

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).

2026 IL App (4th) 260065-U

NO. 4-26-0065

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 29, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Peoria County
TYSHONTIS CAMPBELL,	)	No. 11CF182
Defendant-Appellant.	)	
	)	Honorable
	)	Katherine S. Gorman,
	)	Judge Presiding.

JUSTICE LANNERD delivered the judgment of the court.
Justices Zenoff and Grischow concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, holding (1) it had jurisdiction over this appeal and (2) defendant invited the errors he complains of on appeal.

¶ 2 In October 2020, defendant, Tyshontis Campbell, filed a *pro se* motion for leave to file a successive postconviction petition. Defendant attached a copy of his successive postconviction petition to the motion. The trial court granted defendant's motion for leave to file the successive petition but, in the same written order, dismissed the petition as frivolous and patently without merit. The Appellate Court, Third District, reversed and remanded for second-stage proceedings on defendant's successive petition. *People v. Campbell*, No. 3-20-0532 (2022) (unpublished summary order under Illinois Supreme Court Rule 23(c)). In August 2023, counsel was appointed to represent defendant on his successive petition. Counsel subsequently moved to withdraw on the basis defendant's successive petition lacked arguable merit. The trial court

granted the motion to withdraw, and on March 19, 2025, defendant then filed a *pro se* amended successive postconviction petition. Following a second-stage hearing, the court granted the State’s motion to dismiss defendant’s amended successive petition. On appeal, defendant argues the court erred in dismissing his amended successive postconviction petition because (1) the court failed to consider the merits of counsel’s motion to withdraw before granting the motion and (2) counsel’s motion to withdraw failed to address all of the claims defendant raised in his *pro se* successive postconviction petition. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Pretrial, Guilty Plea, Sentencing, and Postsentencing Proceedings

¶ 5 In February 2011, defendant, while armed with a firearm, entered Gyros N More in Peoria, Illinois with a codefendant, intending to rob the restaurant. Shots were fired, and two employees were injured. Defendant was later identified as the shooter.

¶ 6 On March 15, 2011, the State charged defendant with four counts of armed robbery (720 ILCS 5/18-2(a)(4) (West 2010)) and two counts of aggravated battery with a firearm (*id.* § 12-4.2(a)(1)). Assistant Public Defender Sean Donahue was appointed to represent defendant.

¶ 7 Donahue filed a motion to quash defendant’s arrest and suppress the evidence seized. Prior to the hearing on that motion, defendant wrote a letter to the trial court regarding issues he had with Donahue’s representation and requested the court appoint him a new attorney or allow him to proceed *pro se*.

¶ 8 At the hearing on the motion to quash and suppress, the trial court questioned defendant about his concerns with his attorney. Defendant said he and Donahue could not agree on anything and were “just butting heads every time [they] wind up seeing each other.” Donahue agreed he and defendant were “butting heads” but explained, “[I]n these cases, oftentimes

defendants don't necessarily agree with the law, or how the law is interpreted, and, frankly, that's—this is one of those cases.”

¶ 9 After the trial court confirmed Donahue could continue representing defendant, the court provided the following admonishment to defendant about going *pro se*:

“Now, you have a right to represent yourself. You’re going to be at a big disadvantage. The State knows the rules of evidence. They—they know how to put a case on. You’re not going to know how to do it. It’s very complex. We’re not going to flip back and forth; oops, I probably should have kept my attorney, Judge, can I have one now. None of that’s going to happen. You have a right to represent yourself. If you want to go represent yourself, I’m going to let you. But it’s not a very wise decision. But that’s your right to do. But I want you to understand that— . And if you still want to go this route, I’m going to go through a whole list of things that you need to understand. First and foremost, I want you to understand that if you represent yourself, you can’t claim on appeal that you had ineffective counsel. Now, if you keep—if you decide, Judge, I still want the Public Defender, and he doesn’t do a good job and you lose the case and he was ineffective, didn’t give it his all, messed up in one or more ways, that can be raised on appeal.”

Following this admonishment, the court gave defendant time to think about whether he wished to have Donahue continue representing him or waive counsel and proceed *pro se*, explaining:

“[I]f you come in here Monday morning and say, you know what, I’ve thought about it over the weekend and I want to represent myself, you’re going to have to be ready to go to trial on Monday. But you don’t have to tell me today I want to represent myself or I want to keep [Donahue]. If you want to think about it over the

weekend, I'm going to let you, but I want you to understand the consequences and the ramifications of both—both sides of that. Whichever way you go.”

The court then indicated Donahue would continue representing defendant “until [it] hear[s] an affirmative statement from [defendant] that he wants to represent himself.” In response to this statement, defendant said, “I ain’t got no choice, really.” Defendant explained that Donahue talked only about the State’s plea offers, not any type of trial strategy, and because of that, he was “going to have to go *pro se*.” After the court explained that Donahue had a duty to tell him about plea offers and what he thought were defendant’s best options, the court reiterated, “Monday morning, if you want to represent yourself at that trial, you can tell [the court] that.” The court continued, “But [the court is] telling you, you’re going to be at a big disadvantage. I—I cannot remember a *pro se* defendant winning a case. It’s happened before, but [the court] can’t remember it.”

¶ 10 Thereafter, defendant never asserted his right to represent himself. Instead, with Donahue’s assistance, defendant entered into a partial plea agreement. The parties agreed that, if defendant pleaded guilty to the two counts of aggravated battery with a firearm, which were mandatorily consecutive, he would receive an aggregate sentence between 25 and 60 years. In return, (1) the State agreed to drop the remaining charges, which included a charge with a mandatory firearm enhancement of 25 years and (2) defendant agreed to (a) testify against his codefendant, (b) give the police information about an unsolved murder, and (c) waive his right to appeal. After the State provided the factual basis, the trial court confirmed defendant’s plea was made knowingly and voluntarily, and it accepted defendant’s guilty plea. The court then sentenced defendant to consecutive terms of 30 and 21 years’ imprisonment.

¶ 11 After sentencing, defendant was admonished about his right to appeal, despite the fact he had waived an appeal as part of the plea, and he subsequently filed a *pro se* motion to vacate

his plea and reconsider his sentence, arguing Donahue was ineffective. The trial court appointed new counsel, Thomas Penn, and Penn filed an amended motion to withdraw defendant's guilty plea and vacate his sentence. Penn did not include an Illinois Supreme Court Rule 604(d) (eff. July 1, 2006) certificate with this motion. At a hearing on the motion to withdraw defendant's guilty plea, defendant argued only that his sentence was excessive. The court denied the motion, and defendant appealed. The Third District (1) found defendant did not waive his right to appeal and (2) remanded the case for compliance with Rule 604(d). *People v. Campbell*, 2014 IL App (3d) 120844-U, ¶¶ 16, 19.

¶ 12 On remand, a third assistant public defender, Chandra Justice, was appointed to represent defendant. Justice filed (1) an amended motion to withdraw defendant's guilty plea and vacate the sentence, (2) a motion to reconsider the sentence, and (3) a Rule 604(d) certificate. The trial court denied the motion to withdraw the guilty plea and vacate the sentence but granted the motion to reconsider the sentence and reduced defendant's sentence to consecutive terms of 22 and 13 years' imprisonment because defendant had given the police information about an unsolved murder. Defendant appealed, appellate counsel moved to withdraw, and the Third District granted the motion. See *People v. Campbell*, No. 3-15-0768 (2016) (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 13 B. Postconviction Proceedings

¶ 14 1. *Initial Postconviction Petition*

¶ 15 Five months later, defendant filed a *pro se* postconviction petition. He raised three claims, one of which was that appellate counsel was ineffective for failing to argue Donahue erred in not presenting transcripts or evidence showing the trial court denied him his right to proceed *pro se* during pretrial proceedings. Approximately two months later, the court advanced

defendant's *pro se* petition to the second stage of postconviction proceedings, and counsel was appointed to represent him. Appointed counsel filed an Illinois Supreme Court Rule 651(c) (eff. July 1, 2017) certificate and made no amendments to defendant's *pro se* postconviction petition. The State filed a motion to dismiss. Defendant subsequently retained private counsel, Joseph Borsberry. In January 2020, Borsberry conceded the State's motion to dismiss. The court granted the State's motion, dismissing defendant's initial postconviction petition.

¶ 16 In March 2020, Borsberry filed a successive postconviction petition without seeking leave from the trial court. The court struck this successive postconviction petition, and Borsberry filed a motion to reconsider and for leave to refile. The court denied the motion on August 21, 2020.

¶ 17 *2. Successive Postconviction Petition*

¶ 18 Borsberry withdrew, and defendant filed a *pro se* motion for leave to file a successive postconviction petition. As part of his motion for leave to file a successive postconviction petition, defendant attached a copy of his petition, which raised five claims. Included in those claims were the three claims defendant raised in his initial postconviction petition, one of which was whether appellate counsel was ineffective for failing to argue Donahue should have presented transcripts or evidence showing the trial court denied defendant his right to proceed *pro se* during pretrial proceedings. The court entered a written order, which granted defendant's motion for leave to file a successive petition but then summarily dismissed defendant's *pro se* successive postconviction petition, finding, while defendant established cause and prejudice, his claim about his right to represent himself was rebutted by the record, as defendant never made a definitive statement that he wanted to proceed *pro se*, and his other claims were similarly lacking in merit.

¶ 19 Defendant appealed and the Third District reversed and remanded, finding the trial court erred in summarily dismissing defendant's *pro se* successive postconviction petition instead of, after finding defendant established cause and prejudice, advancing the petition to the second stage of postconviction proceedings. *Campbell*, No. 3-20-0532 (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 20 3. *Proceedings on Successive Postconviction Petition After Remand*

¶ 21 On remand, the trial court appointed attorney Bryan McIntyre to represent defendant. McIntyre filed a motion to withdraw as counsel, which addressed many of the issues defendant raised in his *pro se* successive postconviction petition and why those issues lacked merit. However, McIntyre's motion failed to address the issue of whether appellate counsel was ineffective for failing to argue Donahue should have presented transcripts or evidence establishing the court denied defendant the right to proceed *pro se* during pretrial proceedings.

¶ 22 At a hearing on the motion to withdraw, the following discussion occurred between McIntyre, the trial court, and defendant:

“MR. MCINTYRE: I've filed a motion to withdraw. It's my understanding that we could either proceed to that motion if [defendant] wants to contest, or [defendant] could elect to represent himself so that I'm not arguing against him basically.

THE COURT: All right. So, [defendant], are you—is it acceptable to you if Mr. McIntyre withdraws?

THE DEFENDANT: I would have no problem with it. I've just been dealing with that for, like, the last several years as far as somebody being assigned to my case and then withdrawing, but I have no issue with it.

THE COURT: All right. So, in the event that Mr. McIntyre is allowed to withdraw, I would give you time to—would he need some time to file an amended petition?

MR. MCINTYRE: I think so if he desires to do so.

THE COURT: All right. I'd give you time to file an amended petition, and then the State would have time to respond to your claims. So that's what I'm inclined to do, and we can set it over about 90 days. And then we can see where you are at that point.

THE DEFENDANT: Okay.”

The court entered a written order, which stated: “Hearing held on Defendant[’s] Motion for: Withdrawal of counsel *** The Defendant[’s] Motion is granted. Petitioner allowed to proceed as a self-represented party and make any necessary amendments to the petition; State will then have an opportunity to file a responsive motion.”

¶ 23 On March 19, 2025, defendant filed a *pro se* amended successive postconviction petition, contending, among other things, he was denied his right to represent himself during the trial court proceedings when (1) he indicated he wanted to do so; (2) the court put off his request until the next court date; and (3) on that next date, the court never revisited whether defendant wanted to represent himself. The State moved to dismiss defendant’s amended petition, and the court granted the State’s motion on December 2, 2025. Defendant appealed, placing his notice of appeal and proof of service by mail in the mail on January 1, 2026. Defendant’s notice of appeal was file-stamped January 7, 2026.

¶ 24 This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 On appeal, defendant argues the trial court erred in dismissing his amended successive postconviction petition because (1) the court failed to consider the merits of counsel's motion to withdraw before granting the motion and (2) counsel's motion to withdraw failed to address all of the claims defendant raised in his *pro se* successive postconviction petition.

¶ 27 A. Jurisdiction

¶ 28 At the outset, we note defendant's notice of appeal was file-stamped more than 30 days after the entry of the trial court's order dismissing his amended successive postconviction petition. Consequently, we must first address whether this court has jurisdiction over defendant's appeal. See *People v. Trimarco*, 364 Ill. App. 3d 549, 550 (2006) ("Although neither party questions this court's jurisdiction, we have a duty to examine our jurisdiction *sua sponte* and to dismiss an appeal if jurisdiction is lacking.") We review *de novo* whether we have jurisdiction to consider an appeal. *People v. Boose*, 2024 IL App (1st) 240031, ¶ 11.

¶ 29 Under Illinois Supreme Court Rule 606(b) (eff. Jan. 1, 2026), "[a] notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from." Illinois Supreme Court Rule 373(a) and (c) (eff. Aug. 11, 2025) dictates that a notice of appeal is considered filed for purposes of calculating the 30 days when the court receives it.

¶ 30 Here, the trial court dismissed defendant's successive postconviction petition on December 2, 2025. Because 30 days after that date was a holiday, Thursday, January 1, 2026, defendant had until Friday, January 2, 2026, to file his notice of appeal. See 5 ILCS 70/1.11 (West 2024) ("The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then it shall

also be excluded.”) Defendant’s notice of appeal was filed on January 7, 2026, five days after the January 2 deadline.

¶ 31 However, under Illinois Supreme Court Rule 373(b) and (c) (eff. Aug. 11, 2025), if a notice of appeal is received after the due date, the time of mailing, as delineated in Illinois Supreme Court Rule 12(b) (eff. July 1, 2017), shall be deemed the time of filing. Rule 12(b)(6) provides that a *pro se* incarcerated defendant, like defendant here, timely files his notice of appeal if it is placed in the institutional mail within 30 days of the judgment appealed. *People v. Hayes*, 2021 IL App (1st) 190881, ¶ 18, *vacated in part*, 187 N.E. 3d 725 (Ill. 2022). To rely on this rule, commonly referred to as the “mailbox rule,” the defendant must include an affidavit complying with section 1-109 of the Code of Civil Procedure (Code) (735 ILCS 5/1-109 (West 2024)) and state the time and place of deposit in the mail and the complete address for delivery. *Hayes*, 2021 IL App (1st) 190881, ¶ 18; Ill. S. Ct. R. 12(b)(6) (eff. July 1, 2017).

¶ 32 In his proof of service, defendant, in compliance with Rule 12(b)(6) and section 1-109 of the Code, indicated he placed the notice of appeal in the mail on January 1, 2026, and then listed the name of the circuit court clerk and the state’s attorney, who are the parties on whom the notice of appeal was served; their addresses; and the institution from which the notice of appeal was mailed. He also certified under section 1-109 of the Code that the content of the proof of service was true and correct. Under these circumstances, we find defendant’s notice of appeal, which was placed in the mail within 30 days after the final judgment, was timely. Accordingly, we conclude we have jurisdiction over this appeal.

¶ 33 B. Invited Error

¶ 34 Defendant asserts the trial court erred in dismissing his amended successive postconviction petition because (1) the court failed to consider the merits of counsel's motion to

withdraw before granting the motion and (2) counsel's motion to withdraw failed to address all of the claims defendant raised in his *pro se* successive postconviction petition.

¶ 35 In response, the State contends defendant is estopped from raising these assertions on appeal based on the invited error doctrine. According to the State, “defendant here agreed to counsel’s withdrawal without the trial court needing to consider the basis for the withdrawal. Defendant cannot now come before this court and complain that allowing the withdrawal was error.” (Emphasis omitted.)

¶ 36 “ ‘Under the doctrine of invited error, [a defendant] may not request to proceed in one manner and then later contend on appeal that the course of action was in error.’ ” *People v. Collins*, 2026 IL 131300, ¶ 55 (quoting *People v. Carter*, 208 Ill. 2d 309, 319 (2003)). “In a similar vein, a party may not ‘claim error in the procedure employed by the court’ if that party ‘willingly participated’ in that procedure ‘without objection.’ ” *People v. McBride*, 2022 IL App (4th) 220301, ¶ 31. Under the doctrine, “[a] party’s invitation, *agreement*, or active participation in the direction of the proceedings or procedure that he or she later challenges on appeal goes beyond mere waiver [citation]; rather, courts often consider this an issue of estoppel.” (Emphasis added.) *People v. Wachter*, 2026 IL App (2d) 250318, ¶ 17. Whether defendant invited an error is a question of law that this court reviews *de novo*. See *Johnson v. Ames*, 2016 IL App (1st) 162770, ¶ 19 (noting questions of law are reviewed *de novo*); see also *People v. Lesley*, 2018 IL 122100, ¶ 30 (providing that whether a defendant was deprived of the right to counsel is reviewed *de novo*).

¶ 37 In this case, at the hearing on the motion to withdraw as counsel, McIntyre stated, “It’s my understanding that we could either proceed to that motion if [defendant] wants to contest, or [defendant] could elect to represent himself so that I’m not arguing against him basically.” (Emphasis added.) Following this statement by McIntyre, the trial court asked defendant, “[I]s it

acceptable to you if Mr. McIntyre withdraws?” Defendant replied, “*I would have no problem with it. I’ve just been dealing with that for, like, the last several years as far as somebody being assigned to my case and then withdrawing, but I have no issue with it.*” (Emphases added.) Defendant’s own words clearly indicate he agreed to McIntyre withdrawing from his case. This agreement is precisely the sort of express agreement to the commission of the error contemplated under the invited error doctrine. See *People v. Velez*, 388 Ill. App. 3d 493, 503, 508 (2009) (determining the defendant could not argue on appeal that his trial counsel erred in withdrawing a motion to quash and suppress because, when asked, the defendant expressly agreed to the withdrawal).

¶ 38 In support of our position, we find *Wachter* analogous to this case. In *Wachter*, the defendant filed a *pro se* postconviction petition, and the trial court advanced the petition to the second stage of postconviction proceedings and appointed counsel to represent him. *Wachter*, 2026 IL App (2d) 250318, ¶ 4. At a subsequent Zoom hearing, the defendant informed the court that he wanted to proceed *pro se*, and then appointed counsel advised the court he intended to withdraw from the case. *Id.* ¶ 5. That same day, appointed counsel filed a motion to withdraw; however, the motion “did not individually list and refute defendant’s claims for relief.” *Id.*; See *People v. Kuehner*, 2015 IL 117695, ¶ 22 (“[W]here appointed counsel is either unable or unwilling to make that case with respect to each of the *pro se* claims contained in the petition, appointed counsel’s motion to withdraw must be denied.”) Thereafter, the defendant filed a motion to proceed *pro se*, stating in the motion he supported counsel’s motion to withdraw. *Wachter*, 2026 IL App (2d) 250318, ¶ 6. At a hearing on appointed counsel’s motion to withdraw “[t]he court granted the motion then immediately heard defendant’s motion to proceed *pro se*.” *Id.* ¶ 7. The defendant reiterated that he wanted to represent himself. *Id.* The court granted defendant’s motion to proceed *pro se*, and the defendant proceeded with his *pro se* postconviction petition. *Id.* ¶¶ 7-8. The State

filed a motion to dismiss, and the court granted the State's motion. *Id.* ¶ 8.

¶ 39 On appeal, the defendant in *Wachter*, like defendant here, challenged the conduct of appointed counsel and the trial court in allowing appointed counsel to withdraw. *Id.* ¶ 11. The defendant contended, pursuant to *Kuehner*, 2015 IL 117695, ¶¶ 22-24, “automatic reversal is required where counsel files a faulty motion to withdraw,” and thus, the court erred in granting appointed counsel's motion to withdraw where it failed to address all of the claims in the defendant's *pro se* postconviction petition. *Wachter*, 2026 IL App (2d) 250318, ¶¶ 11, 16. The Appellate Court, Second District, found the defendant agreed to have appointed counsel withdraw, and, thus, he could not argue on appeal it was error to do so. *Id.* ¶ 18. The court noted:

“This outcome is not inconsistent with *Kuehner*, as procedural default is appropriately addressed before the merits; therefore, *Kuehner* and its remedy for a faulty motion to withdraw are not implicated in this case. As such, we agree with the State that we do not need to address the sufficiency of postconviction counsel's motion for discharge because [the] defendant invited the error claimed here.” (Emphasis omitted.) *Id.*

¶ 40 Although *Wachter* differs from this case in that defendant here was not as adamant as the defendant there about proceeding *pro se*, that difference is not dispositive. What is dispositive is that defendant here, like the defendant in *Wachter*, agreed to the withdraw of counsel. Moreover, after McIntyre withdrew, defendant actively participated *pro se* without complaint. He filed an amended *pro se* successive postconviction petition and never argued McIntyre should not have been allowed to withdraw because his motion to withdraw was insufficient and/or the trial court failed to consider the merits of the motion to withdraw. To allow defendant to challenge the withdrawal of counsel now, after he expressly agreed to it, would offend notions of fair play.

Accordingly, like in *Wachter*, we do not address the sufficiency of the motion to withdraw or the proceedings on that motion because defendant invited the errors claimed here.

¶ 41 In response to the State’s invited error argument, defendant attempts to compare his situation to that presented in *People v. Krankel*, 102 Ill. 2d 181 (1984), and contends invited error does not apply. We disagree for two reasons. First, the law is clear that *Krankel* applies only to posttrial claims, raised *pro se* by defendants right after trial, alleging that trial counsel was ineffective. *People v. Cook*, 2023 IL App (4th) 210621, ¶ 57; see *People v. Patrick*, 2011 IL 111666, ¶ 39 (noting that *Krankel* proceedings “serve[] the narrow purpose of allowing the trial court to decide whether to appoint independent counsel to argue a defendant’s *pro se* posttrial ineffective assistance claims.”). This case does not involve *pro se* posttrial claims of ineffective assistance of counsel. Rather, defendant challenges the conduct of the trial court and postconviction counsel during the proceedings on postconviction counsel’s motion to withdraw. Second, *Krankel* concerns the constitutional right to counsel, which does not apply in postconviction proceedings. See *Lesley*, 2018 IL 122100, ¶ 35. While a defendant has a constitutional right to the effective assistance of counsel during trial proceedings, a defendant is entitled to only a statutory reasonable level of assistance during postconviction proceedings. *Id.*; see 725 ILCS 5/122-4 (West 2024) (providing the court may appoint counsel to represent an indigent defendant if the postconviction petition survives a first stage dismissal).

¶ 42 Defendant argues that, even if the invited error doctrine applies, he did not knowingly and intelligently waive his right to the reasonable assistance of counsel. To the extent this is reviewable, meaning, not forfeited, we disagree. Compare *People v. Pope*, 2020 IL App (4th) 180773, ¶ 71 (“[I]ssues or arguments that a party fails to raise in the party’s initial brief cannot later be raised in a reply brief.”) with *International Harvester Credit Corp. v. Helland*, 151

Ill. App. 3d 848, 854 (1986) (noting “a reply brief argument raised in direct response to an appellee’s argument was not waived”).

¶ 43 During postconviction proceedings, a defendant has the right to counsel after the first stage. *Lesley*, 2018 IL 122100, ¶ 33; 725 ILCS 5/122-4 (West 2024). This right may be waived, and when it is, the defendant is entitled to proceed *pro se*. *Lesley*, 2018 IL 122100, ¶ 34. However, before a defendant is allowed to proceed *pro se*, (1) he must “ ‘knowingly and intelligently relinquish his right to counsel, and [(2)] his waiver ‘must be clear and unequivocal, not ambiguous.’ ” *Id.*

¶ 44 Here, addressing the second requirement first, defendant unambiguously and unequivocally waived his right to counsel. When asked if he had any issues with McIntyre withdrawing, defendant asserted, without hesitation or qualification, he “would have no problem with it” and “no issue with it.”

¶ 45 Regarding the first requirement, “a knowing and intelligent choice calls for nothing less than a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.” *Id.* ¶ 51. “The determination of whether there has been an intelligent waiver of the right to counsel must depend upon the particular facts and circumstances of each case, including the background, experience, and conduct of the accused.” *Id.* Moreover, “[t]he entire record should be considered in determining whether the waiver was knowingly and understandingly made.” *Id.*

¶ 46 Considering the entire record, we find defendant knowingly and intelligently waived his right to counsel. Before defendant pleaded guilty to two counts of aggravated battery with a firearm, he told the trial court he and Donahue were “butting heads.” He suggested he wanted to proceed *pro se*, and the court admonished him at length about the difficulties of doing

so. The court also explained, “We’re not going to flip back and forth; oops, I probably should have kept my attorney, Judge, can I have one now. None of that’s going to happen. You have a right to represent yourself. If you want to go represent yourself, I’m going to let you.” Thus, defendant knew if he did not have an attorney, he would be representing himself. Then, after defendant was convicted and sentenced and a direct appeal was resolved, he filed a *pro se* postconviction petition, arguing, among other things, he was denied the right to represent himself during the trial court proceedings, similar to the right he claims he now did not knowingly waive during postconviction proceedings. Because of various improper procedures, defendant filed a *pro se* successive postconviction petition, which advanced to the second stage of postconviction proceedings and remained pending until McIntyre moved to withdraw. In his *pro se* successive postconviction petition, like the initial one, defendant claimed he was denied his right to proceed *pro se* during the trial court proceedings.

¶ 47 When McIntyre moved to withdraw, defendant indicated he was aware of what happens when counsel withdraws, as he has “been dealing with that for, like, the last several years.” With that knowledge, he said he had “no issue” and “no problem” with McIntyre withdrawing. He then agreed to file *pro se* an amended successive postconviction petition, which he did. Defendant never challenged McIntyre’s withdrawal until this appeal. Given the facts in this case, we must conclude defendant knowingly and intelligently waived his right to counsel during postconviction proceedings. To say that defendant did not knowingly and intelligently waive his right to counsel would mean defendant did not understand the associated right to proceed *pro se*, which he persistently claims he was denied during the trial court proceedings. The record clearly refutes this claim.

¶ 48

III. CONCLUSION

¶ 49 For the reasons stated, we affirm the trial court's judgment.

¶ 50 Affirmed.