

Appendix "A"



SUPREME COURT OF ILLINOIS

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

Kurtis Doyle Worley
Reg. No. Y13755
Danville Correctional Center
3820 E. Main Street
Danville IL 61834

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

March 30, 2022

In re: People State of Illinois, respondent, v. Kurtis D. Worley, petitioner.
Leave to appeal, Appellate Court, Second District.
128029

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 05/04/2022.

Very truly yours,

Clerk of the Supreme Court

Appendix "B"

No. 2-20-0312
Summary Order filed August 17, 2021

NOTICE: This order was filed under Supreme Court Rule 23(c)(2) and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

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| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from the Circuit Court of Du Page County. |
| Plaintiff-Appellee, |) | |
| v. |) | No. 13-CF-1534 |
| KURTIS D. WORLEY, |) | Honorable |
| Defendant-Appellant. |) | Ann Celine O. Walsh, Judge, Presiding. |

JUSTICE ZENOFF delivered the judgment of the court.
Presiding Justice Bridges and Justice Hutchinson concurred in the judgment.

SUMMARY ORDER

¶ 1 Defendant, Kurtis D. Worley, entered open pleas of guilty to first-degree murder (720 ILCS 5/9-1(a)(1) (West 2012)) and attempted first-degree murder (*id.* §§ 5/8-4, 9-1(a)(1)). The court sentenced him to consecutive prison terms of 40 and 12 years, respectively. On appeal, defendant contended that his sentences were excessive. We affirmed. *People v. Worley*, No. 2-16-0376 (2018) (unpublished summary order under Illinois Supreme Court Rule 23(c)). Defendant then petitioned *pro se* for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2018)). The trial court dismissed the petition summarily. Defendant timely appealed, and the trial court appointed the Office of the State Appellate Defender.

¶2 Per *Pennsylvania v. Finley*, 481 U.S. 551 (1987), and *People v. Lee*, 251 Ill. App. 3d 63 (1993), the appellate defender moves to withdraw as counsel. In her motion, counsel states that she read the record and found no issue of arguable merit. Counsel further states that she advised defendant of her opinion. Counsel supports her motion with a memorandum of law providing a statement of facts, a list of potential issues, and arguments why those issues lack arguable merit. We advised defendant that he had 30 days to respond to the motion. Defendant has responded.

¶3 In her memorandum of law, counsel notes that defendant moved to suppress statements that he made to the police in the hospital and immediately afterward at the police station. Defendant had undergone surgery for injuries he inflicted on himself in the same incident in which he fatally wounded his wife and seriously wounded his stepson. In his motion, defendant argued that his *Miranda* (see *Miranda v. Arizona*, 384 U.S. 436 (1966)) waiver was invalid. After an evidentiary hearing, the trial court denied the motion. In his petition, defendant contended that his counsel had been ineffective for failing to argue that his waiver was rendered involuntary by his trauma and suicidal ideation.

¶4 Counsel raises two potential issues on appeal: (1) whether the trial court's dismissal of the petition was timely; and (2) whether the dismissal was proper on the merits. Counsel concludes that neither potential issue has merit.

¶5 On the first potential issue, counsel notes that the trial court was required to rule on the petition within 90 days of its filing and docketing. See 725 ILCS 5/122-2.1(a) (West 2018). Defendant filed the postconviction petition on March 13, 2020, and the court dismissed it on April 30, 2020. Therefore, she concludes, this potential issue would be frivolous. We agree.

¶6 On the second potential issue, counsel notes that the trial court may dismiss a postconviction petition at the first stage of proceedings under the Act, if it is frivolous or patently

without merit. *Id.* § 2.1(a)(2); *People v. Edwards*, 197 Ill. 2d 239, 244 (2001). Counsel reasons that defendant's petition was frivolous for three reasons. First, by pleading guilty, defendant waived all nonjurisdictional defects or defenses, including the admissibility of his statements. See *People v. Peeples*, 155 Ill. 2d 422, 491 (1993); *People v. Stice*, 160 Ill. App. 3d 132, 138 (1987). Thus, defendant could not seek relief based on the allegedly improper admission of his statements. Second, because his claim is based entirely on the trial court record, defendant could have raised it in his direct appeal. Therefore, the claim is forfeited. See *People v. Blair*, 215 Ill. 2d 427, 443 (2005). Defendant's petition did not assert that appellate counsel was ineffective for failing to raise the ineffectiveness claim, so there is no basis to relax the forfeiture rule. See *People v. Turner*, 2012 IL App (2d) 100819, ¶ 15.

¶ 7 Finally, counsel observes, a claim that is completely contradicted by the record is frivolous. *People v. Hodges*, 234 Ill. 2d 1, 16 (2001). Here, the petition alleged that trial counsel never raised the claim that defendant's mental trauma and suicidal ideation rendered his *Miranda* waiver and subsequent statements involuntary or unknowing. But the record shows that counsel did raise this ground and argue that the defendant's postoperative medication rendered his *Miranda* waiver invalid. Moreover, the trial court relied on the same ample evidence to reject both claims.

¶ 8 In his response, defendant reiterates the argument that he made in his postconviction petition. However, he does not respond to any of counsel's three reasons for concluding that there is no nonfrivolous basis on which to appeal the dismissal of the petition. We agree with counsel that each ground shows that any appeal would be frivolous.

¶ 9 After examining the record, the motion to withdraw, the memorandum of law, and defendant's response, we agree with counsel that this appeal presents no issue of arguable merit.

Thus, we grant the motion to withdraw, and we affirm the judgment of the circuit court of Du Page County.

¶10 Affirmed.