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2025 IL App (3d) 230752-U

Order filed June 18, 2025

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2025

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 13th Judicial Circuit,
)	La Salle County, Illinois,
Plaintiff-Appellee,)	
)	Appeal No. 3-23-0752
v.)	Circuit No. 15-CF-149
)	
WILLIAM B. HORMAN,)	Honorable
)	H. Chris Ryan Jr.,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE BERTANI delivered the judgment of the court.
Justices Holdridge and Anderson concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant's due process rights were violated when the court bypassed a second-stage ruling and proceeded to an evidentiary hearing without providing notice.
- ¶ 2 Defendant, William B. Horman, appeals the third-stage denial of his postconviction petition, arguing, *inter alia*, that the La Salle County circuit court erred when it violated his right to due process by proceeding to a third-stage evidentiary hearing. We reverse and remand for second-stage postconviction proceedings.

¶ 3

I. BACKGROUND

¶ 4

Defendant was charged with first degree murder (720 ILCS 5/9-1(a)(1) (West 2014)) and concealment of a homicidal death (*id.* § 9-3.4(a)). Initially, we note that the facts of this case have been previously set forth in detail in defendant's three prior appeals. *People v. Horman*, 2018 IL App (3d) 160423; *People v. Horman*, 2021 IL App (3d) 190382-U; *People v. Horman*, 2023 IL App (3d) 220010-U. We have relied on these previous cases, in conjunction with the record to summarize the facts relevant to this appeal.

¶ 5

The evidence adduced at defendant's jury trial showed that Robert Dowd Jr. went missing between April 14 and 16, 2015. Dowd's friends observed a smoldering burn pile at Dowd's trailer where defendant was known to stay. Later, Dowd's friends saw defendant and Jonathan Beckman cleaning up Dowd's property. Dowd owned Rob's Washouts (Washouts) in Ottawa. According to Beckman, on April 14, defendant picked Beckman up and said he was going to kill Dowd. Defendant drove to Washouts and saw Dowd asleep on a cot in his office. Defendant entered the office with a wooden club, and Beckman heard 10 to 15 thuds but did not look into the office. After, Beckman helped defendant place a tarp over Dowd and load his body into a vehicle. Defendant drove to Dowd's trailer and dragged his body out of the vehicle and into the burn pile before lighting it on fire. Beckman acted as a lookout when defendant threw Dowd's burned remains into the Fox River. Beckman also helped defendant get rid of Dowd's vehicle. Pursuant to an agreement, Beckman pled guilty to concealment of a homicidal death and the State agreed to dismiss a murder charge in exchange for his testimony against defendant. Defendant testified that he believed Dowd would make him a partner in Washouts. Defendant agreed that he stated he wanted to harm Dowd but indicated that he would never actually do so. He denied any knowledge or participation in Dowd's murder.

¶ 6 The jury found defendant guilty of both counts, and the court sentenced defendant to 35 years' imprisonment. We affirmed defendant's convictions on direct appeal. *Horman*, 2018 IL App (3d) 160423, ¶ 33.

¶ 7 Defendant filed a *pro se* postconviction petition on October 14, 2021, alleging a claim of actual innocence based on a newly discovered affidavit from Cody Smith dated June 3, 2019. The affidavit alleged that Beckman was "bragging" that the State had no evidence against defendant and offered Beckman a "sweet deal" to testify against defendant. Smith alleged that Beckman indicated the State wrote his testimony, asserting that "Beckman [was] lying for the State to get out of somethings he might or might not have done" and that defendant "was not guilty." Additionally, defendant asserted claims of improper police conduct, ineffective assistance of trial and appellate counsel, and prosecutorial misconduct related to Beckman's testimony and plea deal. The court summarily dismissed defendant's petition. On appeal, we reversed the court's dismissal and remanded for new second-stage proceedings. *Horman*, 2023 IL App (3d) 220010-U, ¶ 20. Specifically, we found that the evidence in Smith's affidavit was arguably newly discovered, material, noncumulative, and of such a conclusive character that it would change the result on retrial and took no position on defendant's remaining claims. *Id.* ¶¶ 17-20.

¶ 8 On October 6, 2023, the matter was before the court on remand. Defendant indicated that he did not want to be represented by the public defender's office, and the court indicated that he could represent himself. The court explained the postconviction procedure to defendant, stating that the appellate court remanded defendant's postconviction petition for second-stage proceedings, and the State had an opportunity to respond to defendant's petition. The court informed defendant that it would give him time to amend his petition before the State filed their response so that "we know exactly what we're dealing with as far as when we're having a hearing,

what the issues are.” Defendant asked the court to subpoena the clerk of the Illinois Supreme Court and Illinois attorney general, which the court denied stating, “[w]e just don’t issue subpoenas because you might think it’s relevant. It has to have some basis of law. So I need to see your pleadings in totality. *** You need to file it for me so it’s complete.” Later, defendant complained that he was not receiving responses to his Freedom of Information Act requests. The court stated,

“They’re not going to respond to you. Nobody is going to respond to you because you’re *pro se* and representing yourself. They’re just going to ignore you. That’s why you need a lawyer. *** That’s why I keep telling you that.

Now, you can keep doing it, but I mean they’ve given everything. *** This is not theirs. This is yours. In other words, you got to present the evidence the best you can. *** [T]hey’re not obligated to help you.”

The court continued the matter “for a hearing following that, second phase, post conviction” to December 15. The written order stated that the continuance was for “hearing on post-conviction,” and the State had “21 days to file a responsive pleading or motion to dismiss.”

¶ 9 On October 27, 2023, the State filed an “Answer to Defendant’s Petition for Post-Conviction Relief.” In its answer, the State asserted that many of defendant’s claims were barred by *res judicata* and denied “any surviving allegations.” The State outright denied claims related to lack of subject matter jurisdiction, evidence or witness tampering, improper police conduct, and prosecutorial misconduct.

¶ 10 On December 15, 2023, the State addressed the court and said, “since the last time we were in court, the State did file an answer to the petition for post-conviction relief advancing it to a third-stage hearing.” The court agreed and told defendant to present his case. The court asked if

defendant had any evidence to present, and defendant responded that he did not know that he could present evidence that day. The court addressed defendant in the following exchange:

“THE COURT: Any evidence, other than what’s already—you’ve got in your pleadings *** and what you just delivered to us here today, which you read?

[DEFENDANT]: Nothing new as of today, no.

[THE STATE]: *** I would note that this is a third-stage evidentiary hearing. [Defendant] had—with all due respect, he has not put on any evidence.

* * *

*** [A]t this particular stage, third-stage post-conviction, if [defendant] has not presented any evidence—I would note that at this stage the burden is on the defendant. He has not submitted or presented any evidence. I think the court should enter a directed finding.”

Defendant expressed his general frustration with the postconviction procedure and his ability to access requested documents. Defendant stated he could present evidence if he had more time. The court concluded that defendant failed to meet his burden at the third-stage hearing and denied defendant’s petition. Defendant appealed.

¶ 11

II. ANALYSIS

¶ 12

On appeal, defendant argues, *inter alia*, that the court erred when it violated his right to due process by proceeding to a third-stage evidentiary hearing. The Post-Conviction Hearing Act establishes three stages of review. *People v. Domagala*, 2013 IL 113688, ¶ 32. At the first stage, the circuit court may dismiss the petition if it is frivolous or patently without merit. 725 ILCS 5/122-2.1(a)(2) (West 2022). If the circuit court does not dismiss the petition, it advances to the

second stage, at which the petitioner must make a substantial showing of a constitutional violation. *Domagala*, 2013 IL 113688, ¶ 33. If the State’s motion to dismiss is denied, or no such motion is filed, the State must file a timely answer to the postconviction petition. 725 ILCS 5/122-5 (West 2022).

“[T]he ‘substantial showing’ of a constitutional violation that must be made at the second stage [(*People v. Edwards*, 197 Ill. 2d 239, 246 (2001))] is a measure of the legal sufficiency of the petition’s well-pled allegations of a constitutional violation, *which if proven* at an evidentiary hearing, would entitle petitioner to relief.”

(Emphasis in original.) *Domagala*, 2013 IL 113688, ¶ 35.

At this stage, all well-pled facts will be regarded as true unless positively rebutted by the record. *People v. Pendleton*, 223 Ill. 2d 458, 473 (2006). Only if the circuit court determines that the petitioner made the requisite showing, is defendant entitled to a third-stage evidentiary hearing. *Domagala*, 2013 IL 113688, ¶ 34; *People v. English*, 403 Ill. App. 3d 121, 129 (2010).¹

¶ 13 “A procedural due process claim presents a question of law, which we review *de novo*.” *People v. Stoecker*, 2020 IL 124807, ¶ 17. “The fundamental requirements of due process are notice of the proceeding and an opportunity to present any objections.” *People v. Cardona*, 2013 IL 114076, ¶ 15. “This right entitles an individual to the opportunity to be heard at a meaningful

¹The State cited *People v. Snow*, 2012 IL App (4th) 110415, ¶ 14, which stated, “[i]f the State does not file a motion to dismiss ***, the petition advances to the third stage” to support the notion that the State merely filing an answer to the petition “advance[ed] it to a third-stage hearing.” See also *People v. Thompson*, 2016 IL App (3d) 140586, ¶ 24 (citing *Snow* and stating, “If the State elects instead to answer the petition, the State chooses to have the trial court resolve the issues raised in the postconviction petition following an evidentiary hearing.”). We disagree. We have found no supreme court case which asserts the proposition that the State filing an answer versus a motion to dismiss defendant’s petition requires an automatic third-stage proceeding. Moreover, such a holding would render the second stage superfluous. See *People v. Miller*, 2017 IL App (3d) 140977, ¶ 33 (“*Thompson* does not hold that a responsive pleading captioned as an ‘answer,’ in and of itself, entitles a defendant to an evidentiary hearing on all allegations raised in a postconviction petition.”).

time and in a meaningful manner.” (Internal quotation marks omitted.) *Stoecker*, 2020 IL 124807, ¶ 17. “However, because due process is a flexible concept, not all circumstances call for the same type of procedure. [Citation.] A petitioner in postconviction proceedings has a right to procedural due process, and the protection of that right is of critical importance.” (Internal quotation marks omitted.) *People v. Pingelton*, 2022 IL 127680, ¶ 36. A procedural due process error is subject to harmless error review, requiring a reviewing court to determine whether the error is “unquantifiable and indeterminate such that it rendered the proceeding automatically unfair or unreliable.” (Internal quotation marks omitted.) *Id.* ¶ 46.

¶ 14 We first direct our attention to the manner in which the court conducted the second-stage proceeding. Here, the State’s answer denied certain allegations as rebutted by the record while indicating that others were barred by *res judicata*. However, the court failed to make any findings or determinations on which claims satisfied the requisite substantial showing of a constitutional violation to proceed to a third-stage evidentiary hearing. Given the facts of this case, a determination regarding *res judicata* or facts rebutted by the record was essential to guide defendant on how to proceed in a third-stage hearing. See *Pingelton*, 2022 IL 127680, ¶ 36 (“due process is a flexible concept, not all circumstances call for the same type of procedure”). At the second stage of the proceeding, the court had the relevant information to make findings on the pleadings, as evidence regarding the underlying claim would not clarify or aid in the court’s determination of *res judicata* or facts otherwise rebutted by the record. The court bypassed the second-stage proceeding when it failed to acknowledge the State’s contentions that certain claims should or should not proceed.

¶ 15 Further compounding the court’s failure to narrow the issues advancing to a third-stage evidentiary hearing, it failed to give defendant notice that a third-stage hearing would occur on

December 15, 2023. See *id.* The court informed defendant on October 6, 2023, that his postconviction petition was remanded for second-stage proceedings where the State had an opportunity to file a responsive pleading and a hearing would be held. Then, when setting the future December 15 date, the court told defendant it was setting the matter “for a hearing following that, second phase, post conviction,” and the written continuance order indicated that on December 15, the court would conduct a “hearing on post-conviction” after the State filed a responsive pleading. Moreover, the court’s general advice that defendant was required to “present the evidence the best you can” was insufficient to indicate that the court would hold a third-stage hearing on the next date. Instead, the court’s verbal and written orders placed defendant on notice that on December 15 the court would hold a second-stage hearing on the pleadings. Given the important distinction between second and third-stage proceedings, in that a defendant may present evidence and not merely argument at the third-stage, the court’s failure to provide a finding that each of defendant’s claims in the petition made a substantial showing of a constitutional violation, requiring a third-stage evidentiary hearing and notice of a third-stage hearing prior to proceeding to that hearing violated defendant’s right to due process. See *Pendleton*, 223 Ill. 2d at 472-73; see also *Pingelton*, 2022 IL 127680, ¶¶ 36, 39.

¶ 16 Under the particular facts of this case, the court’s procedure eliminated notice and defendant’s ability to subpoena testimony for an evidentiary hearing. As such, defendant was not provided a meaningful opportunity to be heard and present evidence in the form of testimony. See *Pingelton*, 2022 IL 127680, ¶ 36. Therefore, we cannot say that this error was harmless when defendant’s claim of actual innocence was rooted in the newly discovered evidence of Smith’s affidavit, which we found arguably material, noncumulative, and of such a conclusive character that it would change the result on retrial. See *Horman*, 2023 IL App (3d) 220010-U, ¶¶ 17-19. Due

to the nature of defendant’s newly discovered evidence, the impact of this procedural due process error is “unquantifiable and indeterminate,” rendering the proceeding automatically unfair and unreliable, violating defendant’s right to due process. (Internal quotation marks omitted.) See *Pingelton*, 2022 IL 127680, ¶ 46. Having resolved defendant’s present appeal under the due process issue, we need not reach the merits of defendant’s remaining claims. Because we are remanding for second-stage proceedings, defendant will have an opportunity to accept the appointment of the public defender or retain private counsel and seek his requested discovery pertaining to the aforementioned claims.

¶ 17

III. CONCLUSION

¶ 18

The judgment of the circuit court of La Salle County is reversed and remanded.

¶ 19

Reversed and remanded.