

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,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 01 CR 4445
	)	
ARTIT CHANGYALERET,	)	The Honorable
	)	Ellen Beth Mandeltort,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE HYMAN delivered the judgment of the court.
Presiding Justice Gamrath and Justice Evans concurred in the judgment.

ORDER

¶ 1 *Held:* Affirming where the circuit court independently granted leave to file a successive petition, and postconviction counsel provided reasonable assistance.

¶ 2 Artit Changyaleret sought leave to raise an as-applied challenge to his sentence under the proportionate penalties clause. The circuit court appointed postconviction counsel, who filed a supplemental petition including, among other things, a white paper on the evolving science of juvenile maturity and brain development and an expert report discussing Changyaleret. The court later granted the State's motion to dismiss.

¶ 3 Changyaleret does not argue that his as-applied claim should have advanced to an evidentiary hearing, despite a recent amendment to the Post-Conviction Hearing Act bearing directly on it. Instead, Changyaleret contends that the circuit court erred by permitting the State to participate at the leave-to-file stage, and that postconviction counsel provided unreasonable assistance. The record refutes these contentions, so we affirm.

¶ 4 Background

¶ 5 After a bench trial, the trial judge convicted Changyaleret of first degree murder and concealment of a homicidal death and sentenced him to concurrent terms of forty-five years' and five years' imprisonment. On direct appeal, he challenged the sufficiency of the evidence on both counts and argued that the indictment should have been dismissed because a police detective testified falsely before the grand jury. We affirmed in an unpublished order, *People v. Changyaleket*, No. 1-02-2112 (Oct. 29, 2003). (Both "Changyaleket" and "Changyaleret" appear across the record on appeal. For consistency, we use the version in the caption.)

¶ 6 Changyaleret sought leave to file a successive petition raising an as-applied challenge to his sentence. ("Petitioner now seeks leave to file a successive petition raising the claim that his 45 year life sentence violates the Eighth Amendment to the United States Constitution and Article I, Section 11 of the Illinois Constitution as applied to him.") Citing then-recent decisions *People v. House*, 2019 IL App (1st) 110580-B, and *People v. Harris*, 2018 IL 121932, he contended the cases were "stepping stones in the evolution of how Illinois courts view young adults," and that "his 45-year sentence [was] a *de facto* life sentence which precludes any chance of future release." He appended affidavits describing his difficult upbringing, certificates earned while imprisoned,

studies on age and the criminal legal system, and testimony from an expert on development in an unrelated case.

¶ 7 The circuit court received Changyaleret's filing in March 2020 at the start of COVID-19 era. No half sheet or other order memorialize the date that the court acknowledged the presentment of his filing. The next court date, in July 2020, was via video conference, and the transcript is missing. An affidavit from a court reporter states that she searched her notes from that date. A half sheet indicates the court continued the matter for "PC review."

¶ 8 At the next date, again via video conference, the circuit court informed assistants from the public defender's office and the State "[t]hat PC will be docketed." The court noted how, during the last hearing, it "told both sides at that time that most likely would be [its] decision after reviewing." The court stressed, "[T]hat is my decision, that it will be docketed for argument by both sides and motions."

¶ 9 As postconviction counsel investigated Changyaleret's claim, the caselaw continued to develop. For example, our supreme court held in 2021 that "*Miller's* announcement of a new substantive rule under the eighth amendment does not provide cause for a [juvenile] defendant to raise a claim under the proportionate penalties clause." *People v. Dorsey*, 2021 IL 123010, ¶ 74. And in 2023, the supreme court held that "[a]s *Miller* does not directly apply to young adults, it also does not provide cause for a young adult offender to raise a claim under the proportionate penalties clause." *People v. Moore*, 2023 IL 126461, ¶ 40.

¶ 10 During that time, the record demonstrates that postconviction counsel regularly updated the circuit court on the litigation's progress. Counsel represented to the court that he: (i) conferred with Changyaleret multiple times; (ii) received and reviewed the record; (iii) issued subpoenas for

Changyaleret's medical records; (iv) sought affidavits from Changyaleret's family members; and (v) retained an expert, who both generated and later updated a report on Changyaleret.

¶ 11 Finally, in 2024, postconviction counsel filed a supplemental postconviction petition and a Rule 651(c) certificate certifying:

“1. I have consulted with the petitioner, ARTIT CHANGYALEKET, by phone, mail, electronic means or in person to ascertain his or her contentions of deprivation of constitutional rights.

2. I have examined the record of proceedings at the trial and/or guilty plea.

3. I have made any amendments to the petitions filed pro se that are necessary for an adequate presentation of petitioner's contentions.”

¶ 12 In the supplemental petition, postconviction counsel acknowledged recent, adverse caselaw from the Illinois Supreme Court but “urge[d]” the circuit court “to recognize that evolving standards of decency and multiple studies on adolescent brain development represent a basis to more meaningfully and more scientifically advance a proportionate penalties claim not previously available.” Counsel appended, among other things: (i) the expert's report on Changyaleret, (ii) a study, “White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers,” summarizing “mainstream” thought in “developmental neuroscience” as of 2022, “the time it was produced,” and (iii) affidavits from Changyaleret and one of his siblings.

¶ 13 The State moved to dismiss, and the case was transferred to a different judge. In 2025, the circuit court held a hearing on the State's motion. At the start, the court noted that “the common law record” did not contain an order permitting Changyaleret leave to file. The court “want[ed] to clarify” that “there is a finding of sufficient evidence, at this point, to proceed to the second stage

for a cause and prejudice test to determine whether or not we can proceed to a third stage evidentiary hearing.” Postconviction counsel and the State agreed the petition had advanced to the second stage. After arguments, the circuit court dismissed Changyaleret’s petition.

¶ 14 Changyaleret then filed this appeal. While pending, the governor signed an amendment to the Post-Conviction Hearing Act. The law states that “[a] petitioner who was convicted of a felony offense committed when that person was under 21 years of age who seeks leave to file a successive postconviction petition claiming that his or her sentence violates Section 11 of Article I of the Illinois Constitution does not have to demonstrate cause as set forth in subsection (f) of this Section.” 725 ILCS 5/122-1(g) (West 2026).

¶ 15 Before the amendment became law, Changyaleret’s moved to stay the appeal. When the bill became law, we denied the motion as moot and invited the parties to “discuss the effect of the new law and any new authority that is relevant.” The parties have filed supplemental briefing.

¶ 16 Analysis

¶ 17 Changyaleret raises two contentions attacking the sufficiency of the proceedings: (i) the circuit court failed to independently determine whether his motion seeking leave to file made a *prima facie* showing of cause and prejudice and (ii) postconviction counsel filed a “facially deficient” Rule 651(c) certificate and “affirmatively damaged” Changyaleret’s claim.

¶ 18 *Leave to File*

¶ 19 Changyaleret sought leave to file a successive petition under the Post-Conviction Hearing Act (725 ILCS 5/122-1 (West 2020)). The Act contemplates the filing of one petition by right and successive petitions with leave of court. *Id.* § 122-1(f). The cause-and-prejudice test is “the analytical tool” to determine “whether fundamental fairness requires” the court to allow leave to

litigate claims in a successive petition. *People v. Pitsonbarger*, 205 Ill. 2d 444, 459 (2002). When a petitioner seeks leave, the Act requires the circuit court to conduct an independent, preliminary screening to determine whether the petitioner has established a *prima facie* showing of cause and prejudice for each claim. *People v. Bailey*, 2017 IL 121450, ¶ 24.

¶ 20 We review *de novo* a circuit court’s ruling on a motion seeking leave to file. *Bailey*, 2017 IL 121450, ¶ 13.

¶ 21 Changyaleret contends that the circuit court “never found that the petitioner made a *prima facie* showing of cause and prejudice as required.” In his opening brief, he focused on the circuit court’s statements at the hearing on the State’s motion to dismiss, arguing that “[t]he only mention of a ‘finding’ * * * occurred when the [] court, on the day of the hearing, realized there was no ‘finding.’” We disagree.

¶ 22 Changyaleret overlooks what occurred years before the hearing on the State’s motion to dismiss. After reviewing his filing, the circuit court announced that the petition “will be docketed” and emphasized, “[T]hat is my decision.” Changyaleret mistakes the absence of an express cause-and-prejudice finding for the absence of a ruling. By granting leave and docketing the petition, the court necessarily found the preliminary showing would proceed. *Bailey* requires an independent determination, not particular words. See *id.* ¶ 24 (“[T]he court must determine whether defendant has made a *prima facie* showing of cause and prejudice. If the defendant has done so, the court will grant leave for the petition to be filed.”).

¶ 23 That the circuit court permitted leave to file makes sense, given the state of the caselaw at that time. Changyaleret’s *pro se* motion cited a favorable supreme court opinion (*People v. Harris*, 2018 IL 121932) and a directly supportive opinion from this court (*People v. House*, 2019 IL App

(1st) 110580-B). See *Aleckson v. Vill. of Round Lake Park*, 176 Ill. 2d 82, 92 (1997) (“when conflicts arise amongst the districts, the circuit court is bound by the decisions of the appellate court of the district in which it sits”). At that time, docketing the successive petition was the correct decision. See *People v. Blair*, 215 Ill. 2d 427, 449 (2005) (noting, “we presume that the trial judge knows and follows the law unless the record demonstrates otherwise”).

¶ 24 We reject Changyaleret’s suggestion made for the first time in his reply brief that the State influenced this initial determination. The record shows the court acknowledged the presence of assistants from the public defender’s office and the State. Their presence on a video conference as the court heard its docket does not indicate their active participation. The court dispelled any concern, stressing, “[T]hat is my decision, that it will [now] be docketed for argument by both sides and motions.” Thus, the record refutes the contention that the State improperly participated

¶ 25 Likewise, we reject that the circuit court “further tainted” the proceedings years later when hearing the State’s motion to dismiss. As explained, the circuit court had no duty then to determine whether claims in the supplemental postconviction petition made a *prima facie* showing of cause and prejudice. See 725 ILCS 5/122-1(f) (West 2020) (defining requirements for successive postconviction proceedings). Yet the State was free to move for dismissal on the ground that Changyaleret failed to prove cause and prejudice. *Bailey*, 2017 IL 121450, ¶ 26. The State’s litigation of its motion was not improper participation at the leave-to-file stage.

¶ 26 We need not decide the applicability of the new amendment to the Post-Conviction Hearing Act (725 ILCS 5/122-1(g) (West 2026)). In supplemental briefing, Changyaleret suggests that the new law is relevant to whether the State’s participation at the leave-to-file stage was harmless. See generally *People v. Lusby*, 2020 IL 124046, ¶ 29 n.1 (permitting appellate court to determine

whether state participation at leave-to-file stage was harmless). But as we found, the State never participated at the leave-to-file stage, so we have no basis to address the new law’s applicability.

¶ 27 The circuit court independently found that Changyaleret made a *prima facie* showing of cause and prejudice permitting him to litigate an as-applied claim attacking his sentence.

¶ 28 *Illinois Supreme Court Rule 651(c)*

¶ 29 Petitioners like Changyaleret are entitled to reasonable assistance of counsel. *People v. Addison*, 2023 IL 127119, ¶ 19. To ensure they receive it, Supreme Court Rule 651(c) requires the record to show, often by postconviction counsel filing a certificate, that counsel: (i) “consulted with petitioner by phone, mail, electronic means or in person to ascertain his or her contentions of deprivation of constitutional rights”; (ii) “examined the record of the proceedings at the trial”; and (iii) “made any amendments to the petitions filed *pro se* that are necessary for an adequate presentation of petitioner's contentions.” Ill. S. Ct. R. 651(c) (eff. July 1, 2017).

¶ 30 We review *de novo* postconviction counsel’s compliance with the Rule 651(c). *People v. Frey*, 2024 IL 128644, ¶ 21.

¶ 31 Postconviction counsel filed a certificate patterned on the language of the rule. Counsel asserted that he: (i) “consulted with [Changyaleret] by phone, mail, electronic means or in person to ascertain his or her contentions of deprivation of constitutional rights,” (ii) “examined the record of proceedings at the trial and/or guilty plea,” (iii) “made any amendments to the petitions filed *pro se* that are necessary for an adequate presentation of petitioner’s contentions.”

¶ 32 Changyaleret contends that the phrases “at the trial and/or guilty plea” and “his or her contentions”—alone—require remand. In support, he cites *Blanchard*, where this court remanded because counsel’s certificate mentioned the “common law record” and the “report of proceedings”

but not “exhibits” critical to petitioner’s claim. *People v. Blanchard*, 2015 IL App (1st) 132281, ¶¶ 18-19. He also cites *Bashaw*, where this court remanded because counsel certified to having read the record “on appeal,” not the report of proceedings “at trial.” *People v. Bashaw*, 361 Ill. App. 3d 963, 968-70 (2005). Unlike *Blanchard* and *Bashaw*, postconviction counsel certified to examining the “record of the proceedings at trial,” which was critical to Changyaleret’s claim.

¶ 33 The phrase “and/or” does not imply that counsel believed a guilty plea had occurred, as Changyaleret appears to imply. Even if we had doubts, counsel’s many citations in the supplemental petition to the report of the proceedings at trial would dispel them. See *Bashaw*, 361 Ill. App. 3d at 968 (noting, counsel’s remarks at hearing cast doubt on idea that counsel’s certificate proved compliance). Similarly, Changyaleret appears to imply his counsel did not know Changyaleret is a man due to the appearance of the phrase “his or her.” Again, even if we harbored doubts, counsel’s frequent use of “his” in the supplemental petition would dispel them. See *id.*

¶ 34 Postconviction counsel’s certification that he complied with the Rule 651(c) duties creates a rebuttable presumption of having provided a reasonable level of assistance. *People v. Agee*, 2023 IL 128413, ¶ 43. Changyaleret fails to rebut this presumption.

¶ 35 Changyaleret contends that postconviction counsel failed his “one job” by filing a supplemental petition without shaping Changyaleret’s *pro se* claim by “add[ing] 33 pages of facts and legal analysis” and “nearly 200 pages of exhibits.” But these additions were critical to Changyaleret’s *pro se* claim filed in 2020, before the Illinois Supreme Court decided several cases adverse to the claim. See, *e.g.*, *Dorsey*, 2021 IL 123010, ¶ 74; *Moore*, 2023 IL 126461, ¶ 40.

¶ 36 Counsel did what was needed by acknowledging recent, adverse caselaw from the Illinois Supreme Court and urging the circuit court “to recognize that evolving standards of decency and

multiple studies on adolescent brain development represent a basis to more meaningfully and more scientifically advance a proportionate penalties claim not previously available.” In support, counsel appended: (i) the expert’s report on Changyaleret, (ii) a study, “White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers,” and (iii) affidavits.

¶ 37 Changyaleret focuses little on the substance of the petition and its appended documents. Rather, he offers “unfair” descriptions of typos in the supplemental petition, as the State notes, none of which “affirmatively damaged” his claim. His counsel forcefully argued that Changyaleret was “only 20 years of age at the time of the offense” and that the evolving science of juvenile maturity and brain development applied to him.

¶ 38 Another alleged error misstates postconviction counsel’s argument. In the supplemental petition, counsel noted that, given the date of the sentencing hearing, the trial court could not have considered the *Miller* factors or the General Assembly’s codification of *Miller* in 730 ILCS 5/5-4.5-105 (West 2024), which did not yet exist. On appeal, Changyaleret calls counsel’s assertion a “misrepresentation of the record,” yet describes the claim’s “actual basis” as the trial court failing to “consider that [his] brain was more like a juvenile’s than an adult’s” during the offense. Changyaleret’s assertion restates counsel’s argument in the supplemental petition.

¶ 39 Accordingly, postconviction counsel provided Changyaleret with reasonable assistance.

¶ 40 Affirmed.