2026 IL App (1st) 251116-U

FOURTH DIVISION
Order filed: August 20, 2026

No. 1-25-1116

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.	)	07 CR 19918
	)	
VASHAUN WILLIAMS,	)	Honorable
	)	Joanne F. Rosado,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE QUISH delivered the judgment of the court.
Presiding Justice Navarro and Justice Ocasio concurred in the judgment.

ORDER

¶ 1 *Held*: Postconviction counsel provided reasonable assistance when he adopted defendant's *pro se* allegations of ineffective assistance of appellate counsel, which were sufficient to avoid forfeiture of defendant's claims.

¶ 2 Defendant, Vashaun Williams, appeals from the second-stage dismissal of his initial postconviction petition. On appeal, defendant argues that he received unreasonable assistance from postconviction counsel when counsel failed to develop his allegations of ineffective assistance of appellate counsel to preserve the claims in his petition. For the following reasons, we affirm.

¶ 3 In September 2007, Defendant was charged with two counts of first degree murder for the stabbing deaths of his 60-year-old uncle Charles Williams Jr. ("Junior") and 83-year-old grandfather Charles Williams Sr. ("Senior").

¶ 4 Before trial, defendant raised the affirmative defense of self-defense and filed a motion to introduce evidence of Junior's and Senior's propensity for violence pursuant to *People v. Lynch*, 104 Ill. 2d 194, 200 (1984). The motion sought to admit evidence of two incidents: (1) an aggravated criminal sexual abuse perpetrated by Senior against defendant's sister in 1987 (hereinafter, "the 1987 incident"), through the testimony of defendant, his sister, his mother, his father, Jaquis Robinson, and Lekithy Whittington; and (2) a domestic battery perpetrated by Junior against his partner Verna H. Wyatt in 2004 (hereinafter "the 2004 incident"), through the testimony of Wyatt and defendant. The circuit court granted the motion in part, allowing evidence of the 2004 incident. The court did not allow defendant's sister to testify about the 1987 incident as it found that the incident was too remote in time, but allowed defendant to testify that he argued with Junior and Senior about the sister's allegations prior to the stabbings. The circuit court did not rule on defendant's request to allow the other members of his family to testify regarding the 1987 incident and the tension it caused within the family, and trial counsel did not request a ruling on that part of the motion. At trial, the other witnesses listed in the *Lynch* motion were named as potential witnesses, and the record reflects that defendant's mother and father were present at trial. However, none of the witnesses testified, and defense counsel stated on the record that he would not be calling defendant's father as a witness.

¶ 5 The evidence at trial was set out at length in this court's opinion on defendant's direct appeal. See *People v. Williams*, 2020 IL App (1st) 162512, ¶¶ 14-65. The evidence at trial

established that several family members had gathered at Senior's house for a party during Labor Day weekend in 2007. Stephanie Thomas ("Stephanie"), defendant's aunt, testified that defendant came to her home after the party. Defendant told her that Junior and Senior attacked him and he defended himself. When Stephanie asked defendant how bad it was, defendant stated "[i]t's bad." Stephanie and her husband Barry Thomas Sr. ("Barry") went over to Senior's house. Stephanie called 911, and the audio of the call was played for the jury. Barry testified that he went inside the home and found Junior and Senior each lying in a pool of blood.

¶ 6 Defendant testified in his own defense. He testified that he lived in the same house as Junior and Senior and had an argument with them about the 1987 incident where Senior sexually abused defendant's sister, approximately a week before the party. According to defendant, after the party, Junior confronted him in his room with a knife and threatened to kill him. Defendant grabbed a different knife, and the two began swinging at each other and fighting over the knife. Senior attempted to intervene and told defendant to "get off my son." Defendant testified that Senior then walked towards his bedroom stating he was "fittin' to shoot this MF." Senior also had a knife and swung it at defendant. Defendant kept swinging at Junior until Junior let go. Defendant testified that he ran towards his room, looked into Senior's bedroom, and saw Senior fall on the other side of the bed. Junior died as a result of multiple stab wounds, including wounds that punctured his left lung and "entirely transacted" his jugular vein. Senior also died as a result of multiple stab wounds, including multiple wounds on his face and neck.

¶ 7 Defendant was found guilty of the first degree murders of Junior and Senior, and the circuit court imposed a natural life sentence.

¶ 8 On direct appeal, defendant argued, relevant to this appeal, that the circuit court erred by not allowing his sister to testify about the 1987 incident and its resulting impact on the family. *Williams*, 2020 IL App (1st) 162512, ¶ 2. This court rejected defendant's argument, finding that the circuit court did not abuse its discretion when it limited evidence of a 20-year-old incident. *Id.* ¶ 75. This court affirmed defendant's convictions. *Id.* ¶ 117. Defendant filed a petition for leave to appeal to our supreme court, which was denied on September 30, 2020. *People v. Williams*, No. 125953 (Sept. 30, 2020) (denying petition for leave to appeal). Defendant filed a petition for a writ of certiorari to the United States Supreme Court, which was denied on March 22, 2021. See *Williams v. Illinois*, 141 S. Ct. 1701 (2021).

¶ 9 On September 23, 2021, defendant filed a *pro se* postconviction petition. Count 1 of defendant's petition alleged that his trial counsel was ineffective for failing to seek a ruling on whether his family members could testify regarding the 1987 incident. He also alleged that his appellate counsel was ineffective for not challenging the trial court's ruling that evidence of Senior's criminal sexual abuse and defendant's state of mind was not admissible under *Lynch*, stating that had the appellate court dealt with this issue, "there is a great probability that defendant would have been given a new trial and family members would've been allowed to testify." Count 3 similarly alleged that the circuit court abused its discretion by failing to rule on "the domestic portion" of defendant's *Lynch* motion and that trial counsel was ineffective for not objecting to the court's failure to rule on that part of the motion. He also alleged that had the appellate court addressed this issue, there was a "great probability that defendant would have been given a new trial and defendant's sister and family members would have been allowed to testify."

¶ 10 Count 8 alleged that appellate counsel was ineffective for failing to "raise all the included issues in this petition on appeal," including that trial counsel was ineffective for failing to seek a ruling on the admissibility of his family members' testimony about the 1987 incident. Count 8 further alleged that the result of defendant's direct appeal would likely have been different if appellate counsel had raised the issues in the petition.

¶ 11 The court docketed the petition and appointed counsel. Postconviction counsel filed a certificate pursuant to Supreme Court Rule 651(c), stating that counsel prepared a supplemental postconviction petition "which serves to supplement, not replace, [defendant's] *pro se* petition." Postconviction counsel's supplemental petition developed defendant's claim that he received ineffective assistance of trial counsel when counsel failed to ask the court to rule on defendant's entire *Lynch* motion. The supplemental petition did not discuss or elaborate upon defendant's claim of ineffective assistance of appellate counsel. Counsel also filed a "supplemental filing of verified affidavit in support of petition for post-conviction relief" attaching defendant's affidavit.

¶ 12 The State filed a motion to dismiss defendant's petition and supplement. Relevant to this appeal, the State argued that defendant's ineffective assistance of counsel claims were (1) barred by *res judicata* as the same issue was argued and rejected on direct appeal; (2) barred by waiver or forfeiture as the claim was raised and decided on direct appeal or could have been raised on direct appeal; and (3) did not establish deficient performance or prejudice based on the performance of either trial counsel or appellate counsel. With respect to Claims 1 and 3, the State argued that the record showed that the issue was litigated and adjudicated at trial and upheld by the appellate court.

¶ 13 Postconviction counsel filed a response to the State's motion to dismiss, arguing that (1) defendant's claim based on the *Lynch* motion was not barred by *res judicata*, as it differed from his argument on direct appeal that the circuit court abused its discretion by excluding his sister's testimony about the 1987 incident; and (2) the *pro se* petition's allegation of ineffective assistance of appellate counsel could not have been and was not raised on direct appeal and was sufficient to survive forfeiture. Counsel also argued that defendant made a sufficient showing of both elements of *Strickland* to support his claims of ineffective assistance.

¶ 14 The circuit court held a hearing on the State's motion to dismiss and addressed each count of defendant's *pro se* petition individually. Regarding count 1, the State argued that defendant's argument based on his *Lynch* motion was decided on direct appeal, and to the extent to which the claim differed from defendant's argument on direct appeal, it should have been raised on direct appeal. Postconviction counsel responded that, pursuant to *People v. Williams*, 2024 IL 127304, an allegation of ineffective assistance of appellate counsel based on a failure to raise the claim on direct appeal is sufficient to survive the State's forfeiture argument. The court ruled that the claim "will be denied under res judicata. That has already been relitigated, although reworded does not change the facts."

¶ 15 For count 3, the State argued that this claim was also barred by *res judicata* and to the extent it differed from defendant's argument on direct appeal, it was waived. In response, postconviction counsel rested on defendant's *pro se* pleading and the information in the supplemental petition regarding that claim. The court stated "[i]t will be granted for the State." The circuit court granted the State's motion to dismiss as to the first seven counts raised in defendant's *pro se* petition, but did not separately address count 8. This appeal follows.

¶ 16 On appeal, defendant argues that he received unreasonable assistance from postconviction counsel when counsel failed to specify how appellate counsel's ineffective performance prejudiced him to avoid forfeiture. Defendant argues that this court should reverse the dismissal of his postconviction petition and remand for further second-stage proceedings with new counsel.

¶ 17 The Postconviction Hearing Act allows a defendant to collaterally attack a conviction by asserting that it resulted from a "substantial denial" of their constitutional rights. 725 ILCS 5/122-1(a)(1) (West 2024). A post-conviction petition is not an appeal from the conviction judgment, but rather a collateral attack on the trial court proceedings. *People v. Tate*, 2012 IL 112214, ¶ 8. If the petition is not summarily dismissed, it must be docketed for further consideration at the second stage, and the circuit court may appoint counsel for the defendant. 725 ILCS 5/122-2.1(b), 122-4 (West 2024). At the second stage, the defendant must make a substantial showing of a deprivation of a constitutional right. *People v. Bailey*, 2017 IL 121450, ¶ 18. If the defendant fails to make such a showing, the petition is dismissed. *Id.*

¶ 18 In a postconviction petition, "[i]ssues that were raised and decided on direct appeal are barred by *res judicata*, and issues that could have been raised on direct appeal, but were not, are forfeited." *People v. English*, 2013 IL 112890, ¶ 22. "When a petitioner is asserting claims that could have been raised on direct appeal, he can avoid the procedural bar of forfeiture by casting his claims as ineffective assistance of appellate counsel for failing to raise the issue on direct appeal." *People v. Addison*, 2023 IL 127119, ¶ 23.

¶ 19 In a postconviction proceeding, there is no constitutional right to counsel, rather the right to counsel is a matter of "legislative grace." *People v. Custer*, 2019 IL 123339, ¶ 30; *People v. Porter*, 122 Ill. 2d 64, 73 (1988). A postconviction defendant is entitled only to the level of

assistance granted by the Act, which is labelled a "reasonable" level of assistance. *People v. Flores*, 153 Ill. 2d 264, 276 (1992). Rule 651(c) sets forth the requirements for postconviction counsel, including that counsel "has made any amendments to the petitions filed *pro se* that are necessary for an adequate presentation of the petitioner's contentions." Ill. Sup. Ct. R. 651(c) (eff. Jul. 1, 2017). Once postconviction counsel files a valid Rule 651(c) certificate, a rebuttable presumption of reasonable assistance arises. *Custer*, 2019 IL 123339, ¶ 32. The issue of whether postconviction counsel provided reasonable assistance is reviewed *de novo*. *People v. Nesbitt*, 2023 IL App (1st) 211301, ¶ 40.

¶ 20 We initially note that defendant does not challenge the trial court's ruling on the merits of his claims. He argues only that he did not receive reasonable assistance from postconviction counsel. Therefore, defendant has forfeited any argument that the claims of constitutional deprivation in his postconviction petition were meritorious. *People v. Cotto*, 2016 IL 119006, ¶ 49; Ill. Sup. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) ("Points not argued are forfeited[.]").

¶ 21 We first address the State's argument, raised for the first time on appeal, that defendant's postconviction petition was untimely. See 725 ILCS 5/122-1(c) (West 2024) (postconviction petition must be filed within "6 months of the conclusion of proceedings in the United States Supreme Court."). The State argues that defendant's petition was filed more than six months after the United States Supreme Court denied his petition for a writ of certiorari, and he did not provide proof of service that establishes that he mailed his petition before the six-month period expired such that the "mailbox rule" would apply to make his petition timely. See *People v. Shines*, 2015 IL App (1st) 121070, ¶¶ 31-33. The State acknowledges that it did not raise this argument in its motion to dismiss or at any point in the proceedings before the circuit court. By failing to do so,

the State has waived this argument. See *People v. Boclair*, 202 Ill. 2d 89, 101 (2002) ("[T]ime limitations in the Act should be considered as an affirmative defense and can be raised, waived, or forfeited, by the State.").

¶ 22 Turning to the merits of defendant's appeal, he acknowledges that postconviction counsel filed a valid Rule 651(c) certificate. Therefore, there is a rebuttable presumption that counsel provided reasonable assistance. *Custer*, 2019 IL 123339, ¶ 32. He argues, however, that the record rebuts this presumption because counsel failed to expand on the bare allegation of ineffective assistance of appellate counsel in the *pro se* petition or explain how appellate counsel's mistake prejudiced defendant. We disagree that the record rebuts the presumption of reasonable assistance.

¶ 23 Defendant's *pro se* petition alleged that appellate counsel was ineffective for not raising all issues in the petition on direct appeal and that if appellate counsel had raised those issues, the outcome of defendant's direct appeal would have been different. Postconviction counsel adopted defendant's *pro se* petition and added a supplement which expanded upon defendant's claim that trial counsel was ineffective for failing to seek a full ruling on his *Lynch* motion, but did not expand on defendant's ineffective assistance of appellate counsel allegations.

¶ 24 We note that it is unclear from the record whether the circuit court dismissed defendant's petition based on defendant's failure to adequately raise the ineffectiveness of appellate counsel to preserve his arguments. The court found that count 1 was barred by *res judicata*, as it was raised on direct appeal. For count 3, the court granted the State's motion without providing a specific basis. The court did not mention the effectiveness of appellate counsel or state that the failure to allege the ineffective assistance of appellate counsel resulted in any of defendant's claims being forfeited.

¶ 25 Regardless of the exact basis of the circuit court's ruling, we find that the record does not rebut the presumption that postconviction counsel provided reasonable assistance. Defendant's *pro se* petition alleged that appellate counsel was ineffective for failing to raise the issues on direct appeal. He alleged that, were it not for appellate counsel's ineffectiveness, "it is likely that the outcome of defendant's direct appeal proceedings would have been different." This allegation was sufficient to overcome the State's waiver argument.

¶ 26 In *People v. Williams*, 2024 IL 127304, ¶¶ 7, 20, cited by postconviction counsel in the circuit court, our supreme court found that the defendant's *pro se* allegation that appellate counsel was ineffective for failing to argue that trial counsel was ineffective for failing to raise the defendant's underlying sentencing argument was sufficient to avoid forfeiture. Here, defendant's *pro se* petition raised a similar argument and included an allegation that the outcome of defendant's direct appeal would have been different if appellate counsel had raised the claims in the petition. See *Addison*, 2023 IL 127119, ¶ 24, n.1 (observing that, while the amended petition included an assertion in the conclusion paragraph that appellate counsel was ineffective, "[t]he petition contains no explanation of *how* appellate counsel was ineffective. For instance, it is nowhere alleged that appellate counsel was ineffective for failing to raise the claims asserted in the petition.") (emphasis in original.)

¶ 27 This is not a case where postconviction counsel removed a *pro se* allegation of ineffective assistance of appellate counsel or failed to add such an allegation to avoid forfeiture, which Illinois courts have held constitutes unreasonable assistance. See, *e.g.*, *Addison*, 2023 IL 127119, ¶¶ 23-30 (postconviction counsel removed allegation of ineffective assistance of appellate counsel that was raised in *pro se* petition); *People v. Turner*, 187 Ill. 2d 406, 413 (1999) (postconviction counsel

failed to amend *pro se* petition to add allegation of ineffective assistance of appellate counsel to preserve claims); *People v. Schlosser*, 2012 IL App (1st) 092523, ¶¶ 22-26 (postconviction counsel did not amend petition to include allegation of ineffective assistance of appellate counsel and only raised the issue at a hearing on the State's motion to dismiss). Here, postconviction counsel adopted defendant's *pro se* allegations, which included allegations that appellate counsel was ineffective for failing to raise the issues in the petition on direct appeal and that the result of his direct appeal would have been different had those issues been raised. This was sufficient for an adequate presentation of defendant's claims to avoid the procedural bar of forfeiture, in line with counsel's responsibilities under Rule 651(c). See *People v. Davis*, 2022 IL App (1st) 200467, ¶¶ 75, 100 (when *pro se* petition included allegation that appellate counsel failed to raise the issues in the petition, postconviction counsel did not provide unreasonable assistance when he did not "add an express claim of appellate counsel's ineffectiveness" in an amended petition).

¶ 28 Defendant argues that postconviction counsel provided unreasonable assistance by failing to explain how appellate counsel's mistake prejudiced defendant. Defendant also asserts that postconviction counsel "abandoned" the *pro se* allegations of ineffective assistance of appellate counsel by not including them in the supplemental petition. However, as discussed above, postconviction counsel did not abandon those allegations, but expressly stated that his supplemental petition was intended to supplement, not replace, defendant's *pro se* petition. Defendant's claim that "although Williams' *pro se* petition contained a meritorious allegation that appellate counsel was ineffective for failing to raise a *Lynch*-related issue on appeal, post-conviction counsel improperly framed the allegation as an ineffective assistance of trial counsel claim, resulting in forfeiture," is contradicted by the record because counsel supplemented

defendant's *pro se* petition, which already contained an ineffective assistance of appellate counsel argument. When postconviction counsel kept defendant's *pro se* allegations of ineffective assistance of appellate counsel intact, and argued that defendant's *pro se* allegations were sufficient to avoid forfeiture, the record does not rebut the presumption that counsel provided reasonable assistance. See *Davis*, 2022 IL App (1st) 200467, ¶¶ 75, 100.

¶ 29 For the foregoing reasons, we affirm the order of the circuit court.

¶ 30 Affirmed.