



SUPREME COURT OF ILLINOIS

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September 30, 2020

In re: People State of Illinois, respondent, v. Scott Peters, petitioner.
Leave to appeal, Appellate Court, Second District.
125997

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 11/04/2020.

Michael J. Burke, J., took no part.

Very truly yours,

Carolyn Taft Gosbell

Clerk of the Supreme Court

No. 2-18-0929
Summary Order filed February 19, 2020

NOTICE: This order was filed under Supreme Court Rule 23(c)(2) and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE
OF ILLINOIS,

Plaintiff-Appellee,

v.

SCOTT PETERS,

Defendant-Appellant.

) Appeal from the Circuit Court
) of McHenry County.
)
)
)

) No. 14-CF-939
)

) Honorable
) Sharon L. Prather,
) Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices Jorgensen and Burke concurred in the judgment.

SUMMARY ORDER

¶ 1 In April 2015, following a jury trial, the defendant, Scott Peters, was convicted of the attempted murder (720 ILCS 5/9-1(a)(1), (b)(1), 8-4(a) (West 2014)) of three deputy sheriffs. On June 25, 2015, the defendant was sentenced to a total of 135 years' imprisonment. On direct appeal, we affirmed the defendant's conviction and sentence. *People v. Peters*, 2018 IL App (2d) 150650.

¶ 2 On July 14, 2017, the defendant filed a petition for postjudgment relief pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2016)). In that petition, the defendant argued that he had been diligent in discovering that the State and the police had either

withheld or destroyed exculpatory evidence which would have prevented his conviction. On October 4, 2017, the trial court dismissed the defendant's petition, finding that there were no factual allegations to support his claim. On October 20, 2017, the defendant filed a notice of appeal from that order. That appeal was docketed in this court as Case No. 2-17-0857, and it is currently pending.

¶ 3 On September 24, 2018, the defendant filed a *pro se* motion for release of evidence. In that motion, the defendant moved for the release of a number of case files that he claimed would aid him in preparing any postconviction petitions that he might choose to file. On September 27, 2018, the trial court denied the motion, stating that there was no basis in the law for such a motion. On October 25, 2018, the defendant filed a notice of appeal from that order, which is the subject of the current appeal.

¶ 4 On October 26, 2018, the defendant filed another motion, again requesting the release of certain case files. On November 20, 2018, the trial court denied the motion, noting that there was no petition for postconviction relief on file. The defendant filed a motion to reconsider from that order, which the trial court denied.

¶ 5 As stated, in the present case, the defendant appeals from the denial of his September 24, 2018, motion for release of evidence. We acknowledge that there are circumstances which allow for postconviction discovery while a postconviction petition is pending. See *People v. Howery*, 2019 IL App (3d) 160603, ¶ 19. However, in the present case, there was no postconviction petition pending, and thus no basis to consider the defendant's motion as a motion for discovery as part of a postconviction proceeding. Accordingly, the defendant's motion was most appropriately viewed as a postjudgment motion.

¶ 8 Accordingly, the trial court lacked jurisdiction over the defendant's motion and we thus lack jurisdiction to reach the merits of this appeal. *Bailey*, 2014 IL 115459, ¶ 29. Under these circumstances, we have "limited" jurisdiction to consider the issue of jurisdiction below, and the appropriate course is to vacate the trial court's ruling on the motion and to dismiss the defendant's motion. *Id.*

¶ 9 For the reasons stated, we vacate the trial court's September 27, 2018, denial of the defendant's *pro se* motion for release of evidence and dismiss the defendant's September 24, 2018, motion for lack of jurisdiction.

¶ 10 Order vacated; motion dismissed.