

2026 IL App (4th) 260225

NO. 4-26-0225

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 28, 2026

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Winnebago County
ANTHONY ASHFORD,	)	No. 05CF590
Defendant-Appellant.	)	
	)	Honorable
	)	Scott Paccagnini,
	)	Judge Presiding.

JUSTICE LANNERD delivered the judgment of the court, with opinion.
Justices Vancil and Grischow concurred in the judgment and opinion.

OPINION

¶ 1 In 2005, defendant, Anthony Ashford, pleaded guilty to predatory criminal sexual assault of a child (720 ILCS 5/12-14.1(a)(1) (West 2004)) and was sentenced to nine years' imprisonment, with a three-year-to-life term of mandatory supervised release (MSR). Defendant was advised he would be subject to lifetime sex offender registration under the Sex Offender Registration Act (730 ILCS 150/1 *et seq.* (West 2004)).

¶ 2 In 2007, defendant filed a *pro se* petition for postconviction relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2006)), which was dismissed. In October 2025, defendant filed a motion for leave to file a successive postconviction petition. At that time, defendant had been released from prison and was no longer serving a term of MSR. The trial court denied defendant's motion because the Act requires a defendant to be imprisoned in the penitentiary to initiate an action. Defendant appealed, and the Office of the State Appellate

Defender (OSAD) was appointed as defendant's appellate counsel.

¶ 3 OSAD moves to withdraw as counsel on the grounds no issue of arguable merit can be raised. See *Anders v. California*, 386 U.S. 738 (1967). Counsel for OSAD notes defendant is not in custody or serving a term of MSR, but he is required to register as a sex offender. Counsel cites cases from other appellate districts holding that lifetime registration as a sex offender is not a constraint on liberty sufficient to confer standing to file a postconviction petition. Thus, counsel submits defendant lacked standing to file a petition under the Act. We agree and find the trial court correctly held defendant lacked standing to file a petition under the Act. Accordingly, we grant OSAD's motion and affirm the court's judgment.

¶ 4 I. BACKGROUND

¶ 5 In 2005, defendant pleaded guilty and was sentenced to nine years' imprisonment. Defendant was admonished he would be required to have lifetime registration as a sex offender. The trial court also initially advised defendant that he would serve three years' MSR, but it then corrected that statement and admonished defendant that the MSR term would be three years to life, with any term longer than three years to be decided by the Illinois Department of Corrections (IDOC). Defendant later filed a motion to withdraw his plea, which was denied.

¶ 6 In 2007, defendant filed a postconviction petition asserting ineffective assistance of counsel, arguing that he was coerced into pleading guilty and his plea was involuntary. He asserted, in part, he was not advised by his counsel that he would face lifetime MSR. The petition was subsequently dismissed.

¶ 7 In October 2025, defendant filed a motion for leave to file a successive postconviction petition. At the time he filed his motion, defendant was no longer in custody. At a hearing in November 2025, the trial court told defendant it would check the Act to see if it applied

when he was out of custody.

¶ 8 At a subsequent hearing, defendant asserted that he was serving lifetime MSR. However, the State responded it had confirmed with IDOC that defendant was not serving MSR. The trial court stated it had checked as well and had received the same information. The court continued the matter to allow defendant to provide proof of his MSR status. In response, defendant filed a pleading alleging he was threatened with lifetime MSR when he would not have been eligible for that, which resulted in a coerced and involuntary guilty plea. He attached the plea transcript.

¶ 9 At a hearing in January 2026, the trial court stated it received a letter from IDOC confirming defendant had been released from MSR on May 26, 2015. That letter is contained in the record. The court denied the petition for leave to file the successive petition because defendant could not file a petition under the Act, as he had been released from prison and was no longer serving a term of MSR.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 Counsel for OSAD moves to withdraw, stating she (1) read the record on appeal, (2) reviewed the facts and applicable law, and (3) discussed the case with another attorney. Counsel submits an appeal in this case would be without arguable merit because defendant lacked standing under the Act to file a petition when he was not imprisoned. Defendant filed a response but did not specifically address the issue of standing. For the following reasons, we agree this appeal presents no nonfrivolous issues.

¶ 13 Counsel submits defendant lacks standing to file a postconviction petition when he is not imprisoned or serving a term of MSR. Counsel then notes cases from other appellate districts

holding that lifetime registration as a sex offender is not a constraint on liberty sufficient to bring the registrant within the coverage of the Act.

¶ 14 The Act provides a means by which criminal defendants can attack convictions based on a substantial denial of state or federal constitutional rights. *People v. Guerrero*, 2012 IL 112020, ¶ 14. Generally, a defendant may file only one postconviction petition. *Id.* ¶ 15; see 725 ILCS 5/122-1(f) (West 2024). Claims of a substantial denial of constitutional rights not raised in the initial or amended postconviction petition are waived. 725 ILCS 5/122-3 (West 2024). A defendant must obtain leave from the trial court in order to file a successive petition under the Act. *Id.* § 122-1(f). To obtain leave, a defendant must (1) demonstrate cause and prejudice regarding the failure to raise a claim in the earlier petition or (2) set forth a claim of actual innocence. *People v. Pitsonbarger*, 205 Ill. 2d 444, 459 (2002).

¶ 15 To initiate an action under the Act, a person must be “imprisoned in the penitentiary.” (Internal quotation marks omitted.) *People v. Johnson*, 2021 IL 125738, ¶ 22; see 725 ILCS 5/122-1(a)(1) (West 2024). A defendant loses standing to seek relief under the Act if he completes his sentence and is thus no longer “imprisoned in a penitentiary.” *Johnson*, 2021 IL 125738, ¶ 37.

¶ 16 Our supreme court has determined that a defendant is imprisoned when his liberty is curtailed in some way by the State because of the criminal conviction that he is attempting to challenge. *People v. Carrera*, 239 Ill. 2d 241, 246 (2010). A defendant’s liberty is curtailed when he is “always on a string, and [the State] may pull the string whenever [it] please[s].” (Internal quotation marks omitted.) *People v. Martin-Trigona*, 111 Ill. 2d 295, 300 (1986).

¶ 17 “[A] defendant retains standing under the Act so long as he is challenging a conviction from which he continues to serve some form of sentence, such that his liberty would be

directly affected by invalidating his conviction.” *People v. Stavenger*, 2015 IL App (2d) 140885, ¶ 9. For example, a defendant who is serving a term of MSR has standing to file a postconviction petition, as IDOC retains custody of, and still supervises, the defendant. *People v. Correa*, 108 Ill. 2d 541, 546 (1985). However, “the Act and its remedies are not available to defendants who have completed their sentences and merely seek to purge their criminal records.” *People v. Rajagopal*, 381 Ill. App. 3d 326, 330 (2008). A defendant who is no longer serving any part of his sentence lacks standing to bring a claim under the Act. See *Carrera*, 239 Ill. 2d at 253.

¶ 18 In *People v. Downin*, 394 Ill. App. 3d 141, 144 (2009), the Appellate Court, Third District, held registration as a sex offender was not a restraint on liberty sufficient to trigger the Act. The court noted the registration requirement does not impose a restraint on liberty, as it is neither an element of the defendant’s sentence nor part of his punishment, and is merely a collateral consequence of the conviction. *Id.* at 146. Once a defendant completes his sentence, his conviction is no longer an actual encumbrance, and he does not need the Act’s remedial provisions to secure his liberty. *Id.* Since then, the other appellate court districts have held that lifetime registration as a sex offender is not a constraint on liberty sufficient to confer standing under the Act. See *Stavenger*, 2015 IL App (2d) 140885, ¶ 12; *People v. Begay*, 2018 IL App (1st) 150446, ¶ 61; *People v. Chism*, 2026 IL App (5th) 241198-U, ¶ 14. Our supreme court has also noted the appellate court cases and held similar registration requirements under the Child Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/1 *et seq.* (West 2006)) did not confer standing when registration was a collateral consequence of the defendant’s conviction. *Johnson*, 2021 IL 125738, ¶ 69. Until now, this court has not addressed the issue in a disposition that may be cited as precedential or persuasive.

¶ 19 We agree with the other appellate court districts that sex offender registration is not

imprisonment, is not an element of a sentence or punishment, and is merely a collateral consequence of the conviction. Accordingly, we join the other appellate court districts and hold sex offender registration does not confer standing to file a postconviction petition under the Act.

¶ 20 Here, defendant served his sentence and MSR at the time he filed his petition. Thus, he lacked standing to seek postconviction relief. Accordingly, the trial court correctly dismissed the petition, and no issue of arguable merit can be raised on appeal. Therefore, we grant OSAD's motion to withdraw as counsel.

¶ 21 III. CONCLUSION

¶ 22 For the reasons stated, we agree there are no nonfrivolous matters to be raised on appeal. Accordingly, we grant OSAD's motion to withdraw as counsel and affirm the trial court's judgment.

¶ 23 Affirmed.

People v. Ashford, 2026 IL App (4th) 260225

Decision Under Review: Appeal from the Circuit Court of Winnebago County, No. 05-CF-590; the Hon. Scott Paccagnini, Judge, presiding.

**Attorneys
for
Appellant:** James E. Chadd, Catherine K. Hart, and Susan M. Wilham, of
State Appellate Defender's Office, of Springfield, for appellant.

**Attorneys
for
Appellee:** No brief filed for appellee.
