdraw, and affirms the judgment of the trial court.

¶ 2 The defendant, Ronald S. Wilkerson, appeals the judgment of the circuit court of Champaign County that denied his second successive postconviction petition. The defendant's appointed counsel on appeal, the Office of the State Appellate Defender (OSAD), has concluded that this appeal lacks arguable merit, and on that basis, OSAD has filed a motion for leave to withdraw as counsel (see *Pennsylvania v. Finley*, 481 U.S. 551 (1987)), along with a supporting memorandum of law. OSAD served the defendant with notice. This court provided the defendant

the opportunity to file a written response to OSAD's motion. The defendant filed a response, which we discuss below. This court has examined OSAD's *Finley* motion and memorandum of law, the defendant's response, and the record on appeal. This court concludes that OSAD is correct that this appeal lacks arguable merit. Accordingly, we grant OSAD leave to withdraw as counsel, and we affirm the trial court's judgment.

¶ 3

I. BACKGROUND

¶ 4 The factual basis for the defendant's convictions and sentences is set forth in this court's disposition of the defendant's direct appeal. *People v. Wilkerson*, 2015 IL App (4th) 130552-U. Following a trial by jury, the defendant was convicted of two counts of armed robbery based on a theory of accountability, and was sentenced to a 60-year term of imprisonment on each count, with the sentences to run consecutively. *Wilkerson*, 2015 IL App (4th) 130552-U, ¶ 2. On direct appeal, he claimed that (1) he was unconstitutionally deprived of a preliminary hearing on one of the counts; (2) defense counsel was ineffective, where counsel failed to object to the State's admission of prior consistent statements; (3) the evidence was not sufficient to convict him beyond a reasonable doubt of either count; and (4) the trial court imposed improper and excessive sentences. *Wilkerson*, 2015 IL App (4th) 130552-U, ¶ 3. This court affirmed the defendant's convictions and sentences. *Wilkerson*, 2015 IL App (4th) 130552-U, ¶ 3.

¶ 5 On March 7, 2016, the defendant filed *pro se* a petition pursuant to the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2014)). Therein, the defendant alleged that his defense counsel "was ineffective for failing to challenge the imposition of a prejudicial and racially-motivated excessive bond," which violated the defendant's constitutional rights. He also alleged defense counsel was ineffective because counsel failed to make other objections, and file a motion in the trial court, and because counsel failed to properly investigate the case. The

defendant alleged that appellate counsel was ineffective for failing to raise the foregoing issues, and other issues, in the defendant's direct appeal.

¶ 6 On March 23, 2016, the trial court entered an order in which it summarily dismissed the defendant's postconviction petition. On April 18, 2016, the defendant filed a motion to reconsider the dismissal, as well as a supplemental claim for postconviction relief. On April 27, 2016, the trial court denied the defendant's motion to reconsider, and summarily dismissed his supplemental claim for postconviction relief.

¶ 7 On appeal, this court affirmed the trial court. *People v. Wilkerson*, 2018 IL App (4th) 160397-U, ¶ 3. We concluded that the two issues raised by the defendant on appeal—which were that trial counsel was ineffective because counsel allegedly would not allow the defendant to accept a plea deal, and because counsel allegedly would not allow the defendant to testify at the defendant's trial—were not actually raised in the postconviction petition, and therefore were forfeited on appeal. *Wilkerson*, 2018 IL App (4th) 160397-U, ¶¶ 9, 11-13.

¶ 8 On January 2, 2020, the defendant filed a petition for relief from judgment and a successive postconviction petition. In the successive postconviction petition, the defendant raised two claims of ineffective assistance of appellate counsel. As part of his factual background in the successive postconviction petition, the defendant stated that on February 26, 2013, his trial counsel filed with the trial court an "Emergency Motion To Continue Trial," in which trial counsel stated that he was "suffering physically and mentally due to 'extreme exhaustion' and head and body aches." The defendant stated that his trial counsel further claimed in the motion to be " 'very tired and completely unable to concentrate,' " with "his 'mental acuity [being] so impaired as to make him unable to remember important details of his cases.' " The defendant alleged that "trial counsel withdrew from numerous other criminal cases around the same time this motion was filed," and

that trial counsel’s medical issues “could have contributed to his sub-par representation [of the defendant] at both pretrial and trial proceedings.”

¶ 9 On January 15, 2020, the trial court denied the defendant’s successive postconviction petition. The court concluded that the defendant had not demonstrated cause for his failure to bring his present claims in his initial postconviction petition, and could not demonstrate prejudice. In a separate order, the court dismissed the defendant’s petition for relief from judgment. On February 3, 2020, the defendant filed a motion to reconsider the denial of his successive postconviction petition, in which he attempted to demonstrate both cause and prejudice. With regard to cause, the defendant claimed that he “did not learn about the ground[s] for these claims” until May 8, 2018, approximately two years after the trial court summarily dismissed his initial postconviction petition.

¶ 10 On February 11, 2020, the trial court, in a docket entry, denied the motion to reconsider. The defendant attempted to appeal, but this court filed a summary order in which we dismissed the defendant’s appeal, concluding that his appeal was untimely.

¶ 11 On February 10, 2025, the defendant filed *pro se* his second successive postconviction petition (petition), which is the subject of this appeal. In the petition, the defendant claimed he was denied his constitutional right to counsel, and that his equal protection and due process rights were violated, because he was not notified—by the trial court or the State—that trial counsel had sought an emergency continuance of the defendant’s trial due to counsel’s medical issues. The defendant argued that had he known about the motion, and counsel’s medical issues, he could have exercised his right to seek other counsel. The petition did not allege that the defendant was actually innocent of the charges of which he was convicted, and did not address the cause-and-prejudice test for successive postconviction petitions at all.

¶ 12 On February 19, 2025, the trial court filed a detailed order in which it denied the defendant’s request to file the petition. Therein, the trial court noted that the defendant did not allege actual innocence or attempt to meet the cause-and-prejudice test, then stated that the court would assume the defendant was proceeding under the cause-and-prejudice test. The court stated that because the petition did not indicate when the defendant learned of trial counsel’s emergency motion to continue the trial, there was no way for the court to independently evaluate the question of cause. The trial court concluded that the defendant failed “to show cause for not raising the issue earlier, especially in light of his many earlier claims of ineffective assistance of counsel.”

¶ 13 The trial court also addressed prejudice, stating that the defendant failed to “allege what the prejudice is,” and that the record did not show any prejudice. The court pointed out that the motion was filed three months prior to the defendant’s actual trial. The court further pointed out that trial counsel filed “numerous” appropriate pretrial motions, and that all of the defendant’s earlier claims of ineffective assistance of counsel had been rejected. The court stated that if the defendant was not satisfied with retained counsel’s performance, he could have hired different counsel. The court further stated that in light of the finding, in the defendant’s direct appeal, that the evidence was sufficient to convict the defendant, it would be “speculative” to conclude “that any different counsel would have affected the outcome of the trial.” This timely appeal followed.

¶ 14 II. ANALYSIS

¶ 15 In the legal memorandum that accompanies its *Finley* motion to withdraw, OSAD notes the following potential issue: whether the trial court erred by denying the petition. However, OSAD concludes the trial court did not err, and that, accordingly, this potential issue lacks arguable merit. For the following reasons, we agree.

¶ 16 The Act provides a mechanism by which a defendant may challenge the defendant's conviction by filing a petition for relief in the circuit court. 725 ILCS 5/122-1 (West 2022). The Act allows a defendant to assert that there was a substantial denial of the defendant's federal or state constitutional rights in the proceedings that resulted in the defendant's conviction or sentence. *People v. Hodges*, 234 Ill. 2d 1, 9 (2009). "A postconviction proceeding is a collateral proceeding, rather than an appeal of the underlying judgment, and therefore it allows inquiry only into constitutional issues that were not, and could not have been, adjudicated on direct appeal." *People v. Terry*, 2016 IL App (1st) 140555, ¶ 32. Moreover, "any claim not presented in an initial postconviction petition or amended petition is waived." *Terry*, 2016 IL App (1st) 140555, ¶ 32. Broad, conclusory allegations are not permissible under the Act. *People v. Delton*, 227 Ill. 2d 247, 258 (2008). In addition, a petition filed under the Act must have attached affidavits, records, or other evidence supporting its allegations, or must state why they are not attached. 725 ILCS 5/122-2 (West 2022).

¶ 17 The Act contemplates the filing of only one postconviction petition. 725 ILCS 5/122-1(f) (West 2022). "[S]uccessive postconviction petitions are highly disfavored." *People v. Bailey*, 2017 IL 121450, ¶ 39. If a defendant desires to file a successive postconviction petition after the defendant's initial petition is dismissed or denied, the defendant must request leave of court before filing it. 725 ILCS 5/122-1(f) (West 2022). Unless a defendant asserts a claim of actual innocence, the circuit court will grant the defendant leave only if the defendant satisfies the cause-and-prejudice test. 725 ILCS 5/122-1(f) (West 2022); *People v. Montanez*, 2023 IL 128740, ¶ 77. To establish "cause" under the cause-and-prejudice test, a defendant must identify an objective factor, external to the defense, that impeded the defendant's ability to raise a specific claim during the defendant's initial postconviction proceeding. 725 ILCS 5/122-1(f) (West 2022); *Montanez*, 2023

IL 128740, ¶ 77. To establish “prejudice,” a defendant must demonstrate that the claimed constitutional error so infected the trial that the resulting conviction or sentence violates due process. 725 ILCS 5/122-1(f) (West 2022); *Montanez*, 2023 IL 128740, ¶ 77.

¶ 18 The cause-and-prejudice test is a more exacting standard than the gist-of-a-claim standard trial courts use to review initial postconviction petitions at the first stage of proceedings. *People v. Conick*, 232 Ill. 2d 132, 142 (2008). The defendant must make a *prima facie* showing of cause and prejudice in order to be granted leave, before any further proceedings on the defendant’s claims can occur. *Bailey*, 2017 IL 121450, ¶ 24. A defendant cannot obtain leave of court unless the defendant satisfies each of the two elements of cause and prejudice; it is not sufficient to establish only one element. *People v. Guerrero*, 2012 IL 112020, ¶ 15. Leave should be denied when it is clear, from a review of the successive petition and the documentation submitted by the defendant, that the claims alleged by the defendant fail as a matter of law, or where the successive petition, with its supporting documentation, is insufficient to justify further proceedings. *People v. Griffin*, 2024 IL App (1st) 191101-C, ¶ 30. This court reviews *de novo* the circuit court’s decision—based upon the failure of the defendant to make a *prima facie* showing of cause and prejudice—to deny the defendant’s motion for leave to file a successive postconviction petition. *People v. Robinson*, 2020 IL 123849, ¶ 39. We may affirm on any basis supported by the record because the question before us is the correctness of the result reached by the trial court, not the correctness of the trial court’s reasoning in reaching that result. See, *e.g.*, *People v. Johnson*, 208 Ill. 2d 118, 128-29 (2003).

¶ 19 Here, as OSAD correctly notes, the petition did not allege any facts that would constitute cause for the defendant’s failure to bring his current claims in earlier postconviction proceedings. The defendant did not indicate when or how he learned of trial counsel’s emergency motion to

continue the trial. However, as described above, the defendant referenced, and quoted extensively from, the emergency motion in his January 2, 2020, first successive postconviction petition, which means that he was aware of the motion at the time of the filing of that petition, and presumably could have raised the claim then, if not earlier. As OSAD points out, because the defendant did not allege an objective factor that impeded his ability to raise his claims during earlier postconviction proceedings, no arguably meritorious claim can be made that the trial court erred when it found that the defendant did not make a *prima facie* showing of cause for purposes of satisfying the cause-and-prejudice test required for the filing of a successive postconviction petition. See 725 ILCS 5/122-1(f) (West 2022); *Montanez*, 2023 IL 128740, ¶ 77; *Bailey*, 2017 IL 121450, ¶ 24.

¶ 20 As explained above, a successive postconviction petition cannot move forward unless the defendant satisfies each of the two elements of cause and prejudice; it is not sufficient to establish only one element. *People v. Guerrero*, 2012 IL 112020, ¶ 15. Accordingly, the defendant's failure to satisfy the element of cause is fatal to his second successive postconviction petition. Nevertheless, we agree with OSAD that in the petition the defendant also did not allege any facts with regard to how he was prejudiced at trial, either by the lack of notice of the emergency motion to continue, or by his counsel's trial performance.

¶ 21 In the petition, the defendant did not identify anything in the record that would even arguably indicate that trial counsel's health problems were still present at the time of the defendant's trial, which, as the trial court correctly noted in the order appealed from, took place approximately three months after the emergency motion was filed and ruled upon. OSAD is correct that it is reasonable to presume that counsel would have filed a second motion to continue if his physical problems were still affecting his ability to represent the defendant at the time of the trial.

Because the petition did not allege any facts that would support the proposition that the defendant's claimed constitutional errors so infected the trial that the defendant's resulting conviction and sentence violate due process, no arguably meritorious claim can be made that the trial court erred when it found that the defendant did not make a *prima facie* showing of prejudice for purposes of satisfying the cause-and-prejudice test. See 725 ILCS 5/122-1(f) (West 2022). Finally, we note that in his response to OSAD's motion to withdraw, the defendant offers no explanation for why the petition did not allege cause and prejudice, and he does not contend that the petition attempted to assert a claim of actual innocence.

¶ 22

III. CONCLUSION

¶ 23 For the foregoing reasons, the trial court did not err in denying the defendant's second successive postconviction petition. No argument to the contrary would have arguable merit. Accordingly, we grant OSAD leave to withdraw as counsel, and we affirm the trial court's judgment.

¶ 24 Motion granted; judgment affirmed.