2026 IL App (1st) 250359-U

SECOND DIVISION
September 8, 2026

No. 1-25-0359

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, Plaintiff-Appellee, v. CARNELL TYLER, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Cook County. No. 06 CR 1141 Honorable Michele Pitman, Judge, presiding.

JUSTICE VAN TINE delivered the judgment of the court.
Presiding Justice D.B. Walker and Justice McBride concurred in the judgment.

ORDER

¶ 1 ***Held*:** We affirm the circuit court's dismissal of defendant's petition at the second stage where postconviction counsel filed a facially valid Rule 651(c) certificate, and defendant did not rebut the resulting presumption of reasonable assistance, as he did not identify any evidentiary support with which counsel should have supplemented the petition.

¶ 2 Defendant Carnell Tyler appeals from the second-stage dismissal of his petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2016)). He does not

challenge the substance of the circuit court's dismissal ruling. Rather, he contends that his appointed postconviction counsel rendered unreasonable assistance because (1) counsel's certificate under Illinois Supreme Court Rule 651(c) (eff. July 1, 2017) was facially deficient in that it did not state that counsel reviewed the common law record and the trial exhibits, and (2) counsel stood on a deficient *pro se* petition. On appeal, he requests us to appoint new counsel and remand the matter to the circuit court for further proceedings. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The lengthy background and procedural history of this case are set forth fully in our order addressing Tyler's direct appeal. See *People v. Tyler*, 2016 IL App (1st) 133513-U. Here, we set forth only the facts necessary for context and our resolution of the appeal.

¶ 5 On November 25, 2005, Tyler and two others robbed a liquor store that Frank Elayyan owned. Tyler shot Frank, who survived, and shot and killed Frank's daughter, Godha Elayyan. Tyler gave a video-recorded custodial statement in December 2005 in which he admitted participating in the robbery, said he had been on a "crack binge," and stated that he "lost his mind" inside the store.

¶ 6 Before trial, Tyler moved to suppress those statements, contending that his mental illness rendered him incapable of knowingly waiving his *Miranda* rights. See *Miranda v. Arizona*, 384 U.S. 436 (1966). At the 2012 hearing on that motion, Tyler called Dr. Michael Reinstein, a psychiatrist who had examined him at a hospital on November 20, 2005 (five days before the robbery). Dr. Reinstein testified that he had tentatively diagnosed Tyler with bipolar disorder, personality disorder, and polysubstance abuse; that he did not find that Tyler was malingering (feigning or exaggerating mental illness, which was a central question at trial); and that a person in a manic state may have impaired judgment and "probably should not make decisions for

himself." He did not opine regarding Tyler's ability to understand *Miranda* warnings, and he provided no opinion on Tyler's sanity at the time of the offense.

¶ 7 The State called Dr. Peter Lourgos, who evaluated Tyler in October 2011 and diagnosed him with antisocial personality disorder and polysubstance dependence, attributed his psychotic symptoms to substance abuse, and opined that he could understand *Miranda* warnings. The circuit court denied the motion to suppress.

¶ 8 Both parties subpoenaed Dr. Reinstein for trial. Counsel later advised the court that Dr. Reinstein would not be available because of his own pending federal matter, in which he subsequently pleaded guilty to an anti-kickback offense arising from his prescribing practices and was sentenced to nine months' imprisonment.

¶ 9 In 2013, the case proceeded to a jury trial. The State presented Frank's identification testimony; codefendant Darion Nance's testimony; corroborating testimony from Tyler's uncle, Carlos Tyler; and Carlos's fiancée, Terry Holloway. Holloway testified that Tyler told her and Carlos the day before the robbery that he was going to rob Frank and "kill this bitch" (referring to Godha). The State also presented Tyler's recorded statements that he unsuccessfully sought to suppress.

¶ 10 Tyler raised an insanity defense and called two lay witnesses who testified to incidents in which Tyler reported symptoms of mental illness. He also called Dr. Shyam Puppala, a psychiatrist who had treated Tyler alongside Dr. Reinstein in November 2005. Dr. Puppala testified to a provisional diagnosis of bipolar disorder and to Tyler's discharge on Risperdal and Prozac. However, Dr. Puppala also testified that Tyler was stable and not psychotic at discharge. In rebuttal, Dr. Erick Neu testified that he had evaluated Tyler in 2006 and again in 2012, finding

him sane on both occasions. Dr. Neu testified that Tyler's records reflected drug intoxication rather than chronic mental illness, and that Tyler was malingering.

¶ 11 The court instructed the jury on insanity. The jury found Tyler guilty of first degree murder. At a separate hearing, the circuit court sentenced Tyler to a term of natural life without the possibility of parole. The appellate court affirmed on direct appeal. *Tyler*, 2016 IL App (1st) 133513-U, ¶ 63.

¶ 12 In June 2017, Tyler filed a *pro se* postconviction petition, the subject of this appeal. As relevant here, he alleged that trial counsel was ineffective for failing to "obtain a report" from Dr. Reinstein "to determine whether petitioner was insane," and that appellate counsel was ineffective for failing to raise that claim. He also alleged that trial counsel was ineffective for failing to request insanity instructions. The circuit court did not dismiss the petition within 90 days, so it advanced to the second stage, at which point the court appointed counsel. See 725 ILCS 5/122-2.1(a)(2), (b) (West 2016) (a *pro se* petition advances to the second stage by default if the circuit court takes no action on the petition within 90 days of filing).

¶ 13 Tina Sneed, an assistant public defender, initially represented Tyler and advised the court in July 2020 that she had drafted, but not filed, a supplemental petition. Sneed retired without filing it, and assistant public defender Diane Slocum took over the matter. Over a series of status dates in 2021 through 2023, attorney Slocum reported that she was reviewing the 24-volume record from the direct appeal; that she had obtained trial counsel's file contained in five banker's boxes and was reviewing it; that she had intended to interview trial counsel about his trial strategy; and that she had learned of Dr. Reinstein's guilty plea and needed to determine whether his charges influenced trial counsel's decision not to call him. In December 2023, attorney Slocum advised

the court that she had completed her analysis and would not be supplementing or amending the petition.

¶ 14 In March 2024, attorney Slocum filed a Rule 651(c) certificate stating that she had (1) "communicated with [Tyler] by telephone and letter to ascertain his claim of deprivation of his constitutional rights;" (2) "examined [Tyler's] transcript in the instant case;" and (3) examined Tyler's *pro se* petition, which she determined "adequately present[ed] [Tyler's] issues."

¶ 15 The State moved to dismiss Tyler's postconviction petition. At the December 2024 hearing, the State argued that nothing had been attached to indicate what Dr. Reinstein would have said about sanity. Attorney Slocum responded that she had been unable to locate any report from Dr. Reinstein in trial counsel's materials, which is why she did not attach anything, and thus stood on the petition. The circuit court granted the State's motion to dismiss. It observed that (1) the jury had been instructed on insanity, (2) Tyler had not presented any report or affidavit from Dr. Reinstein stating anything different from what the jury heard, and (3) it could not "speculate as to what Dr. Reinstein would have opined."

¶ 16 Tyler appeals.

¶ 17 II. ANALYSIS

¶ 18 On appeal, Tyler argues that his postconviction counsel rendered unreasonable assistance in (1) filing a facially deficient Rule 651(c) certificate, and (2) not substantiating or amending his petition to support his claim that his constitutional rights were violated when his trial counsel failed to present additional support for his insanity defense.

¶ 19 A. Legal Standards

¶ 20 The Act provides a mechanism for a criminal defendant to assert that his conviction or sentence resulted from a substantial denial of his constitutional rights. 725 ILCS 5/122-1(a) (West

2016). Proceedings under the Act are collateral to the direct appeal and do not provide defendants a forum to relitigate issues that were, or could have been, raised on direct appeal. See *People v. Coleman*, 168 Ill. 2d 509, 522 (1995). At the second stage of postconviction proceedings, the circuit court must determine whether the petition and accompanying documentation make a "substantial showing" of a constitutional violation; if the petitioner succeeds, the petition advances to the third stage. *People v. Domagala*, 2013 IL 113688, ¶¶ 33-34.

¶ 21 The right to counsel in postconviction proceedings is statutory, not constitutional, and therefore, the Act entitles petitioners only to a "reasonable" level of assistance. *People v. Perkins*, 229 Ill. 2d 34, 42 (2007); *People v. Huff*, 2024 IL 128492, ¶ 21. To ensure that level of assistance, Rule 651(c) requires the record to show that appointed counsel consulted with the petitioner to ascertain his contentions of constitutional deprivation, examined the record of the proceedings from the trial, and made any amendments to the *pro se* petition necessary for an adequate presentation of the petitioner's contentions. Ill. S. Ct. R. 651(c) (eff. July 1, 2017); *Perkins*, 229 Ill. 2d at 42.

¶ 22 We review a second-stage dismissal *de novo*. *People v. Sanders*, 2016 IL 118123, ¶ 31.

¶ 23 B. The Rule 651(c) Certificate

¶ 24 Tyler contends that attorney Slocum's certificate is facially deficient because it recites only that counsel examined Tyler's transcript, and it says nothing about the common law record or the trial exhibits.

¶ 25 Counsel may show Rule 651(c) compliance by filing a certificate. The filing of a facially valid certificate creates a rebuttable presumption that counsel provided reasonable assistance, and the defendant bears the burden of overcoming that presumption by demonstrating that counsel did not substantially comply with the rule. *People v. Addison*, 2023 IL 127119, ¶ 21.

¶ 26 Rule 651(c) obligates counsel to examine "the record of the proceedings at the trial." Ill. S. Ct. R. 651(c) (eff. July 1, 2017). Our supreme court construed that phrase in *People v. Davis*, 156 Ill. 2d 149, 164 (1993), holding that the rule does not require counsel to examine the entirety of a petitioner's trial proceedings, and that counsel need review only "as much of the transcript of proceedings as is necessary to adequately present and support those constitutional claims raised by the petitioner." *Davis* thus construed Rule 651(c)'s record-review obligation in terms of the transcript of proceedings and held that counsel need review only those portions necessary to adequately present and support the claims raised. See *id.*; Ill. S. Ct. R. 651(c) (eff. July 1, 2017).

¶ 27 Attorney Slocum's certificate here complies with that obligation. It states that counsel communicated with Tyler to ascertain his contentions, examined his transcript, and determined that the *pro se* petition adequately presented his issues, which is an acceptable equivalent of certifying that no amendments were necessary. See *Huff*, 2024 IL 128492, ¶ 24; see also *People v. Jones*, 2011 IL App (1st) 092529, ¶¶ 22-24 (Rule 651(c) certificate reciting that counsel examined the transcript sufficed; nothing in the rule suggests the certificate must comprehensively recount all of counsel's efforts).

¶ 28 Tyler's broader reading of the rule is also difficult to square with its text and with the related rules. The common law record is not confined to "proceedings at the trial"; it comprises pretrial and posttrial filings such as the indictment, arrest warrants, presentence reports, and judgment orders. See Ill. S. Ct. R. 608(a) (eff. July 1, 2017). And where the rules require a review of the full trial court file, they state so expressly. See Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024) (counsel must examine "the trial court file"). The narrower phrasing of Rule 651(c) is best read, as *Davis* read it, to require examination of the transcript of the proceedings relevant to the petitioner's claims. See *Davis*, 164 Ill. 2d at 164.

¶ 29 In support of his argument, Tyler relies on *People v. Blanchard*, 2015 IL App (1st) 132281, in which this court remanded where the certificate did not permit the reviewing court to determine whether counsel had examined exhibits that the petition itself identified as the basis for relief. We do not read *Blanchard* to control here.

¶ 30 One cannot read *Blanchard* in any way that helps Tyler. There, the *pro se* petition rested affirmatively on identified exhibits, and the certificate did not permit the reviewing court to determine whether counsel had examined the exhibits, which the petition had identified as the basis for relief. *Id.* ¶¶ 17-19. Here, by contrast, Tyler's petition does not rest on any identified exhibit; it rests on the asserted absence of a document. Nothing in the certificate was therefore left uncertain in the way that concerned the *Blanchard* court, and the certificate is facially valid.

¶ 31 In any event, even if the certificate should have said more, the record as a whole independently demonstrates that counsel performed the required review. See *People v. Richmond*, 188 Ill. 2d 376, 380 (1999) (compliance may be shown by the certificate or by the record as a whole). The record affirmatively shows that counsel went well beyond the transcript: she reviewed the 24-volume record, obtained and searched trial counsel's five-box file, and investigated Dr. Reinstein's federal case. Even on Tyler's own view of what Rule 651(c) demands, the record here supplies what the certificate in *Blanchard* did not.

¶ 32 Based on the foregoing, we conclude that the certificate here is facially valid.

¶ 33 C. The Presumption of Reasonable Assistance

¶ 34 The filing of a facially valid certificate gives rise to a rebuttable presumption of reasonable assistance, and Tyler bears the burden of overcoming it by demonstrating that counsel did not substantially comply with Rule 651(c). *Addison*, 2023 IL 127119, ¶ 21. Tyler's main argument is that attorney Slocum rendered unreasonable assistance by standing on a petition that was obviously

defective because it lacked any evidentiary support for the claim concerning Dr. Reinstein. Our supreme court rejected a materially similar argument in *People v. Huff*, 2024 IL 128492.

¶ 35 The petitioner in *Huff* argued that he had rebutted the presumption of reasonable assistance by showing that counsel stood on a meritless petition; our supreme court disagreed. Where counsel certifies that she made any amendments necessary to adequately present the petitioner's claims and then makes none, "[i]t is presumed from the lack of an amendment that there were none to be made." *Id.* ¶ 24. The court emphasized that the petitioner had not identified any necessary amendment counsel could have made to allow the petition to survive dismissal. *Id.* Counsel is not required to make amendments that would only further a frivolous claim (*id.* ¶ 22) nor is counsel unreasonable "simply because his arguments were without merit or because he was unable to make the petition's allegations factually sufficient to require the granting of relief." See *People v. Williams*, 2025 IL 129718, ¶ 46.

¶ 36 The same applies here. Tyler has never identified any report, affidavit, or other evidence (beyond Dr. Reinstein's existing suppression-hearing testimony) showing what Dr. Reinstein would have said about his sanity at the time of the offense, much less anything counsel could have attached to the petition. The claim, as pleaded, was that trial counsel should have obtained a report from Dr. Reinstein "to determine whether petitioner was insane." Attorney Slocum searched trial counsel's entire file for such a report and found none. Tyler does not suggest that any report exists, that Dr. Reinstein ever formed an opinion on his sanity at the time of the offense, or that Dr. Reinstein would have supplied an affidavit, had counsel requested it. Counsel cannot be faulted "for failure to introduce evidence not shown to be existing and available." *People v. Agee*, 2023 IL 128413, ¶ 56 (quoting *People v. Stovall*, 47 Ill. 2d 42, 46 (1970)); *People v. Enis*, 194 Ill. 2d 361, 380 (2000) (a claim that counsel failed to investigate or call a witness ordinarily must be

supported by an affidavit from the proposed witness). That requirement is not absolute, however; where the substance of the proposed testimony is otherwise discernible from the record or other evidence, the reviewing court considers that evidence. *People v. Dupree*, 2018 IL 122307, ¶¶ 34, 40. Here, even considering Dr. Reinstein's existing suppression-hearing testimony, the record reveals no opinion by Dr. Reinstein that Tyler was legally insane at the time of the offense; his testimony addressed mental illness and malingering, not sanity, and therefore does not supply the evidentiary support missing from the petition.

¶ 37 Tyler's suggestion that counsel should have amended the petition to explain what Dr. Reinstein "likely would have testified to" at trial illustrates the difficulty. Counsel's own speculation about testimony that was never given cannot substitute for actual evidence, whether an affidavit or otherwise, of what Dr. Reinstein would have said about Tyler's sanity. See *Enis*, 194 Ill. 2d at 380. The circuit court made the same point when it declined to speculate as to what Dr. Reinstein would have opined. Nor would an amendment reciting Dr. Reinstein's suppression-hearing testimony have changed the outcome. That testimony established tentative diagnoses of bipolar disorder and personality disorder and, as of days before the offense, no finding of malingering. We do not minimize the significance of that last point. Whether Tyler was genuinely mentally ill or was instead feigning symptoms to support a defense was a central dispute among the experts: Dr. Neu concluded that Tyler was malingering and sane, and Dr. Lourgos, who evaluated Tyler in October 2011, diagnosed polysubstance dependence and antisocial personality disorder and attributed his psychotic symptoms to substance abuse. These were findings that Dr. Lourgos testified were consistent with prior evaluations in 2006 and 2007, while Dr. Reinstein declined to find malingering. Testimony rebutting the malingering opinion would thus have been relevant to the defense. But relevance alone does not establish prejudice. Even accepting that Tyler

was mentally ill and not malingering, evidence of mental illness is not evidence of legal insanity, which requires a showing that, at the time of the conduct, the defendant lacked substantial capacity to appreciate the criminality of his conduct. 720 ILCS 5/6-2(a) (West 2004). Dr. Reinstein gave no opinion on that question, and mental illness alone does not establish the defense. See *id.*

¶ 38 Tyler's reliance on *Addison* is misplaced. In *Addison*, counsel pursued five claims but failed to shape them into proper legal form and, critically, eliminated the ineffective-assistance-of-appellate-counsel allegations that the *pro se* petition had included to avoid forfeiture, thereby weakening the petition. See *Addison*, 2023 IL 127119, ¶¶ 24-26, 30. Attorney Slocum removed nothing. Tyler's *pro se* petition itself alleged that appellate counsel was ineffective for failing to raise the Reinstein claim, and that allegation remained in the petition when the court dismissed it. Whatever else may be said of counsel's performance, she did not render the petition worse than she found it.

¶ 39 *People v. Turner*, 187 Ill. 2d 406 (1999), is likewise distinguishable. Counsel in *Turner* failed to make a routine amendment (adding an allegation of ineffective assistance of appellate counsel) that would have avoided an otherwise fatal forfeiture. *Id.* at 413-15. No comparable amendment was needed here. In *Turner*, counsel failed to add the appellate-ineffectiveness allegation that would have overcome forfeiture; in Tyler's case, that allegation was already present in the *pro se* petition, so counsel had no equivalent omission to correct. The deficiency that led to dismissal was the absence of evidentiary support, which no amendment within counsel's power could cure.

¶ 40 The record also does not support Tyler's suggestion that successor counsel acted unreasonably by declining to adopt the supplemental petition that his first appointed attorney, Sneed, had reported drafting but never filed. The draft itself was never filed and is not in the record.

We therefore do not know what it contained, whether it was complete, or whether it included any supporting materials. Attorney Slocum spent more than three years reviewing the 24-volume record, trial counsel's file, and Dr. Reinstein's federal case before concluding that no supplement was warranted. On this record, that conclusion reflects a considered judgment, not neglect. *See People v. Bass*, 2018 IL App (1st) 152650, ¶ 16 ("[N]ot every petition can be amended to state a substantial constitutional claim.").

¶ 41 Finally, Tyler faults counsel for leaving in the petition a claim that trial counsel failed to request insanity instructions, where the record shows the jury heard insanity instructions. That counsel left the claim in the petition did not deprive Tyler of an adequate presentation of his other contentions, and Rule 651(c) requires amendments only where they are "necessary for an adequate presentation of petitioner's contentions." See Ill. S. Ct. R. 651(c) (eff. July 1, 2017).

¶ 42 Because attorney Slocum substantially complied with Rule 651(c) and Tyler has not rebutted the presumption of reasonable assistance, his claim fails. We therefore need not reach the State's alternative contention that the underlying ineffective-assistance claim is frivolous and, for that independent reason, outside the scope of counsel's obligations. See *People v. Greer*, 212 Ill. 2d 192, 205 (2004).

¶ 43 III. CONCLUSION

¶ 44 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 45 Affirmed.