

Mr. Willie Roberson

PLAINTIFF

125158

CASE NUMBER

VS

Illinois Supreme Ct. et al.

DEFENDANT

TO: Solicitor General U.S.
Room 5614, Department of Justice
950 Pennsylvania Avenue
N.W. Washington D.C. 20530-0001
REQUEST FOR HEARING

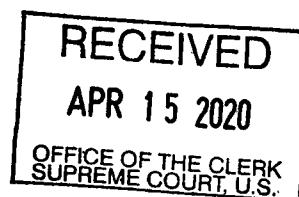
The undersigned hereby requests that the above referred case be set for hearing on the following motions:

- (A) Motion to File Out-of-time cert.
- (B) United States Rule Computation of Time 30.(i)
- (C) 28 U.S.C. 2403(b) and 28 U.S.C. 451
- (D) The Covid 19 disease, mailing privilege

Willie Roberson
signature of requesting party

cc to Attorney representing Defendant (s)

Note: a copy of this request must be mailed to the Attorney (s)
representing the Defendant (s)



which event the period shall extend until the end of the next day that is not a Saturday, Sunday, Federal legal holiday, or day on which the Court building is closed the same as Federal Rule's Criminal Procedure 5(a).

That if it please the court Plaintiff Willie Roberson, request by the court's permission to rule a timely petition not to be out-of-time, not of my due diligence for reason's of this motion for rescheduling because of holiday's, segregation for the month of December 2019 to January 6, 2020, and the limitation for 3 days a week sign up for law library attendance by order of Dixon CC Walker over programs a week in advance to study, research, and notarization of forms to be sent out.

(C) In Support of this request: pursuant to 2403(b) in any action, suit, or proceeding in a court of the United States to which a state or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that state affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the state, and shall permit the state to intervene for presentation of evidence. If evidence is otherwise admissible in the case, and for argument on the question of consti-

tutionality, the State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

(2) 28 U.S.C. 451 - The terms "district court" and "district court of the United States" means the courts constituted by chapter 5 of this title [28 U.S.C. S. 81 et. seq.]

The term "judge of the United States" etc., The term "department" means one of the executive departments enumerated in section - 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislature, or judicial branches of the government. Court of the United States. 28 U.S.C. 2101(e); that this case requires immediate determination in this Court because of such imperative public importance as to justify deviation from normal appellate practice. Supreme Court Rule of the United States 11.

Petitioner also request review because of the Covid 19 disease where President Trump extended all legal issue time to bring the system back to work of the shutdown of United States workers.

D. Under Houston v. Lack you're allowed a three day grace period from the post-marked date. The Illinois Supreme Court denied Plaintiff petition November 26, 2019. Case number 125158, in Appendix C of his writ for certiorari, whatever the post-marked date was after the date above. That November 26, 2019 was Wednesday, which was the day before Thanksgiving, holiday which no mail went out until the 28, 2019, Friday of November. That the holidays listed by the Supreme Court of the United States Rule 30(1), Computation of time are to exclude those 8 certain holidays, and the three day grace period under Houston v. Lack, is not the actual mailing date in this case where Nov. 27, 2019, was Thanksgiving day, not the date of letter for mailing November 26, 2019, that Wednesday before the holiday.

Wherefore Willie Roberson, Plaintiff ask permission of the Solicitor General of the United States to review this writ-of-certiorari for discretionary review to be decided on the merit's of the constitutionality of laws pertaining to state and federal questioning.

Date: March 27, 2020

(s) Willie Roberson

NOTICE
The text of this opinion may
be changed or corrected
prior to the time for filing of
a Petition for Rehearing or
the disposition of the same.

2019 IL App (1st) 170757

No. 1-17-0757

Opinion filed on June 25, 2019.

Second Division

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,) Appeal from the
Plaintiff-Appellee,) Circuit Court of
v.) Cook County.
WILLIE ROBERSON,)) No. 09 CR 1112
Defendant-Appellant.)) The Honorable
) Ursula Walowski,
) Judge Presiding.

PRESIDING JUSTICE LAVIN delivered the judgment of the court, with opinion.
Justices Pucinski and Hyman concurred in the judgment and opinion.

OPINION

¶ 1 Defendant Willie Roberson appeals from the circuit court's *sua sponte* dismissal of his *pro se* petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2016)). Defendant contends that the circuit court prematurely dismissed his section 2-1401 petition within 30 days after the petition was filed and the State received notice. We affirm.

¶ 2

BACKGROUND

complaint for the search warrant." *People v. Roberson*, 2013 IL App (1st) 102023-U, ¶ 2. Defendant also argued trial counsel was ineffective for not moving to suppress his statements to the police that his gun was under his mattress. *Id.* ¶¶ 2, 30. We affirmed. *Id.* ¶ 1.

¶ 8 Defendant filed a *pro se* postconviction petition, dated July 17, 2010, arguing, *inter alia*, that he gave a "coerced confession," that he was not properly Mirandized, and that his sentence constituted an abuse of discretion. In an order dated October 29, 2010, the circuit court summarily dismissed defendant's postconviction petition as "frivolous and patently without merit."

¶ 9 Subsequently, defendant filed a *pro se* section 2-1401 petition, arguing, *inter alia*, that he was not properly Mirandized and his sentence lacked statutory authority. A "Proof/Certificate of Service," which was signed by defendant and notarized on December 7, 2016, states that copies of the petition were sent to the Clerk of the Circuit Court of Cook County (Clerk) and the State's Attorney at 2650 South California Avenue in Chicago. The certificate states:

"PLEASE TAKE NOTICE that on December 7, 2016, I placed the attached or enclosed documents in the institutional mail at Dixon Correctional Center, properly addressed to the parties listed above for mailing through the United States Postal Service."

¶ 10 The record contains multiple copies of the petition. One copy has a crossed-out file stamp dated December 20, 2016, and another file stamp dated January 3, 2016, with the year "2016" corrected to "2017" by hand. A cover sheet appended to this copy, filed stamped on "January 3, 2016," states that the petition was "received in the Criminal Division in error" and forwarded to

v. *Laugharn*, 233 Ill. 2d 318, 323 (2009). Rule 106 provides that service of a section 2-1401 petition must comply with Rule 105. Ill. S. Ct. R. 106 (eff. Aug. 1, 1985). Rule 105(b) requires that notice of a petition's filing be served either by summons, prepaid certified or registered mail, or publication. Ill. S. Ct. R. 105(b) (eff. Jan. 1, 1989). Once notice has been served, the responding party must “[file] an answer or otherwise [file] an appearance in the office of the clerk of the court within 30 days.” Ill. St. Ct. R. 105(a) (eff. Jan. 1, 1989).

¶ 16 The State's failure to timely answer or otherwise plead in response to a defendant's section 2-1401 petition will result in “‘an admission of all well-pleaded facts,’” rendering the petition “‘ripe for adjudication.’” *Laugharn*, 233 Ill. 2d at 323 (quoting *Vincent*, 226 Ill. 2d at 10). At that point, the circuit court may *sua sponte* dismiss the petition and “render judgment on the pleadings alone.” *Vincent*, 226 Ill. 2d at 11-12, 14. The court can dismiss a section 2-1401 petition “despite a lack of responsive pleading if the petition is deficient as a matter of law.” *People v. Matthews*, 2016 IL 118114, ¶ 8. We review the dismissal of a section 2-1401 petition *de novo*. *Id.* ¶ 9.

¶ 17 Initially, we observe that both parties' arguments regarding the timeliness of the circuit court's *sua sponte* dismissal of defendant's section 2-1401 petition are predicated on the theory that the 30-day response period begins with the date the petition was filed. Our supreme court, however, has ruled that the 30-day response period begins on the date the State receives notice, and not the date of filing. *Matthews*, 2016 IL 118114, ¶ 8 (explaining that the 30-day responding period is derived from Rule 105, which provides that the State has 30 days to respond after receiving service); see also *People v. Carter*, 2015 IL 117709, ¶ 25 (“[W]e encourage circuit courts to ascertain and note of record the date the State was properly served, and to time any *sua sponte* rulings on pending petitions accordingly.”). That said, the record does not reflect whether

¶ 21 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 22 Affirmed.



SUPREME COURT OF ILLINOIS

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November 26, 2019

In re: People State of Illinois, respondent, v. Willie Roberson, petitioner.
Leave to appeal, Appellate Court, First District.
125158

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 12/31/2019.

Very truly yours,

A handwritten signature in cursive ink that reads "Carolyn Taft Gosboll".

Clerk of the Supreme Court

**Additional material
from this filing is
available in the
Clerk's Office.**