

APPENDIX A

STATE COURT decision of the →
Third district Appellate Court.

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NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

No. 3-16-0545

Order filed June 27, 2018

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2018

THE PEOPLE OF THE STATE OF
ILLINOIS,

Plaintiff-Appellee,

v.

CHRISTOPHER SCOTT,

Defendant-Appellant.

) Appeal from the Circuit Court
) of the 12th Judicial Circuit,
) Will County, Illinois,
) No. 01-CF-88
)
)
) Honorable
) Carmen Goodman,
) Judge, Presiding.

JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Lytton and O'Brien concurred in the judgment.

ORDER

Held: The potential issues did not warrant continuation of the appeal. Counsel is allowed to withdraw, and the judgment is affirmed.

In 2000, the State charged the defendant, Christopher Scott, by indictment with three counts of first degree murder (720 ILCS 5/9-1(a)(2) (West 2000)), one count of armed robbery (*id.* § 18-2(a)), and one count of residential burglary (*id.* § 19-3). The three murder charges alleged that the defendant, along with his codefendants, killed Delores Bland by shooting her in the head with a firearm. Count I alleged murder under the theory that the defendant knew of a

strong probability of great bodily harm or death. Count II alleged that the defendant murdered the victim in the course of committing another felony (armed robbery). Count III alleged that the defendant killed the victim while committing another felony (residential burglary).

Following a stipulated bench trial, the circuit court found the defendant guilty of all charges. Prior to the defendant's sentencing hearing, the State noted that counts II and III of the indictment listed the incorrect statutory citation for felony murder. The State asked for leave to amend the indictment by interlineation to reflect the correct statutory citations. The defense did not object stating, "I think it was pretty clear that Count II and Count III were intended to be charged as felony murder." The circuit court allowed the State leave to amend the indictment.

At the defendant's sentencing hearing, the circuit court merged all three of the murder counts into count I (knowing murder), and sentenced the defendant to 48 years' imprisonment for murder, 21 years' imprisonment for armed robbery, and 10 years' imprisonment for residential burglary. The armed robbery and residential burglary sentences were ordered to run concurrently with each other and consecutively with the murder sentence.

The defendant appealed, and this court affirmed the defendant's convictions and sentences. *People v. Scott*, 3-04-0599 (2007) (unpublished order under Illinois Supreme Court Rule 23).

The defendant then filed numerous *pro se* collateral attacks to his convictions and sentences. Those pleadings were unsuccessful. See *People v. Scott*, 3-08-0799 (2010) (unpublished order under Illinois Supreme Court Rule 23); *People v. Scott*, 3-10-0242 (2011) (unpublished dispositional order); *People v. Scott*, 3-14-0582 (2015) (unpublished minute order); *People v. Scott*, 3-14-0738 (2016) (unpublished dispositional order); *People v. Scott*, 3-15-0240 (2017) (unpublished dispositional order).

Subsequently, the defendant filed a *pro se* successive petition for postjudgment relief pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2016)), which is the subject of this appeal. The claims made in his petition will be discussed below. The circuit court dismissed the petition on the basis that it was untimely and that the defendant either raised or could have raised his claims in previous proceedings. The defendant appeals.

The State Appellate Defender's Office was appointed to represent the defendant in this appeal. The appointed counsel has now filed a motion indicating that the instant appeal presents no issues of merit upon which the defendant could expect to obtain any relief. This motion, filed in accordance with *Pennsylvania v. Finley*, 481 U.S. 551 (1987), requests that appointed counsel be permitted to withdraw. Counsel informed the defendant of his intention to withdraw. Counsel has also sent the defendant a copy of his brief. The defendant has made a response which we have considered in our disposition.

In his *pro se* petition, the defendant claimed the judgments entered against him for felony murder (counts II and III) are void for lack of subject matter jurisdiction because the citations to the incorrect statutory subsections for the offenses means that he was not charged with felony murder by the grand jury. The defendant then argues that he was not given an arraignment, a preliminary hearing, due notice, or the legal option to plead to a charge of felony murder after the State was allowed to amend the counts to correct the statutory citations for felony murder. According to the defendant, because the "void" felony murder counts were merged into count I (knowing murder), his conviction and sentence on count I must also be vacated as void. Finally, the defendant argues that his convictions and sentences for armed robbery and residential burglary must be vacated as void because those were the predicate offenses for the felony murder charges in counts II and III.

We conclude the defendant's petition is without merit. Any purported defect in the indictment does not make any of the defendant's convictions void. The circuit court's jurisdiction is conferred by the Illinois Constitution, not by indictment. *People v. Williams*, 79 Ill. App. 3d 806, 807 (1979). The circuit court had jurisdiction to enter judgment because it had subject matter jurisdiction (*People v. Davis*, 156 Ill. 2d 149, 156 (1993)) and the defendant personally appeared before the court (*People v. Speed*, 318 Ill. App. 3d 910, 915 (2001)).

Accordingly, the citations to the wrong subsections of the statute in the original indictment for counts II and III did not deprive the circuit court of jurisdiction. See *Davis*, 156 Ill. 2d at 156.

Moreover, the defendant's claims fail on a substantive level. No judgment was entered against the defendant on counts II and III charging felony murder. The only murder charge upon which the circuit court entered judgment and sentence was count I. Count I of the indictment did not charge felony murder. Instead, count I charged the defendant with murder in that the defendant personally shot the victim knowing that his act created a strong probability of great bodily harm or death. Therefore, whether there was a defect in the original indictment for counts II and III has no effect on the judgments entered on the remaining charges.

Upon review of the record, we hold that the successive *pro se* petition for relief from judgment was properly dismissed and that there are no arguable errors to be considered on appeal. We further find that to continue with this appeal would be wholly frivolous. Accordingly, we affirm the judgment entered in the circuit court of Will County and allow the State Appellate Defender to withdraw as counsel for the defendant. See *People v. Lee*, 251 Ill. App. 3d 63 (1993).

Judgment affirmed and withdrawal motion allowed.

Appendix B

Illinois Supreme Court decision → pg-19



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
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September 26, 2018

People State of Illinois, respondent, v. Christopher Scott,
petitioner. Leave to appeal, Appellate Court, Third District.
123803

The Supreme Court today DENIED the Petition for Leave to Appeal in the above
entitled cause.

The mandate of this Court will issue to the Appellate Court on 10/31/2018.

Very truly yours,

Carolyn Toft Gosboll

Clerk of the Supreme Court