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) 251406-U

NO. 4-25-1406

FILED
November 10, 2026
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Respondent-Appellee, v. DARRELL D. McLIN, Petitioner-Appellant.	))))))))	Appeal from the Circuit Court of Winnebago County No. 03CF1957 Honorable Brendan A. Maher, Judge Presiding.

JUSTICE GRISCHOW delivered the judgment of the court.
Presiding Justice Steigmann and Justice DeArmond concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed the dismissal of the petition for a certificate of innocence, finding it insufficient as a matter of law.

¶ 2 Pursuant to a fully negotiated plea agreement, petitioner, Darrell D. McLin, was convicted of one count of aggravated unlawful use of a weapon (720 ILCS 5/24-1.6(a)(1) (West 2002)) and sentenced to three years in prison. His conviction was later vacated after the statute under which he was convicted was deemed unconstitutional pursuant to *People v. Aguilar*, 2013 IL 112116, ¶ 22. Petitioner filed a petition for a certificate of innocence, which was dismissed as a matter of law by the trial court, and he appealed. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Petitioner was charged by indictment with one count of aggravated unlawful use of a weapon for knowingly carrying a loaded firearm while not on his own property or business

and having previously been convicted of a felony, which was a Class 2 felony eligible for extended term sentencing (720 ILCS 5/24-1.6(a)(1) (West 2002)), and two counts of unlawful use of a weapon by a felon, which were Class 3 felonies eligible for extended term sentencing (*id.* § 24-1.1(a)). Petitioner pled guilty to one count of aggravated unlawful use of a weapon. In June 2025, he was sentenced, pursuant to a fully negotiated plea agreement, to 3 years in prison, with credit for 210 days served, and 2 years of mandatory supervised release. Defendant filed a petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (Procedure Code) (735 ILCS 5/2-1401 (West 2024)), which was granted on September 17, 2024, as he made a valid claim based on *Aguilar*. See *Aguilar*, 2013 IL 112116, ¶ 22 (finding the unlawful use of a weapon statute unconstitutional as violative of the second amendment (U.S. Const., amend. II)). His conviction was vacated.

¶ 5 In 2024, petitioner filed a *pro se* petition for a certificate of innocence, and subsequently an amended petition, claiming he was innocent of the offense charged in the indictment, the conduct charged did not constitute a crime, and he "did time for a charge that was found to be unconstitutional." Petitioner argued further that he was not required to prove his innocence of the dismissed charges because the statute of limitations had since expired and the one-act, one-crime principle applied; thus, those charges could not be reinstated. The State, as intervenor, filed a motion to dismiss the amended petition pursuant to section 2-615 of the Procedure Code (735 ILCS 5/2-615 (West 2024)), arguing petitioner failed to (1) comply with service requirements when he failed to serve the attorney general and (2) allege any facts or provide any supporting documentation establishing he would be successful in proving his innocence of all the offenses charged in the indictment at a trial.

¶ 6 The trial court granted the State's motion to dismiss the petition for a certificate of

innocence, finding petitioner was unable to allege facts demonstrating he was innocent of all the charges in the indictment, and therefore, he was not entitled to a certificate of innocence as a matter of law.

¶ 7 This appeal followed.

¶ 8 II. ANALYSIS

¶ 9 The sole issue on appeal is whether the trial court erred in granting the State's motion to dismiss petitioner's petition for certificate of innocence.

¶ 10 Section 2-702 of the Procedure Code sets forth the conditions and procedures by which "any person who was convicted or adjudicated a delinquent and subsequently served any part of a sentence" for one or more felonies which he or she did not commit may seek a certificate of innocence. *Id.* § 2-702(b). To prove he or she is entitled to a certificate of innocence for an unjust conviction, the petitioner must prove the following:

> "(1) the petitioner was convicted or adjudicated a delinquent of one or more felonies by the State of Illinois and subsequently sentenced, and has served all or any part of the sentence;
>
> (2)(A) the judgment of conviction or adjudication was reversed or vacated, and the charge dismissed or, if a new trial was ordered, either the petitioner was found not guilty at the new trial or the petitioner was not retried and the charge dismissed; or (B) the statute, or application thereof, on which the charge was based violated the Constitution of the United States or the State of Illinois;
>
> (3) the petitioner is innocent of one or more of the offenses for which he or she was convicted or adjudicated a delinquent or his or her acts or omissions for which he or she was convicted or adjudicated a delinquent did not constitute a

felony or misdemeanor against the State; and

(4) the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction or juvenile delinquency adjudication." *Id.* § 2-702(g)(1)-(4).

The petitioner must attach to the petition documentation supporting the statutory factors. *Id.* § 2-702(c). Further, the petitioner bears the burden of proving these requirements by a preponderance of the evidence. *Id.* § 2-702(g).

¶ 11 Proceedings under the certificate of innocence statute are civil in nature and are governed by the rules of civil procedure. *People v. Terrell*, 2022 IL App (1st) 192184, ¶ 40. In this case, the trial court granted the State's section 2-615 motion to dismiss the petition for a certificate of innocence, which challenged the legal sufficiency of the petition. As such, the standard of review on appeal is *de novo*. *Vogt v. Round Robin Enterprises, Inc.*, 2020 IL App (4th) 190294, ¶ 14.

¶ 12 The first two statutory requirements are not at issue in this case. Petitioner was convicted of a felony, was sentenced, and served that sentence. 735 ILCS 5/2-702(g)(1) (West 2024). Further, petitioner's conviction was subsequently vacated because the statute under which he was convicted was deemed unconstitutional. *Id.* § 2-702(g)(2). However, the petition is insufficient, as a matter of law, based upon the last two statutory requirements.

¶ 13 Petitioner failed to allege any facts or present any supporting documentation establishing he was innocent of the offenses charged in the indictment. *Id.* § 2-702(c), (g)(3). Although he argues he was not obligated to prove his innocence of the charges that were nol-prossed as a part of the negotiated plea agreement, this very argument was rejected by our supreme court in *People v. Reed*, 2025 IL 130595. In *Reed*, the supreme court interpreted the

certificate of innocence statute and clarified this requirement as follows:

> "Applying those principles [of statutory construction] here, the plain language establishes that, to obtain a [certificate of innocence], a petitioner must allege facts in the petition in sufficient detail to establish innocence of the '*offenses charged* in the indictment or information' (emphasis added) [citation] and prove by a preponderance of the evidence innocence of '*the offenses charged* in the indictment or information' (emphasis added) [citation]. In prescribing these requirements, the legislature employed the word 'offenses,' which is plural. Here, petitioner was charged with several 'offenses' but only convicted and incarcerated for one, in exchange for the State nol-prossing the remaining charges pursuant to the negotiated plea agreement. The plain language of subsection (g)(3) requires petitioner to prove his innocence of the 'offenses' charged in the information, as opposed to proving his innocence only of the 'offense' for which he was incarcerated." *Id.* ¶ 102.

Because petitioner failed to allege any facts or provide any supporting documentation to prove he was innocent of the two charges of unlawful use of a weapon by a felon, his petition for a certificate of innocence was insufficient as a matter of law.

¶ 14 Furthermore, petitioner failed to present any facts or documentation to prove he "did not by his or her own conduct voluntarily cause or bring about his or her conviction." 735 ILCS 5/2-702(c), (g)(4) (West 2024). Although petitioners who pleaded guilty are "not categorically barred" from seeking certificates of innocence, they are obligated to plead circumstances that negated the voluntariness of the guilty plea. *People v. Washington*, 2023 IL 127952, ¶¶ 36-37. Petitioner failed to do so in this case, further rendering his petition for a

certificate of innocence insufficient as a matter of law.

¶ 15 Petitioner's contentions that the principle of one-act, one crime and the statute of limitations would now bar prosecution of the two counts of unlawful use of a weapon by a felon are inapposite and irrelevant to these proceedings. A certificate of innocence is a statutory remedy premised upon a petitioner's *innocence of the crimes charged* and available only if he meets the aforementioned statutory requirements. Petitioner failed to do so in this case.

¶ 16 III. CONCLUSION

¶ 17 For the reasons stated, we affirm the trial court's judgment.

¶ 18 Affirmed.