

STATE OF ILLINOIS
SUPREME COURT

At a Term of the Supreme Court, begun and held in Springfield, on Monday, the 14th day of September, 2020.

Present: Anne M. Burke, Chief Justice

Justice Thomas L. Kilbride

Justice Rita B. Garman

Justice Lloyd A. Karmeier

Justice Mary Jane Theis

Justice P. Scott Neville, Jr.

Justice Michael J. Burke

On the 30th day of September, 2020, the Supreme Court entered the following judgment:

No. 126027

People State of Illinois,

Respondent

v.

Marlon Thomas,

Petitioner

Petition for Leave to
Appeal from
Appellate Court
First District
1-19-1727
10CR11925

The Court having considered the Petition for leave to appeal and being fully advised of the premises, the Petition for leave to appeal is DENIED.

As Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, I certify that the foregoing is a true copy of the final order entered in this case.



IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal
of said Court, this 4th day of November,
2020.

Carolyn Taft Gosbell Clerk,
Supreme Court of the State of Illinois



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

September 30, 2020

In re: People State of Illinois, respondent, v. Marlon Thomas, petitioner.
Leave to appeal, Appellate Court, First District.
126027

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.

Very truly yours,

Carolyn Taft Gosbell

Clerk of the Supreme Court



SUPREME COURT OF ILLINOIS

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CAROLYN TAFT GROSBOLL
Clerk of the Court

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October 28, 2020

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
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TDD: (312) 793-6185

Marlon Thomas
ELGIN MENTAL HEALTH CENTER
750 South State Street
Elgin, IL 60123

In re: People v. Thomas
126027

Today the following order was entered in the captioned case:

Motion by Petitioner, *pro se*, for leave to file a motion for reconsideration of the order denying petition for leave to appeal. Denied.

Order entered by the Court.

This Court's mandate shall issue in due course to the Appellate Court, First District.

Very truly yours,

Carolyn Taft Grosboll

Clerk of the Supreme Court

cc: Appellate Court, First District
Attorney General of Illinois - Criminal Division
Cook County State's Attorney, Criminal Division

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

No. 1-19-1727
Order filed April 28, 2020.

Second Division

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.)	No. 10 CR 11925
)	
MARLON THOMAS,)	The Honorable
)	Earl B. Hoffenberg,
Defendant-Appellant.)	Judge Presiding.

JUSTICE LAVIN delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Coghlan concurred in the judgment.

SUMMARY ORDER

¶ 1 Following a bench trial on March 1, 2012, defendant Marlon Thomas was found not guilty of robbery (720 ILCS 5/18-1(a) (West 2010)) by reason of insanity. He was committed to the custody of the Department of Human Services (DHS) with a maximum period of commitment ending June 18, 2025. Defendant subsequently filed several unsuccessful *pro se* petitions for discharge. See *People v. Thomas*, 2015 IL App (1st) 143244-U; *People v. Thomas*, 2017 IL App (1st) 163287-U.

¶ 2 In January 2019, defendant filed a *pro se* petition for transfer to a non-secure setting, conditional release, or discharge pursuant to section 5-2-4(e) of the Unified Code of Corrections (730 ILCS 5/5-2-4(e) (West 2018)).

¶ 3 On March 13, 2019, the trial court ordered defendant evaluated by Forensic Clinical Services. Dr. Kristin Schoenbach examined defendant on April 16, 2019. In a letter to the court dated that day, Dr. Schoenbach concluded that defendant was not currently suitable for transfer to a non-secure setting, discharge, or conditional discharge because he did not demonstrate the psychological stability required for “such a significant change” to his treatment plan.

¶ 4 At a June 26, 2019 hearing, defendant’s appointed counsel asked to withdraw the petition for transfer and made an oral request for on-grounds facility pass privileges without supervision at the discretion of DHS. The court entered an agreed order authorizing DHS to issue pass privileges allowing defendant to be on facility grounds without supervision at its discretion. The order further stated that the Elgin Mental Health Center, through Dr. Tasheen Mohammed, recommended that defendant be allowed on-grounds pass privileges. The case was continued for 90 days.

¶ 5 On July 15, 2019, defendant filed a *pro se* notice of appeal. The office of the Cook County Public Defender was appointed to represent him.

¶ 6 Appointed counsel has filed a motion for leave to withdraw as appellate counsel, citing *Pennsylvania v. Finley*, 481 U.S. 551 (1987). Counsel has submitted a memorandum in support of the motion, stating that she has reviewed the record and concluded that an appeal would be without arguable merit. Counsel notes that because defendant, through counsel, voluntarily withdrew his petition for discharge, there was no determination on the merits and no final appealable order. See *People v. Vari*, 2016 IL App (3d) 140278, ¶ 9 (quoting *People ex rel. Scott v. Silverstein*, 87 Ill.

2d 167, 171 (1981) (“ ‘A final judgment has also been defined as a judgment that ‘determines the litigation on the merits so that, if affirmed, the only thing remaining is to proceed with the execution of the judgment.’ ”)). This court therefore lacks jurisdiction and defendant’s appeal must be dismissed. See, e.g., *EMC Mortgage Corp. v. Kemp*, 2012 IL 113419, ¶ 9 (an appellate court’s jurisdiction is limited to appeals from final judgments). Copies of the motion and memorandum were sent to defendant, who was advised that he may submit any points in support of his appeal. Defendant has filed four responses.

¶ 7 In his responses, defendant contends that he was denied the effective assistance of appellate counsel because she took more than 90 days to “collect” his file and determined that his case had no merit. He further contends that he should not be “incarcerated” because he was found not guilty of robbery by reason of insanity and challenges the length of the sentence he received.

¶ 8 After carefully reviewing the record in light of counsel’s memorandum and defendant’s responses, we agree with counsel’s conclusion that this appeal must be dismissed. See *People v. Shinaul*, 2017 IL 120162, ¶ 10 (“an order which leaves the cause still pending and undecided is not a final order for purposes of appeal”). We also grant the motion of the office of the Public Defender of Cook County for leave withdraw.

¶ 9 This order is entered in accordance with Illinois Supreme Court Rule 23(c)(1) (eff. Apr. 1, 2018).

¶ 10 Affirmed.