

NOTICE
Decision filed 10/22/26. 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) 250627-U
NO. 5-25-0627
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,	)	Jefferson County.
	)	
v.	)	No. 21-CF-101
	)	
TERRANCE D. WILLIAMS,	)	Honorable
	)	Jerry E. Crisel,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE HACKETT delivered the judgment of the court.
Justices Vaughan and Bollinger concurred in the judgment.

ORDER

¶ 1 *Held:* Where the defendant filed his section 2-1401 petition for relief from judgment more than two years after the circuit court's entry of the judgment of conviction and sentence, the circuit court did not err in granting the State's motion to dismiss the petition as untimely, and no argument to the contrary would have merit. This court grants the defendant's appellate counsel leave to withdraw and affirms the circuit court's judgment of dismissal.

¶ 2 The defendant, Terrance D. Williams, filed a petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2022)). The State moved to dismiss the petition as untimely, and the Jefferson County circuit court granted the dismissal motion. The defendant appeals. The defendant's appointed appellate counsel, the Office of the State Appellate Defender (OSAD), has concluded that this appeal lacks merit. On that basis, OSAD has filed a motion for leave to withdraw as counsel and a supporting memorandum of law.

See *Pennsylvania v. Finley*, 481 U.S. 551 (1987). OSAD properly served notice on the defendant. This court granted the defendant an opportunity to file a written response to OSAD’s motion, but the defendant has not done so. This court has examined OSAD’s *Finley* motion and memorandum of law, the entire record on appeal, and this court’s prior decision in an appeal stemming from the defendant’s criminal case. This court concludes that this appeal lacks merit and, accordingly, grants OSAD leave to withdraw as counsel and affirms the circuit court’s judgment of dismissal.

¶ 3

I. BACKGROUND

¶ 4

A. Charges

¶ 5 A grand jury returned a one-count indictment charging the defendant with committing the offense of armed habitual criminal. See 720 ILCS 5/24-1.7 (West 2018). Subsequently, the State filed a one-count information charging the defendant with armed violence. See *id.* § 33A-2(a). As charged, armed violence was a Class X felony with a minimum term of imprisonment of 15 years. See *id.* § 33A-3(a). The maximum term of imprisonment for a Class X felony was 30 years. 730 ILCS 5/5-4.5-25(a) (West 2018). The extended-term range of imprisonment for a Class X felony was 30 to 60 years. *Id.*

¶ 6

B. Negotiated Plea of Guilty and Sentencing

¶ 7 On October 12, 2021, the defendant, his appointed counsel, and the State appeared before the circuit court. The State announced that pursuant to a plea agreement between the parties, the defendant would plead guilty to the Class X felony of armed violence, and he would be sentenced to imprisonment for 25 years, to be followed by mandatory supervised release (MSR) for 18 months, while the State would dismiss a charge of being an armed habitual criminal plus all of the charges in the defendant’s other pending criminal and traffic cases. Defense counsel and the defendant agreed that the terms of the plea agreement had been accurately stated.

¶ 8 The State provided a thorough factual basis for the plea. The attorneys waived preparation of a presentence investigation report. The State noted that the defendant’s “adult criminal history” included convictions for residential burglary, unlawful possession of a weapon by a felon, and attempted possession of a weapon by a felon, all in Jefferson County, and a conviction for armed robbery in Cook County case No. 10-CR-510601. In response to the court’s query, the defendant stated that his criminal history had been accurately stated.

¶ 9 The circuit court admonished the defendant on the potential punishments for armed violence, the defendant’s right to a trial and his rights at trial, the State’s burden of proof at trial, and a guilty plea’s functioning as a waiver of rights. The defendant indicated that he understood all of those matters and that he wished to plead guilty. The defendant signed a written plea of guilty to armed violence. In response to further queries of the court, the defendant indicated that no promises, apart from the plea agreement, and no force or threats had caused him to plead guilty. The defendant indicated that he had had sufficient time to discuss the matter with counsel and that he was satisfied with counsel’s services. The defendant indicated that he wanted the court to accept his signature on the written guilty plea as his free and voluntary act.

¶ 10 The court determined that the guilty plea was knowing and voluntary and that there was a factual basis for it. The court imposed the agreed-upon sentence of 25 years in prison and 18 months of MSR. The court dismissed all other charges against the defendant.

¶ 11 Finally, the court thoroughly admonished the defendant on his appeal rights, including the need to file a written motion to withdraw his guilty plea within 30 days. The defendant indicated his understanding of his appeal rights.

¶ 12 The defendant did not file a motion to withdraw his guilty plea. No direct appeal was taken.

¶ 13 C. Postconviction Proceedings and Postconviction Appeal

¶ 14 On May 25, 2023, the defendant filed a *pro se* verified petition for postconviction relief. See 725 ILCS 5/122-1 *et seq.* (West 2020). A few exhibits, mostly from the record of the case, were attached. In the postconviction petition, the defendant presented two claims. Both claims were centered on the Cook County circuit court’s prior disposition—either a prior adult conviction or a prior juvenile adjudication—of a count of armed robbery in Cook County case No. 10-CR-510601.

¶ 15 The first claim was that plea counsel had provided the defendant with ineffective assistance when counsel advised the defendant to accept the State’s plea offer to armed violence as a way of avoiding an extended-term sentence for armed habitual criminal. According to the defendant, the extended-term sentence would have been based on the defendant’s prior conviction for armed robbery, but the alleged prior conviction was actually a prior juvenile adjudication, and therefore it could not have been properly used as the basis for extending the term. The second claim was that the circuit court had deprived the defendant of the due process of law when the court, during sentencing, considered the defendant’s prior disposition for armed robbery as an adult conviction instead of a juvenile adjudication, which it actually was.

¶ 16 On June 6, 2023, the circuit court entered a written order finding that the defendant’s postconviction petition was frivolous and patently without merit. On that basis, the court “denied” the petition.

¶ 17 On February 5, 2024, this court affirmed the judgment of the circuit court. *People v. Williams*, 2024 IL App (5th) 230442-U. This court observed that both of the defendant’s postconviction claims “hinge[d] on a single factual allegation, namely, that his adult conviction for armed robbery was, in reality, a juvenile adjudication for armed robbery.” *Id.* ¶ 23. This court

noted that the factual allegation was “completely unsupported” by the few attachments to the postconviction petition. *Id.* Furthermore, this court stated, the transcript of the plea hearing appeared to contradict the allegation. *Id.*

¶ 18 D. Section 2-1401 Petition for Relief from Judgment: Subject of the Instant Appeal

¶ 19 On August 12, 2024, the defendant filed a *pro se* petition for relief from judgment pursuant to section 2-1401 of the Code (735 ILCS 5/2-1401 (West 2022)). The petition was not verified. No affidavits or other documents were attached to the petition. The petition claimed that (1) the circuit court deprived the defendant of the due process of law and a fair hearing, and (2) plea counsel provided the defendant with ineffective assistance. Both claims depended upon an allegation that the defendant was under 21 years of age at the time he committed the offense of armed robbery in Cook County case No. 10-CR-510601, and therefore he was not eligible to be adjudged a habitual criminal (see 730 ILCS 5/5-4.5-95(a) (West 2018)) or to be sentenced as a Class X offender (see *id.* § 5-4.5-95(b)). The defendant requested relief in the form of a new sentencing hearing. In his petition, the defendant did not allege, or even intimate, anything about being under legal disability or duress or anything about the State’s fraudulent concealment of the grounds for relief.

¶ 20 On March 12, 2025, the State filed a motion to dismiss the defendant’s section 2-1401 petition. The stated ground for dismissal was that the defendant had failed to file his section 2-1401 petition within two years after the entry of the judgment that was being challenged.

¶ 21 On June 4, 2025, the defendant filed a *pro se* response to the State’s motion to dismiss his section 2-1401 petition. The defendant stated that he filed his petition “well within the time frame of 2 years from the last judgment order which was on or about October 27, 2023.” The defendant also referred to his previous filing of a petition for postconviction relief, and he argued that the

two-year limitations period began to run on the date the circuit court entered its judgment disposing of the postconviction petition. (This court notes that the circuit court entered its dispositional order on the postconviction petition on June 6, 2023.)

¶ 22 Afterward, the defendant requested that the circuit court appoint counsel to represent him in the section 2-1401 proceedings. The court granted his request.

¶ 23 On July 1, 2025, the circuit court held a status hearing. The court granted the defendant's appointed counsel an opportunity to speak with the defendant and an opportunity to amend the section 2-1401 petition, if desired.

¶ 24 On July 30, 2025, the circuit court held a hearing on the State's motion to dismiss the defendant's section 2-1401 petition, which consisted solely of arguments by the State and by postconviction counsel. The State repeated its untimeliness argument. The defendant's appointed counsel stated that "[the defendant's] position is" that the circuit court summarily dismissed his petition for postconviction relief on June 6, 2023, and this dismissal "constituted the final order in this case." Counsel further stated that since the defendant filed his section 2-1401 petition on August 12, 2024, it was filed "well within the two years from the June 6, 2023[,] date and, therefore, complies with the two[-]year time period."

¶ 25 After hearing the attorneys' arguments, the circuit court granted the State's motion to dismiss. The court stated that under section 2-1401, the two-year filing period began in October 2021, when the court entered "the original judgment." The court entered a written order granting the State's motion to dismiss.

¶ 26 Through counsel, the defendant filed a timely notice of appeal, thus perfecting the instant appeal. At the defendant's request, the circuit court appointed OSAD as the defendant's appellate counsel.

¶ 28 This appeal is from an order of the circuit court that granted the State’s motion to dismiss the defendant’s section 2-1401 petition. The court granted the motion to dismiss on the ground that the defendant filed his section 2-1401 petition beyond the two-year limitations period. Review is *de novo*. *People v. Vincent*, 226 Ill. 2d 1, 18 (2007).

¶ 29 Section 2-1401 of the Code provides a means by which a litigant may obtain relief from a final judgment that was entered more than 30 days earlier. 735 ILCS 5/2-1401(a) (West 2022). In a criminal case, a section 2-1401 petition “is the forum *** in which to correct all errors of fact occurring in the prosecution of a cause, unknown to the petitioner and court at the time judgment was entered, which, if then known, would have prevented its rendition.” *People v. Haynes*, 192 Ill. 2d 437, 461 (2000). To obtain relief under section 2-1401, a defendant

“must affirmatively set forth specific factual allegations supporting each of the following elements: (1) the existence of a meritorious defense or claim; (2) due diligence in presenting this defense or claim to the circuit court in the original action; and (3) due diligence in filing the section 2-1401 petition for relief.” *Smith v. Airoom, Inc.*, 114 Ill. 2d 209, 220-21 (1986).

“A meritorious defense under section 2-1401 involves errors of fact, not law.” *People v. Pinkonsly*, 207 Ill. 2d 555, 565 (2003).

¶ 30 With certain statutory exceptions inapplicable here, a section 2-1401 petition “must be filed not later than 2 years after the entry of the order or judgment.” 735 ILCS 5/2-1401(c) (West 2022). In a criminal case, the two-year limitations period begins to run when the defendant is sentenced, and the judgment of conviction is entered. *People v. Caballero*, 179 Ill. 2d 205, 211 (1997).

“[W]here a section 2-1401 petition is filed beyond two years after the judgment was entered, it cannot be considered.” *Id.* at 210.

¶ 31 There are limited bases upon which the two-year limitations period may be tolled: “Time during which the person seeking relief is under legal disability or duress or the ground for relief is fraudulently concealed shall be excluded in computing the period of 2 years.” 735 ILCS 5/2-1401(c) (West 2022). “[T]he two-year limitation mandated by section 2-1401 *** must be adhered to in the absence of a clear showing that the person seeking relief is under legal disability or duress or the grounds for relief are fraudulently concealed.” *Caballero*, 179 Ill. 2d at 211; see *City of Rockford v. Gilles*, 2022 IL App (2d) 210521, ¶ 67 (legal disability or duress of the person seeking relief and fraudulent concealment of the ground for relief are the only exceptions that will toll the limitations period). The purpose of section 2-1401’s time limitation “is a salutary one—to establish necessary stability and finality in judicial proceedings.” *Crowell v. Bilandic*, 81 Ill. 2d 422, 427-28 (1980).

¶ 32 Here, the defendant in his section 2-1401 petition sought relief from the judgment of conviction and sentence, which the circuit court had entered against him on October 12, 2021. Two years after the entry of the judgment was October 12, 2023. However, the defendant did not file his section 2-1401 petition until August 12, 2024, which was 10 months after the two-year limitations period had expired. There was no basis for tolling the limitations period. Therefore, the circuit court did not err when it granted the State’s motion to dismiss the defendant’s section 2-1401 petition. The judgment granting the State’s motion, thus dismissing the petition, is affirmed.

¶ 33 III. CONCLUSION

¶ 34 Where the defendant filed his section 2-1401 petition beyond the two-year limitations period, and no statutory tolling factors applied, the circuit court had no alternative but to grant the

State's motion to dismiss the defendant's petition. No argument to the contrary would have merit. Accordingly, this court grants OSAD leave to withdraw as the defendant's appellate counsel and affirms the circuit court's judgment granting the State's motion and dismissing the defendant's petition.

¶ 35 Motion granted; judgment affirmed.