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) 260133-U

NO. 4-26-0133

FILED
November 16, 2026
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Boone County
ALLEN J. NASH JR.,	)	No. 21CF253
Defendant-Appellant.	)	
	)	Honorable
	)	C. Robert Tobin III,
	)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court.
Justices Doherty and Lannerd concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court grants appellate counsel's motion to withdraw and affirms the trial court's decision to dismiss defendant's postconviction petition because it was frivolous and patently without merit.

¶ 2 Defendant, Allen J. Nash Jr., appeals the January 2026 order of the trial court dismissing his postconviction petition as frivolous and patently without merit. The Office of the State Appellate Defender (OSAD), defendant's counsel on appeal, has filed a motion to withdraw as counsel. For the reasons that follow, we grant OSAD's motion and affirm.

¶ 3 I. BACKGROUND

¶ 4 A. The Charges Against Defendant

¶ 5 This is the second time this case involving defendant has been before this court. In *People v. Nash*, 2024 IL App (4th) 221078, ¶¶ 7, 159, this court affirmed defendant's convictions following a jury trial on two counts of armed violence (720 ILCS 5/33A-2 (West

2020)), two counts of possession with intent to deliver (720 ILCS 570/401(a)(1)(B), (a)(2)(A) (West 2020)), and one count of aggravated unlawful use of a weapon (720 ILCS 5/24-1.6(a)(1), (a)(3)(A-5), (a)(3)(C), (d)(1) (West 2020)).

¶ 6 To put into context defendant's claims in his postconviction petition that the trial court dismissed, we will repeat, where appropriate, the background of this case that we set forth in our earlier decision, as follows:

> "The two armed violence counts alleged that defendant was armed with a handgun while in possession of heroin (count I) and cocaine (count II). Count III alleged that defendant possessed heroin (between 100 and 400 grams) with the intent to deliver, and count IV alleged that defendant possessed cocaine (between 15 and 100 grams) with the intent to deliver. Count V alleged that defendant carried an uncased, loaded, and immediately accessible handgun in his vehicle without a license to do so." *Nash*, 2024 IL App (4th) 221078, ¶ 15.

¶ 7 B. Defendant's Motion To Suppress

¶ 8 In January 2022, defendant filed a motion to suppress, alleging, "[O]n September 1, 2021 [defendant] was searched and his automobile was searched at or near I-90 Westbound at MP 24.25, Belvidere IL." In our earlier opinion, we discussed that motion as follows:

> "In April 2022, the trial court conducted a hearing on defendant's motion to suppress. Trooper Anthony Parisi of the Illinois State Police testified that on September 21, 2021, around 1 p.m., he was parked near mile marker 24 on I-90 when he was passed by a car driven by defendant. Parisi noticed that defendant's vehicle had what he believed were illegally tinted windows and did not have a front license plate. Parisi then initiated a traffic stop of defendant's vehicle.

Parisi testified that he intended to issue a warning ticket at that point. At some point, he asked defendant to exit the vehicle and defendant complied. ***

Parisi *** testified that he eventually searched the vehicle as an inventory search because the vehicle was going to be towed. He acknowledged that he had neither a warrant nor defendant's consent to search the vehicle.

Parisi testified that he conducted the inventory search after he placed defendant under arrest. Parisi explained that he arrested defendant because he 'was wanted on a warrant' that Parisi believed was 'out of [the] Chicago Police Department.' ***

Defense counsel continued his redirect examination by confirming with Parisi that 'the reason for the stop was the tinted windows and the front plate.' Counsel then attempted to ask if 'the search was based on this warrant,' the State objected, and the trial court sustained the objection. Counsel indicated he had nothing further.

*** The trial court denied the motion to suppress." *Id.* ¶¶ 22-27.

¶ 9 C. Trial Testimony About the Cook County Arrest Warrant

¶ 10 The subject of the Cook County arrest warrant came up at trial, as follows:

"[Defendant filed a motion] *in limine* concern[ing] the outstanding warrant for his arrest from Cook County. Defendant asserted that although his arrest by the Illinois State Police was based on that warrant, the warrant had in fact been quashed and recalled on May 25, 2021, four months before his arrest in this case. Defendant asserted that because of a clerical error, the order quashing the arrest was not entered into the court system until December 2021. He requested an order from the

court prohibiting the State from introducing evidence of the warrant as the purpose of the arrest, noting that the legality of the arrest had already been ruled upon by the court and the arrest therefore had no further relevance in the case.

In October 2022, when the trial court conducted a hearing on this motion *in limine*, the State expressed its concerns about the jury's hearing only that the state police made a traffic stop, put defendant in handcuffs in the back of the police car, impounded defendant's car, towed it, and then searched it. The State added, '[I]t almost raises the spectre of what the defendant was saying on the scene, that it's dirty cops and so now an explanation is just why are the State police taking this black guy's car when all he did was' violate traffic laws. The State claimed that without 'a full picture,' the state police would be put in a negative light.

The trial court indicated the State's concerns were valid and stated the court would allow the officers to testify that there was a warrant for defendant's arrest but would not allow a discussion of the underlying charge or anything of that nature.

The trial court and attorneys then discussed whether the jury would be told that a warrant had been quashed and recalled, even though the state police did not know that, and the court indicated that that information would be helpful to take 'a little bit of a bite' out of the negative connotation that existed for defendant that there was a warrant for his arrest.

During further discussion on this point, defense counsel reviewed the history of the charge that had been filed against defendant in Cook County that was the basis of the warrant for his arrest and how, when that case was dismissed on May 25, 2021, the arrest warrant was recalled. Defense counsel agreed that '[t]here

was no way at the time of this arrest for the [state police] to know there really wasn't a warrant when [an officer] checked the system,' but counsel nonetheless argued that he did not want the jury to think defendant was 'a bad guy' because '[h]e's got this warrant out there when he had nothing. That case was dismissed totally.'

The trial court thought both counsel had good points and suggested that they 'figure out a way' that the appropriate information regarding the warrant could get before the jury.

Prior to the beginning of the November 2022 jury trial, the trial court and the attorneys discussed again the recalled Cook County warrant, and the court stated again its ruling that 'the fact of the warrant comes in' and the police can discuss how they checked to see if the warrant was valid and the actions they took in response. The prosecutor then told defense counsel that Parisi had been given the history of the Cook County warrant and could testify about that subject if defense counsel were to ask him. The court additionally indicated that Parisi could testify regarding what the state police were required to do when they believed the arrest warrant to be valid.

* * *

Illinois State Trooper Parisi testified consistently with his earlier testimony at the suppression hearing. On direct examination, the State asked about the traffic stop, and the following exchange occurred.

'Q. And once in your squad car, what, if anything, did you do at that point?

A. I conducted a [Law Enforcement Agencies Data System

(LEADS)] inquiry and [a Secretary of State] inquiry to determine the status of the defendant's driver's license as well as perform any warrant checks.

Q. And in doing the warrant check, you did discover that there was an outstanding warrant from Cook County; is that accurate?

A. That's correct.

Q. And that warrant was confirmed to be in the system and was to be executed, is that correct, as well?

A. That's correct.

Q. And in addition to doing it through the computer, you also had dispatch check; is that accurate?

A. That's correct.

Q. Subsequently have you learned that actually that warrant should have been taken out of the system in May of 2021?

A. Just this week I learned of that. ***'

On cross-examination, the following exchange took place.

'Q. But LEADS says to you he has an outstanding warrant from Cook County?

A. That's correct.

Q. Now, fast forward. We realize that, in fact, that Cook County warrant was quashed and recalled months before that; correct?

A. I know that now, yes.

Q. At the time, though, for whatever reason, LEADS indicated it was still live?

A. Yes.

Q. So that's what you believed at the time?

A. LEADS and then the originating agency confirmed that warrant.

Q. I mean, you never physically paper looked at it; right?

A. I was sent a confirmation from the originating agency through our telecommunications technician.

Q. And we learn later that through whatever error, it was wrong; right?

A. Yes.

Q. We learned later?

A. Yes.

Q. So at that moment in September of '21, you were under the belief that there was an active warrant for [defendant]; correct?

A. That's correct.

Q. And following your rules, you had to place him under arrest?

A. Yes.

Q. And that was your procedure; you went out and you handcuffed [defendant] and told him he was under arrest for this warrant from Cook County; correct?

A. Yes.' " *Id.* ¶¶ 37-43, 51-52.

¶ 11 The jury found defendant guilty of all counts.

¶ 12 D. Defendant's Sentence

"The trial court sentenced defendant to 15 years in prison on counts I and

II, the armed violence convictions, and ordered them to be served concurrently. The court sentenced defendant to 10 years in prison on count III and 6 years on count IV, to be served concurrently with each other. The court also sentenced defendant to two years in prison for aggravated unlawful use of a weapon, which was count V, to be served concurrently with all other counts.

The trial court further specified how those prison terms were to be served in its written sentencing order, in which it wrote the following: 'Counts 1 and 2 are to run concurrent to each other. Counts 3 and 4 are to run concurrent to each other. Counts 1 and 2 are to be served consecutively to Counts 3 and 4. Count 5 is to run concurrently to all the other Counts.' In other words, defendant received an aggregate sentence of 25 years in prison." *Id.* ¶¶ 81-82.

¶ 13 E. Defendant's Initial Appeal

¶ 14 Defendant appealed, arguing that the trial court erred (1) by denying his motion to suppress and (2) in its rulings regarding the closing arguments from both the prosecutor and defense counsel. *Id.* ¶¶ 85-86.

¶ 15 This court rejected both of defendant's claims and wrote the following regarding the trial court's denial of his motion to suppress:

"We conclude that defendant was not prejudiced by defense counsel's failure to adequately argue against the validity of the warrant in his initial motion to suppress because the police officers did not engage in any misconduct by relying on the facially valid warrant for defendant's arrest. Indeed, this would be a particularly inappropriate case in which to find police misconduct, given that Parisi could have relied on LEADS showing an outstanding warrant for defendant but

chose to take the extra step of requesting the state police dispatch technician to inquire about the warrant's validity with personnel from Cook County, from which the warrant issued.

***

Defendant has not suggested what more Parisi should—or even *could*—have done to discover that the warrant was, in fact, no longer valid. Parisi followed best practices by requesting his dispatch to verify with the originating agency that the information in LEADS was correct, and as a result, Parisi received confirmation from that agency.

Defendant asserts on appeal that suppression of evidence may be appropriate even when the arresting officers relied in good faith upon what appeared to be an active warrant, if other law enforcement personnel were reckless or grossly negligent in keeping accurate records or giving accurate information to officers in the field. However, even accepting the merits of that contention, the record in this case contains nothing to suggest that the Cook County officials engaged in any misconduct in their recordkeeping.

***

Defendant contends that the absence of evidence in the record necessitates a remand to determine if such evidence exists. We disagree. Given that counsel was well aware of the issue and properly preserved it throughout the trial court proceedings, counsel's failure to present any evidence or even suggest to the court that such evidence exists leads us to conclude, on the record before us, that counsel could not locate any such evidence." (Emphasis in original.) *Id.* ¶¶ 104-09.

¶ 16 F. Postconviction Proceedings

¶ 17 1. *Defendant's Postconviction Petition*

¶ 18 In December 2025, defendant filed a postconviction petition, the dismissal of which is the subject of this appeal. Jaclyn Weinell, the assistant appellate defender from OSAD, who was later appointed to serve as defendant's counsel on appeal in this case, has filed a memorandum of law in this case in support of her motion for leave to withdraw as counsel on appeal. In that memorandum, she describes defendant's postconviction petition. Based on our review of the record, we conclude Weinell's description is correct and quote it, as follows:

> "[Defendant] filed a post-conviction petition on December 8, 2025. First, he claimed ineffective assistance of trial and appellate counsel for failure to raise the one-act, one-crime doctrine. He argued that the convictions arose from the same physical act and that the drug convictions were lesser included offenses of armed violence. [Defendant] pointed out that the First District has vacated convictions on this basis, citing *People v. Curry*, 2018 IL App (1st) 152616. The trial court dismissed this allegation because the Fourth District has disagreed with the *Curry* decision.
>
> Second, [defendant] argued that his challenges to the legality of the search of his vehicle had not been fully litigated. Before trial, defense counsel had filed an initial motion to suppress, arguing that the police unlawfully searched the vehicle without a search warrant. Trial counsel later sought to also challenge the search on the grounds that it had been based on an invalid arrest warrant, that the police lacked cause to stop the vehicle, and that the police lacked probable cause to extend the stop and order [defendant] out of the car. The trial court refused to consider any

> arguments that had not been included in the initial motion to suppress. In his post-conviction petition, [defendant] claimed that trial counsel was ineffective for failing to include all of these arguments in the initial motion to suppress. He also challenged the trial court's refusal to hear these additional arguments. [Defendant] acknowledged that these issues were raised on direct appeal, but claimed that the Appellate Court did not decide them. He noted that the issue of whether the officers acted in good faith when relying on the faulty warrant had never been litigated in the trial court. He asked the court to grant post-conviction relief, since these issues had never been fully litigated. The trial court dismissed these allegations on *res judicata* grounds, because these claims had been raised on appeal and denied by the Appellate Court."

¶ 19 2. *The Trial Court's Dismissal*

¶ 20 In January 2026, the trial court entered an order dismissing defendant's postconviction petition, upon the court's finding "the petition is frivolous or patently without merit because it has no arguable basis either in law or in fact."

¶ 21 The trial court entered a four-page written order explaining the reasons for its dismissal. Regarding the alleged failure of defendant's trial counsel and appellate counsel to raise the one-act, one-crime doctrine, the court wrote the following:

> "The defendant asserts that proper application of the merger doctrine would have resulted in no sentence being imposed on the two possession of a controlled substance convictions. The defendant asserts that if his claim had been raised by trial counsel at the sentencing hearing or appellate counsel on direct appeal, the sentence on those two counts would not have been imposed at the trial level or

would have been vacated at the appellate level. The defendant's argument may have some merit if Boone County was in the First District. See *People v. Curry*, 2018 IL App (1st) 152616. However, Boone County lies within the Fourth District, and that appellate court has ruled on this issue in a published opinion about 26 months ago in which it disagreed with the *Curry* decision. *People v. Vences*, 2023 IL App (4th) 220035. The Illinois Supreme Court denied PLA as to that case on March 27, 2024. Shortly after rendering the opinion in *Vences*, the Fourth District followed *Vences*. *People v. Mays*, 2024 IL App (4th) 231263-U. The Illinois Supreme Court denied PLA as to *Mays* on January 29, 2025. Therefore, at the very least, *Vences* is binding in the Fourth District and would result in a denial of defendant's claim. Therefore, because there was no error, there could be no ineffective assistance of counsel at the trial or appellate level on this claim."

¶ 22 Regarding defendant's claim that his trial counsel and appellate counsel were ineffective for their alleged failure to argue the unlawfulness of the search, the trial court wrote the following:

"[D]efendant is concerned about the lawfulness of the tow and the inventory search of the vehicle incident to that tow. However, this issue was raised in the appeal and denied by the appellate court. The doctrine of *res judicata* applies to this argument. The defendant also asserts the ineffective assistance of trial counsel for not including all arguments in the initial motion to suppress which lead [*sic*] to the Court barring additional claims. However, this too was addressed at the appellate court level and the appellate court denied such claim. The doctrine of *res judicata* bars this claim, also."

¶ 23 Later in January 2026, defendant filed a notice of appeal, and in February 2026, the trial court appointed OSAD as counsel for defendant on appeal.

¶ 24 This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 A. OSAD'S Motion for Leave To Withdraw

¶ 27 In August 2026, Weinell, OSAD's counsel on appeal for defendant, filed a motion for leave to withdraw as counsel on appeal and attached thereto a memorandum of law in support thereof. In Weinell's motion, she sets forth a full statement of facts, a list of potential issues on appeal, and the reasons why those issues do not merit review. She served defendant with the motion, and in October 2026, defendant filed his "*Pro Se* Response to OSAD's Motion for Leave to Withdraw." In that response, defendant disputes counsel's claim that this appeal presents no potentially meritorious issues.

¶ 28 In Weinell's motion to withdraw, she discusses "each conceivable issue that might arise from the record," and she explains why none has any arguable merit.

¶ 29 Regarding defendant's claim of ineffective assistance of trial and appellate counsel for failure to raise the one-act, one-crime doctrine, she discusses, as did the trial court, the decisions of this court in *People v. Vences*, 2023 IL App (4th) 220035, and *People v. Mays*, 2024 IL App (4th) 231263-U, which explicitly disagreed with the decision of the First District in *People v. Curry*, 2018 IL App (1st) 152616, upon which defendant relied in his postconviction petition. She quoted the trial court's statement that "*Vences* is binding in the Fourth District and would result in a denial of defendant's claim." Concerning this claim, we agree with the analysis of both the trial court and Weinell.

¶ 30 Regarding defendant's claim of ineffective assistance of trial counsel for failure to

properly challenge the admission of the evidence obtained during the vehicle search, Weinell noted that this claim was groundless, based upon "[t]he post-conviction trial court['s] dismiss[ing] these allegations on *res judicata* grounds, because these claims had been raised on appeal and denied by the [a]ppellate [c]ourt." We agree.

¶ 31 Weinell also wrote the following in her memorandum:

> "[Defendant] also argued on direct appeal that Cook County officials might have been reckless or grossly negligent in keeping accurate records or giving accurate information to officers in the field. [Citation.] He argued that the absence of evidence in the record necessitated a remand to determine if such evidence existed. [Citation.] [The Fourth District Appellate Court] explicitly disagreed with that argument. [*Nash*, 2024 IL App (4th) 221078, ¶ 109.]"

Again, we agree with Weinell's analysis.

¶ 32 III. CONCLUSION

¶ 33 Consistent with this court's responsibility for dealing with an appellate counsel's motion to withdraw, as this court explained in *People v. White*, 2020 IL App (4th) 160793, ¶¶ 42-57, we conclude that OSAD's motion to withdraw should be granted.

¶ 34 In closing, we thank OSAD's counsel for her comprehensive and thorough memorandum of law, which we found very helpful in understanding the issues in this case and resolving it, and we also thank the distinguished trial court for its careful analysis.

¶ 35 For the reasons stated, we grant OSAD's motion to withdraw and affirm the trial court's judgment in accordance with Illinois Supreme Court Rule 23(c)(2) (eff. June 3, 2025).

¶ 36 Affirmed.