NOTICE
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2026 IL App (5th) 250689-U

NO. 5-25-0689

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Madison County.
	)	
v.	)	No. 15-CF-1165
	)	
RONNIE L. BLOM,	)	Honorable
	)	Neil T. Schroeder,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE McHANEY delivered the judgment of the court.
Presiding Justice Cates and Justice Vaughan concurred in the judgment.

ORDER

¶ 1 *Held*: Dismissal of amended postconviction petition is reversed, and cause is remanded for second-stage proceedings with appointed counsel, because the trial court abused its discretion when it equated the defendant's failure to hire private counsel with a desire by the defendant to proceed *pro se*, despite the defendant's statements that he did not want to represent himself, and the defendant's repeated requests for appointed counsel, which the trial court denied.

¶ 2 In this appeal from the second-stage dismissal of his amended postconviction petition, the defendant, Ronnie L. Blom, contends this court should reverse the dismissal and remand for proceedings with appointed counsel because the trial court abused its discretion when it equated the defendant's failure to hire private counsel with a desire by the defendant to proceed *pro se* despite the defendant's statements that he did not want to represent himself and the defendant's repeated requests for appointed counsel. The State has filed a confession of error in which it

concedes that the dismissal must be reversed and this cause must be remanded for second-stage proceedings with counsel appointed to represent the defendant. For the reasons that follow, we agree with the parties. We therefore reverse the judgment of the circuit court of Madison County that dismissed the defendant's amended petition and remand for second-stage proceedings with counsel appointed to represent the defendant.

¶ 3 I. BACKGROUND

¶ 4 The facts relevant to the defendant's convictions and sentences are described in detail in this court's disposition of the defendant's direct appeal. See *People v. Blom*, 2019 IL App (5th) 180260. Following a trial by jury, the defendant was convicted of two counts of criminal sexual assault and sentenced to eight years of imprisonment on each count, to be served consecutively, and to be followed by a period of mandatory supervised release of between three years and life. *Id.* ¶¶ 1, 23. The convictions were based on two acts of digital penetration by the defendant during a massage he performed in the course of his employment at a spa. *Id.* ¶ 3. At the defendant's trial, the victim testified, as did three other women who alleged that they too were touched in inappropriate sexual ways by the defendant while receiving massages from him at the spa. *Id.* ¶¶ 9-20. This court affirmed the defendant's convictions. *Id.* ¶ 43.

¶ 5 On October 6, 2020, the defendant filed a *pro se* petition pursuant to the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2018)). In the petition, the defendant stated that he was "too poor to hire an attorney," and requested "that counsel be appointed to represent him in this proceeding." In an affidavit accompanying the petition, the defendant alleged he received ineffective assistance of trial counsel, because trial counsel failed to (1) object to improper portions of the State's closing argument; (2) object to an improper jury instruction regarding force or the threat of force; (3) investigate and call a witness who would have testified

that he provided myofascial release therapy training to the defendant, and that myofascial release therapy could "trigger the release of memories associated with past traumas," which in turn could "cause feelings, sensations, pain, and fear that could seem as real as the original trauma"; and (4) call the defendant as a witness, because the defendant would have testified that he performed myofascial release therapy on the victim at the massage session in question.

¶ 6 On July 7, 2021, the trial court entered an order in which it advanced the *pro se* petition to the second stage of postconviction proceedings. The order did not state why the petition was advanced. The order stated that the defendant had "not requested appointed counsel."

¶ 7 On July 20, 2021, the defendant sent a letter to the trial court in which he stated that he was enclosing a motion for appointment of counsel, which he had failed to "place with [his] original forms on accident." The motion for appointment of counsel that accompanied the letter stated that the defendant was presently incarcerated, did not have "sufficient income or assets" to pay an attorney, and needed an attorney due to his "limited knowledge of the law and limited access to the law library." He added that he "would be unable to adequately represent" himself.

¶ 8 On August 2, 2021, the trial court filed an affidavit of assets and liabilities prepared by the defendant, in which the defendant stated that he (1) was not married, (2) had no employment or income, and (3) had assets with a total value of $53,200, which consisted of real property in Litchfield with a value of $50,000, and "cash on hand" of $3,200. The defendant listed as a liability a yearly debt of $800 for Montgomery County taxes. At the bottom of the defendant's affidavit was a preprinted judicial order. The trial court checked the box on the order that stated that the defendant's "request for the public defender is denied." In a handwritten addendum, the trial court stated that the denial was without prejudice. In a separate written order, also dated August 2, 2021,

the trial court explained that the request for counsel was denied without prejudice on the basis of the defendant's affidavit, which showed the assets listed above.

¶ 9 At a hearing held on September 28, 2021, with regard to the defendant's request for appointed counsel, the trial court noted that in August, the defendant had stated that he was trying to sell the real property in Litchfield, and that the trial court desired an update on the defendant's progress. The defendant stated that the property was listed for sale, but that he had not "had any inquiries." He stated that the property had "a house on it," but that the house was condemned and could not be occupied. The defendant stated that the property consisted of "[a] little bit less than an acre," had been on sale for "[j]ust over a year now," and was listed with an agent, although the defendant's adult son hired the agent and the defendant did not know the agent's name.

¶ 10 The trial court stated that it was "just trying to get a sense of how difficult it is for you to sell this property and whether the market is such that it's not sellable, whether, you know, the asset isn't worth what you think it is and for that reason it's not selling." The trial court added that it was "struggling with appointing an attorney when you have such a substantial asset." The defendant agreed that he had private counsel at trial and on direct appeal, but stated that his assets were now depleted, with his only asset other than the real property coming from federal stimulus payments due to the pandemic. The defendant stated that he "cashed in" his 401K savings to pay his previous attorneys, and that although his divorce entitled him to "half of" the money in a joint retirement account with his former wife, those funds would not be available until she retired. He clarified that the money from his former wife was in the form of a pension. The defendant stated that the real property in Litchfield was appraised at $110,000, that it was first listed at $90,000, and that at some point over the previous 14 months, the price was dropped to $50,000. The trial

court stated that it would continue the matter of appointing counsel "one more time" so that the defendant could attempt to sell the property, and could contact potential attorneys he could hire.

¶ 11 The next hearing in the case was held on December 28, 2021. The trial court asked the defendant, "what's happening with you hiring an attorney?" The defendant responded that he still did not have "any way to pay for an attorney." The defendant stated that the real property was still for sale, and that his son—who was acting as the defendant's power of attorney—was handling the attempt to sell the property. The trial court stated that the defendant was asking for "a free attorney," and that the public defender's office in Madison County was "overworked." The trial court added, "You're sitting on an asset. It appears to me you're doing absolutely nothing to obtain any value out of it, such that you can pay for your own attorney." The trial court further stated that the fact that the defendant did not know who the property was listed with led the trial court to "think that maybe you're not being truthful with" the court.

¶ 12 The defendant reiterated that his son was handling the sale, and that although the defendant believed the listing had been renewed with Century 21, the defendant could not state that with certainty. He stated that he tried to speak with his son "once a month at least." He stated that he did make inquiries of his son, but that all his son told him was that there had been no offers on the property. The trial court stated that in its experience, "everything can be sold," and suggested that the defendant maybe needed to rethink the asking price. The trial court reiterated that it did not "know a piece of property that can't be sold." The trial court stated that "this has been pending too long," and added, "You either need to do what you have to do to get an attorney or represent yourself. Those are your two options." The trial court added that it was "not going to appoint you the public defender." Thereafter, the trial court stated that it would give the defendant "one more

continuance, a couple months," for the defendant either to sell the property or "to come back to court being prepared to proceed as [his] own attorney."

¶ 13 On March 7, 2022, the defendant filed another written motion for appointment of counsel. He stated that he was presently incarcerated, and was "without any income to pay for the cost of these proceedings or any tangible assets that can be immediately liquidated in order to retain counsel in a timely manner." He stated that without counsel to represent him, he would "be at a severe disadvantage in amending his postconviction petition," and noted that because the trial court had advanced the petition to the second stage, the defendant had presented the "gist of a constitutional claim," and counsel was therefore "needed to properly constitutionalize his claim into proper form."

¶ 14 At a hearing held on March 21, 2022, the trial court stated that it had reviewed the defendant's March 7, 2022, filing, and that in light of "the totality of everything we've covered over the last so many months," the defendant's request was again denied. The trial court stated, "So your choices *** as I told you the last time we were here, [are to] hire your own attorney or represent yourself. Apparently you are refusing to hire your own attorney. Correct?" The defendant responded, "I don't have the funds to do that, sir." The trial court extensively questioned the defendant about his ability to represent himself, then stated, "at this point I'm finding that you do possess the requisite mental capacity to act as your own attorney." The trial court added, "despite your protestations with regard to the appointment of counsel and the court's decision, I'm finding that you're making an intelligent waiver of your right to counsel by refusing to hire one. And I find that your decision to not hire your own attorney and proceed as your own attorney is freely, knowingly, and intelligently made. So *** you're your own attorney at this point." After explaining the postconviction process to the defendant, the trial court asked the defendant if he

wanted time to review his petition and think about whether he wanted to amend it. The defendant responded that he did. Following the hearing, the trial court entered a written order that was consistent with the oral statements of the court.

¶ 15 On May 6, 2022, the circuit clerk file-stamped an April 27, 2022, handwritten letter from the defendant, in which the defendant stated that he had received the trial court's March 21, 2022, written order and that he disagreed with the trial court's findings. He stated that he understood that he had the right to private counsel, but reiterated his contention that he did "not have sufficient funds to procure private counsel." He stated that his son had contacted the 28 attorneys on a list provided to the defendant by the trial court, and that only 5 of those attorneys handled "appellate representation." The defendant stated that of those five only one responded to the defendant's written request for representation, and that attorney stated that he was "no longer taking appellate cases." The defendant stated, "I did not intend to waive my right to private counsel at any time during this postconviction process." He added, "I did not and do not 'knowingly, intelligently, and voluntarily' waive my right to private counsel. I did not choose to represent myself."

¶ 16 On October 25, 2022, the defendant filed a written motion to continue the proceedings to allow him additional time to amend his petition. The written motion also asked the court to reconsider its denial of the defendant's request for appointment of counsel. At a hearing held on October 25, 2022, the trial court verbally granted the defendant a continuance of 90 days, but apparently was unaware that the written motion also asked the trial court to reconsider its denial of appointed counsel. Accordingly, there was no ruling on the motion to reconsider.

¶ 17 On January 23, 2023, the defendant filed a motion for an additional extension of time, in which he stated that he had executed an affidavit "relinquishing any claims" to the real property in Litchfield, and that he believed he was entitled to appointed counsel. On January 24, 2023, the

trial court granted the motion for an extension of time, but did not comment on the defendant's belief that he was now entitled to appointed counsel.

¶ 18 On April 24, 2023, the defendant filed a motion for reconsideration of appointment of counsel. He stated that because the trial court advanced his petition to the second stage of proceedings, he was "statutorily entitled" by the Act to the appointment of counsel to assist him. He stated that although he had made "diligent efforts" to retain private counsel, he had not been able to do so. He attached to his motion an affidavit and other supporting documents, which showed that he transferred ownership of the real property in Litchfield to his son.

¶ 19 At a hearing held on April 27, 2023, the trial court stated that it had reviewed the defendant's motion for reconsideration, but that nothing in the motion convinced the trial court to change its mind. The trial court added, "Your written request basically consists of you wanting to say you now qualify for an appointed counsel because you want to convey away for no value property that you own to make yourself indigent, and that is not how it works." After again questioning whether the defendant was being "up front" with the court, the trial court added, "The only way you can convey the property is by quit claiming it, and even if you did that I will say you are devoiding yourself of assets that you currently own in order to represent to me that you need a free attorney." The trial court denied the defendant's motion to reconsider. Later in the hearing, when discussing the defendant's need for more time to attempt to amend his petition without the assistance of counsel, the trial court stated, "I don't believe you have been up front with me about your assets, I do think you do have sufficient assets, you are just choosing not to use them. You are your own attorney and that's what we need to move forward with, so if you want 90 days, I'll bring you back in 90 days." A status hearing was set for July 18, 2023.

¶ 20 On June 29, 2023, the defendant filed another motion for extension of time, in which he stated that he was not represented by an attorney, and had "been unable to make the necessary investigation and research in order to prepare an amended postconviction petition" because of his limited access to the prison law library. The trial court continued the status hearing to October 24, 2023. On October 13, 2023, the defendant filed another motion for extension of time, again noting that he was not represented by counsel, and had "been unable to make the necessary investigation and research in order to fully prepare and develop an amended postconviction petition" because he had not been able to obtain his trial transcripts from his direct appeal attorney, who had subsequently retired from the practice of law, or his trial attorney. He stated that he did not have access to the internet at the prison law library. On October 23, 2023, the motion was granted, and the case was set for a status hearing on January 30, 2024.

¶ 21 At the outset of the January 30, 2024, hearing, the trial court asked the defendant for the status of the petition, stating, "You're representing yourself. I get you don't want to do it. We rehashed and rehashed [you] asking for an attorney [to] be appointed to your case, and so that's all of record, why I didn't appoint you an attorney." The trial court added that the case could not "go on forever," and that the defendant could either amend the petition, or proceed on his original petition. He asked the defendant how much longer the defendant needed. The defendant stated that he had the amended petition with him, ready to file. The petition was filed, and a copy was given to the State.

¶ 22 In the amended petition, the defendant raised multiple claims of ineffective assistance of trial counsel, including for failure to investigate the defendant's alleged defense related to myofascial release therapy, as well as other related defenses. He also alleged ineffective assistance of appellate counsel for failing to raise, in the defendant's direct appeal, trial counsel's

ineffectiveness. Attached to the amended petition were the defendant's affidavit and numerous exhibits.

¶ 23 On March 28, 2024, the State filed a motion to dismiss the amended petition. Therein, the State argued that the claims raised by the defendant in the petition were either barred by *res judicata*, forfeited, or were matters of sound trial strategy by the defendant's trial counsel. On June 20, 2024, the defendant filed a motion to supplement the amended petition. On June 24, 2024, the trial court granted the defendant's motion, and set a hearing on the State's motion to dismiss for September 24, 2024. Following that hearing, the trial court took the matter under advisement.

¶ 24 On July 17, 2025, the trial court issued a written order in which it granted the State's motion to dismiss. The trial court noted, when discussing the procedural history of the case, that after filing his *pro se* petition on October 6, 2020, the defendant "filed several motions asking for an attorney to represent him on his [postconviction] petition but was denied due to having significant assets." With regard to the substance of the amended petition, the trial court stated, without elaboration, that it "failed to make a substantial showing of a constitutional violation." This timely appeal followed.

¶ 25 II. ANALYSIS

¶ 26 On appeal, the defendant raises two issues: (1) whether the trial court erred when it refused to appoint counsel to assist the defendant at the second stage of proceedings, and (2) whether the amended "petition made a substantial showing that [the defendant's] trial attorney was ineffective for failing to investigate" the defendant's alleged potential defenses. As noted above, the State has filed a confession of error as to the first issue. As a result, the State agrees with the defendant that the dismissal of the amended petition must be reversed, and that this cause must be remanded for

further second-stage proceedings with counsel appointed to represent the defendant. For the reasons that follow, we agree with the defendant and the State with regard to this issue.

¶ 27 The Act allows a defendant to collaterally attack a final judgment and is not a substitute for a direct appeal. *People v. Edwards*, 2012 IL 111711, ¶ 21. The Act provides a three-stage process whereby a convicted defendant may assert that in the proceedings which resulted in the defendant's conviction, there was a substantial denial of the defendant's constitutional rights. See, *e.g.*, *People v. Addison*, 2023 IL 127119, ¶ 18. During the first stage of postconviction proceedings, the defendant has a "low threshold" and need only provide sufficient facts to present the gist of a constitutional claim. *People v. Brown*, 236 Ill. 2d 175, 184 (2010). During the second stage, the legal sufficiency of the postconviction petition is tested. *People v. Domagala*, 2013 IL 113688, ¶ 35. The State may file an answer or move to dismiss at this stage. 725 ILCS 5/122-5 (West 2022). The postconviction petition is dismissed if the defendant fails to make a substantial showing of a constitutional violation through the petition and attached documentation. *People v. Edwards*, 197 Ill. 2d 239, 246 (2001).

¶ 28 In proceedings under the Act, the defendant has a statutory, rather than constitutional, right to counsel. 725 ILCS 5/122-4 (West 2022); *People v. Turner*, 187 Ill. 2d 406, 410 (1999). The Act does not provide for the appointment of counsel unless a petition is advanced from the first stage of proceedings to the second stage. *People v. Kelley*, 2013 IL App (4th) 110874, ¶ 24. "If counsel is appointed, a defendant is only entitled to a reasonable level of assistance." *Id.* Nevertheless, "[t]he Act is clear that the court must appoint counsel for a defendant who (1) wishes to have counsel appointed and so requests, and (2) lacks the means to procure counsel." *People v. Gray*, 2013 IL App (1st) 101064, ¶ 22. As the *Gray* court recognized, "the Act grants a defendant the

initial decision to invoke the right to counsel, rendering the appointment of counsel mandatory if the defendant invokes the right but does not have the means to employ counsel." *Id.*

¶ 29 As the *Gray* court further recognized, the Act also provides a defendant with the right to proceed *pro se*. *Id.* However, to invoke the right to proceed *pro se*, a defendant "must knowingly and intelligently relinquish his right to counsel." *Id.* ¶ 23. Accordingly, a defendant's waiver of counsel must be clear and unequivocal, not ambiguous, and a defendant waives his right to self-representation unless he articulately and unmistakably demands to proceed *pro se*. *Id.* To determine whether a defendant's statement is clear and unequivocal, a court must determine whether the defendant truly desires to represent himself and has definitively invoked his right of self-representation. *Id.* A court must indulge every reasonable presumption against a waiver of the right to counsel. *Id.* This court reviews a trial court's determination of whether a defendant waived his right to counsel, and invoked the defendant's right to proceed *pro se*, for an abuse of discretion. *Id.*

¶ 30 As the defendant points out, in criminal cases in general, the determination of whether a defendant lacks the means to procure counsel should be made on the basis of as complete a financial picture as is feasible, and should include a balancing of assets against liabilities. See, *e.g.*, *People v. Valdery*, 41 Ill. App. 3d 201, 204 (1976). Moreover, this court has noted that a criminal defendant does not need to be completely without funds in order to be entitled to the appointment of counsel. *People v. Miller*, 23 Ill. App. 3d 149, 152 (1974). If the question of the ability to afford counsel is a close one, courts should favor appointment of counsel to assure the protection of the rights of a defendant who claims indigence. *People v. Ellis*, 309 Ill. App. 3d 443, 446 (1999).

¶ 31 As the defendant further points out, section 113-3.1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/113-3.1 (West 2024)) provides a mechanism by which a county may, in some

cases, be reimbursed for the payment of court-appointed counsel. Case law suggests that the use of this mechanism is more appropriate than declining to appoint counsel for a defendant who requests counsel. See, *e.g.*, *Ellis*, 309 Ill. App. 3d at 446-47; *People v. Stoops*, 313 Ill. App. 3d 269, 275 (2000). In a concurring opinion in *Stoops*, Justice Steigmann wrote that "[r]eversible error will almost always occur when a trial court forces a defendant (whom the court has found to be nonindigent and who has asked to be represented by counsel) to proceed *pro se* because the court will not appoint counsel to represent him and defendant has failed, willfully or not, to hire counsel of his own choice." 313 Ill. App. 3d at 275-76. He added that under such circumstances, there can be no legitimate waiver of the right to counsel, "because the rule requires a defendant's knowing, intelligent, and *voluntary* waiver of his right to be represented by counsel." (Emphasis in original.) *Id.* at 276. He wrote that in his view, the appropriate course of action was for trial courts to utilize section 113-3.1 to recover the costs of representation if a defendant was not indigent but insisted upon using appointed counsel rather than hiring private counsel. *Id.* at 277-80.

¶ 32 The defendant contends that, pursuant to these legal principles, "[t]he trial court abused its discretion in refusing to appoint postconviction counsel at the second stage, where [the defendant] repeatedly requested the appointment of counsel and credibly demonstrated his inability to secure representation on his own." The defendant notes that he "never waived his right to counsel, and politely but persistently asked the court to appoint an attorney to help him with his petition, as he could not afford one, had been unable to liquidate his property, and did not have the resources or legal knowledge to represent himself." He further notes that he "contacted every private attorney on the list provided to him by the court, had his condemned property listed for sale for years

without inquiries, even after he reduced the price by nearly 70%, and the money he held in his prison account did not even cover the cost of the transcripts for his case."

¶ 33 In its confession of error, the State agrees with the "defendant's assertions in his brief, consistent with the record, that during the pendency of his postconviction petition, [the] defendant presented numerous motions requesting the appointment of counsel, and that [the] defendant never acquiesced to the trial court's interpretation of his conduct as a waiver of his right to counsel." The State adds that it believes "the prejudice and difficulty alleged by [the] defendant in his brief was in fact articulated to the trial court during the pendency of these proceedings, and thus stands unrebutted." The State further adds that "[t]he realities of an unwilling *pro se* litigant, insisting on his right to counsel, coupled with the inability to liquidate his property, indicate an abuse of discretion upon the part of the trial court to infer that [the] defendant waived his right to counsel."

¶ 34 We agree with the parties that under the unique circumstances of this case, the trial court abused its discretion when it refused to appoint counsel to represent the defendant at the second stage of proceedings. The trial court's inference that the defendant waived his right to counsel and wished to proceed *pro se* was not consistent with the aforementioned principles of law. In particular, the record does not support the conclusion that the defendant made a clear and unequivocal waiver of counsel, or that the defendant truly desired to represent himself. *Gray*, 2013 IL App (1st) 101064, ¶ 23. To the contrary, the record indicates that in a letter to the trial court, the defendant expressly stated that he had not waived his right to counsel, and that the defendant added, "I did not choose to represent myself." It is also clear that the trial court failed to adhere to the principle that a court must indulge every reasonable presumption against a waiver of the right to counsel. *Id.*

¶ 35 III. CONCLUSION

¶ 36 For the foregoing reasons, we reverse the judgment of the circuit court of Madison County that dismissed the defendant's amended petition, and we remand for further second-stage proceedings after counsel has been appointed to represent the defendant. We note, as did the *Ellis* court, "that our decision today does not foreclose a hearing pursuant to section 113-3.1," if such a hearing is deemed appropriate following the proceedings on remand. 309 Ill. App. 3d at 447. We direct both appellate counsel to provide copies of their briefs to circuit court counsel (including appointed postconviction counsel) and to the circuit court. See, *e.g.*, *People v. Endicott*, 2025 IL App (5th) 230438, ¶ 40.

¶ 37 Reversed and remanded for further second-stage proceedings with counsel appointed to represent the defendant.