2026 IL App (1st) 250725-U

No. 1-25-0725

Fifth Division
August 31, 2026

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,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 2011 CR 1272001
	)	
RONALD JACKSON,	)	Honorable
	)	Michael R. Clancy,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE WILSON delivered the judgment of the court.
Presiding Justice Mitchell and Justice Mikva concurred in the judgment.

ORDER

¶ 1 *Held*: Cause remanded to the circuit court for further second stage proceedings where the petitioner did not knowingly or intelligently waive his right to postconviction counsel.

¶ 2 Petitioner Ronald Jackson appeals from the second stage dismissal of his postconviction petition and argues that the circuit court did not obtain a knowing and intelligent waiver of his statutory right to postconviction counsel before it granted the public defender's motion to withdraw as counsel. We agree and for the following reasons, we remand to the circuit court for further

second-stage proceedings.

¶ 3 I. BACKGROUND

¶ 4 We discuss only those facts necessary to the disposition of this appeal.

¶ 5 In 2011, a jury found Jackson guilty of attempt murder of a peace officer. He was sentenced to an aggregate 38 years' imprisonment. His conviction and sentence were affirmed on direct appeal. *People v. Jackson*, 2018 IL App (1st) 150487.

¶ 6 Jackson filed a *pro se* postconviction petition on September 20, 2019, alleging ineffective assistance of trial and appellate counsel, as well as prosecutorial misconduct. The circuit court advanced the petition to the second stage and appointed counsel.

¶ 7 On December 15, 2020, Jackson filed a *pro se* motion to reconsider/reduce sentence which was denied. There were numerous status hearings in 2021 and 2022, where defense counsel continued to update the court on her progress investigating Jackson's postconviction claims. On February 28, 2023, defense counsel advised the court, "I was close to being done with my investigation; however, after speaking to [defendant], he does not wish for the services of the Public Defender's office or my office's services at this point so I would need to have him video writ in." The court continued the case for counsel to seek leave to withdraw.

¶ 8 On the next court date, March 27, 2023, the following exchange occurred:

> "THE COURT: Who is the State's Attorney on this is my question.
>
> MS. NESBIT [PUBLIC DEFENDER]: It hasn't been assigned to a State's Attorney yet because it's still within the second stage so Mr. Jackson indicated he wants me to withdraw from his case.
>
> THE COURT: Alright, Mr. Jackson, you've filed a postconviction matter;

is that correct? You're muted. Why don't you ask the people in –

[JACKSON]: Yes.

THE COURT: Attorney Nesbit granted leave to withdraw.

MS. NESBIT: Thank you.

THE COURT: I'm going to continue it, order of Court, for the State to appear and to file a motion to dismiss or an answer to discovery.

[JACKSON]: Your Honor, I would like to amend my petition myself because it was never amended.

THE COURT: Alright, file whatever you like but there's a petition on file and I'm going to have the State respond to that petition.

[JACKSON]: Alright. When is the next court date you said?"

¶ 9 On May 8, 2023, Jackson filed an amended *pro se* postconviction petition and added claims that the attempt murder statute had been applied inconsistently, ineffective assistance of trial counsel, and failure to prove him guilty beyond a reasonable doubt. The State filed a motion to dismiss the amended petition on September 12, 2023.

¶ 10 On November 2, 2023, Jackson asked for additional time to file a response to the State's motion. He also asked if it was "too late" to hire an attorney "if I wanted to seek one." The court responded, "We're going to move forward with this case. If you hire someone, make sure that they're up to speed and ready to roll. *** I don't prevent anyone from hiring anyone, but we're going to move forward with this case."

¶ 11 On the next court date, December 14, 2023, Jackson filed a *pro se* response to the State's motion to dismiss. On May 30, 2024, the court heard arguments on the State's motion to dismiss,

where Jackson argued on his own behalf. The court issued a written order dismissing Jackson's amended *pro se* petition on March 5, 2025.

¶ 12 Jackson filed a motion for rehearing/reconsideration of judgment in which he argued, *inter alia*, that it was error for the court to have him proceed *pro se* after his public defender withdrew. He argued that he did not unequivocally request to proceed *pro se* and that the court did not admonish him of the consequences of the waiver. The motion was denied on April 11, 2025.

¶ 13 This timely appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, Jackson argues that his waiver of postconviction counsel was not made knowingly or intelligently because the circuit court failed to admonish him about the gravity of his decision to proceed *pro se*. We agree.

¶ 16 The Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq*. (West 2022)) provides a method for an individual to challenge a criminal conviction by alleging it was the result of a substantial denial of federal or state constitutional rights or both. *People v. Cotto*, 2016 IL 119006, ¶ 26. The Act includes a three-stage process for adjudicating petitions. *Id.* At the first stage, the circuit court determines whether the petition is "frivolous or is patently without merit." 725 ILCS 5/122-2.1(a)(2) (West 2022). If the petition is not dismissed at first-stage proceedings, it advances to the second stage. *People v. Hommerson*, 2014 IL 115638, ¶ 7.

¶ 17 The Act provides for the appointment of counsel at the second stage where the petition may be subject to dismissal on the State's motion. 725 ILCS 5/122-2.1, 122-4, 122-5 (West 2022). There is no constitutional right to counsel during postconviction proceedings; rather the right to counsel in proceedings under the Act at the second stage is a matter of legislative grace. *People v. Lesley*,

2018 IL 122100, ¶ 35.

¶ 18 A postconviction petitioner may waive or give up the statutory right to postconviction counsel. See 725 ILCS 5/122-4 (West 2022). "Commensurate with Illinois's statutory right to appointed counsel in postconviction proceedings is a defendant's ability to waive that right, so long as the defendant's waiver is voluntary, knowing, and intelligent." *Lesley*, 2018 IL 122100, ¶ 50. A petitioner makes a knowing and intelligent waiver when he has "full awareness of the nature of the right being abandoned and the consequences of the decision to abandon it." *Id*. ¶ 25. However, because of the nature of the proceeding and the status of the petitioner, the admonishments need not reach the same level of detail to which a charged defendant is entitled. *People v. Young*, 341 Ill. App. 3d 379, 387 (2003) (court is not required to give Rule 401 admonishments to postconviction petitioners).

¶ 19 We will not disturb the trial court's decision to allow a petitioner to proceed *pro se* absent an abuse of discretion. *People v. Baez*, 241 Ill. 2d 44, 116 (2011). A court abuses its discretion only if no reasonable person would take the view adopted by the trial court. *People v. Hall*, 195 Ill. 2d 1, 20 (2000).

¶ 20 The record in this case shows that Jackson did not unequivocally waive his right to postconviction counsel, let alone do it knowingly and voluntarily. On this record, Jackson (according to defense counsel) had merely indicated to defense counsel that he no longer wanted to be represented by her, which she then relayed to the court. There was no indication that Jackson wished to proceed *pro se*, just that he wished to no longer be represented by defense counsel. The court granted defense counsel's motion to withdraw without any conversation with Jackson about next steps. The court never ascertained whether Jackson was knowingly and intelligently waiving

his right to postconviction counsel. There was no discussion whatsoever regarding Jackson proceeding *pro se*, his waiver or any admonition of the consequences.

¶ 21 While there is no magic language that a circuit court must use before allowing a petitioner to represent himself in a postconviction matter, there must be some warning as to the consequences of self-representation. See *Lesley*, 2018 IL 122100, ¶ 61 ("Although we decline to impose specific requirements on circuit courts faced with difficult defendants in postconviction proceedings, we instruct them to warn defendants of the consequences of their repeated refusals to work with appointed counsel and the difficulties of self-representation before requiring them to proceed *pro se.*"); *People v. Blanchard*, 2023 IL App (1st) 191311-U, ¶ 47 ("[T]he bare minimum the circuit court had to do was warn the defendant that he had the right to counsel but could represent himself, and that there might be consequences if he did."); *People v. Urrutia*, 2024 IL App (1st) 190675-U, ¶ 34 (The court did not abuse its discretion when it accepted petitioner's waiver of his right to postconviction counsel after petitioner was adequately warned that he had the right to have the public defender represent him, that he would be responsible for court filings and court deadlines and that he would be required to represent himself for the duration of the case.). There was no warning of the consequences here. Accordingly, we find that the court abused its discretion in accepting Jackson's waiver of postconviction counsel and allowing Jackson to proceed *pro se* where Jackson did not knowingly and intelligently waive his statutory right.

¶ 22 III. CONCLUSION

¶ 23 For the reasons explained above, we reverse and remand for further second stage proceedings.

¶ 24 Reversed and remanded.