2026 IL App (1st) 250873-U

No. 1-25-0873

Filed September 16, 2026

Third Division

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. ANTHONY WILLIAMS, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Cook County. No. 02 CR 3413 Honorable Michael R. Clancy, Judge, Presiding.

JUSTICE MARTIN delivered the judgment of the court.
Presiding Justice Quish and Justice Rochford concurred in the judgment.

ORDER

¶ 1 *Held*: Appeal dismissed for lack of jurisdiction when defendant filed a motion for leave to file a successive postconviction petition, had not previously filed an initial petition, and the motion was not accompanied by a proposed petition.

¶ 2 Anthony Williams appeals the circuit court's order denying him leave to file a successive postconviction petition. Williams, however, had never filed an initial petition. The parties agree this matter should be remanded, but they disagree on which stage of postconviction proceedings applies. Williams argues the matter should be remanded for second-stage proceedings. The State contends the matter should be remanded for first stage review. We find that since Williams filed only a motion with no proposed petition, there is no petition to be considered on remand and the

court's order denying his motion is not appealable. Thus, we dismiss this appeal for lack of jurisdiction.[1]

¶ 3 Under a fully negotiated plea agreement, Williams pled guilty to first degree murder in exchange for a 50-year sentence. Williams never sought to withdraw his plea.

¶ 4 In 2010, Williams filed a *pro se* "motion for leave of the court to file a late postconviction petition." The circuit court denied his motion and Williams appealed. This court rejected Williams's argument that his motion constituted a petition filed under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq*. (West 2024)), requiring that the court rule on it within 90 days or docket it for further proceedings. *People v. Williams*, 2012 IL App (1st) 102999-U, ¶ 6. Instead, we found his motion was not a pleading contemplated under the Act and the court's order denying it was not final and appealable. *Id*. ¶¶ 8-9. Thus, the 2010 appeal was dismissed for lack of appellate jurisdiction. *Id*. ¶ 9.

¶ 5 In 2024, Williams filed a "motion for leave to file his first successive postconviction petition." Consistent with the title, the substance of Williams's motion requested the court to grant him leave to file a postconviction petition. He cited decisions of the United States Supreme Court related to sentencing (*Hall v. Florida*, 572 U.S. 701 (2014)) and plea-bargaining (*Missouri v. Frye*, 566 U.S. 134 (2012)), which were rendered after his conviction. Williams also cited evidence concerning life expectancy. He argued the decisions and evidence were not previously available to him and supported a claim for relief. Thus, Williams presented an argument for cause to bring a successive petition. Along with his motion, Williams provided a "Memorandum of Law" claiming, *inter alia*, his 50-year prison term for a crime committed at age 33 was "tantamount to a death sentence," violating the eighth amendment to the United States Constitution (U.S. Const., amend.

[1]In adherence with the requirements of Illinois Supreme Court Rule 352(a) (eff. July 1, 2018), this appeal has been resolved without oral argument upon the entry of a separate written order.

VIII) and the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 11). He contended, therefore, that he was entitled to be resentenced to a lesser term. No proposed petition, affidavits, or other supporting documents accompanied Williams's motion.

¶ 6 The court appointed counsel for Williams some months later. Counsel did not file a certificate under Illinois Supreme Court Rule 651(c) (eff. July 1, 2017), which is required at the second stage of proceedings. In a written ruling, the court denied Williams's motion for leave to file a successive petition, finding he had failed to establish the requisite cause and prejudice to permit a successive petition. This appeal followed.

¶ 7 On appeal, Williams asserts that, despite the title of his pleading, it was, in fact, an initial postconviction petition. He notes that our decision regarding his 2010 motion determined it was not a postconviction petition. Thus, he insists the 2024 motion was an initial petition and both postconviction counsel and the court mistakenly treated the filing as successive. The State agrees that the motion was an initial petition but asserts the matter should be remanded for first-stage consideration of whether it is frivolous or patently without merit.

¶ 8 Williams cites cases where this court has found that an initial petition erroneously dismissed as a successive petition should be remanded for second-stage proceedings. *People v. Carter*, 383 Ill. App. 3d 795 (2008); *People v. Inman*, 407 Ill. App. 3d 1156 (2011); *People v. Little*, 2012 IL App (5th) 100547. Those cases are distinguishable, however, because the defendant in each case filed an actual petition. For its part, the State also relies on a case where the defendant filed an actual proposed petition along with an erroneously titled motion for leave to file a successive petition. *People v. Anderson*, 2015 IL App (2d) 140444, ¶ 7.

¶ 9 Here, Williams filed only a motion requesting leave to file a petition. His motion contained a memorandum of law, but no proposed petition or supporting documentation normally attendant

to a petition were submitted. The Act does not strictly require that a proposed petition be presented along with a motion for leave to file a successive petition, though such is an advisable practice, as the petition's supporting documentation may be essential for the court to determine whether cause-and-prejudice has been shown. See, *e.g.*, *People v. Harris*, 2024 IL 129753, ¶ 48 ("petitioner must submit enough in the way of documentation to allow a circuit court to decide whether leave to file a successive petition should be granted."). In any event, our precedent has recognized a distinction between a motion for leave to file a petition and a petition. See, *e.g.*, *People v. Thames*, 2021 IL App (1st) 180071, ¶ 86 (observing that when the defendant had only filed a motion requesting leave to file, the granting of the request would have prompted him to " 'actually file a post-conviction petition' "). In short, a motion to file a postconviction petition is not itself a petition. With no petition submitted, we cannot deem Williams's pleading to be an initial postconviction petition.

¶ 10 Ultimately, Williams's 2024 motion is like his 2010 motion in that it is not cognizable under the Act. Without having filed an initial petition, there is no basis to file a motion for leave to file a successive petition. So, the motion failed to properly invoke the Act and, consequently, the court's denial of the motion did not "terminate the litigation on the merits or some definite part thereof." *Cf. Williams*, 2012 IL App (1st) 102999-U, ¶ 9. Accordingly, the court's order was not appealable and we lack jurisdiction to consider the appeal.

¶ 11 Based on the foregoing, we dismiss this appeal for lack of jurisdiction.

¶ 12 Appeal dismissed.