

APPENDIX A



SUPREME COURT OF ILLINOIS

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

Donald McDonald
Reg. No. N23082
Sheridan Correctional Center
4017 E. 2603 Road
Sheridan IL 60551

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

January 25, 2023

In re: People State of Illinois, respondent, v. Donald McDonald,
petitioner. Leave to appeal, Appellate Court, First District.
129168

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 03/01/2023.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

APPENDIX B

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. 94 CR 8118
)	
DONALD McDONALD,)	Honorable
)	Diana L. Kenworthy,
Defendant-Appellant.)	Judge, presiding.

JUSTICE Gordon delivered the judgment of the court.
Presiding Justice McBride and Justice Reyes concurred in the judgment.

SUMMARY ORDER

¶ 1 Defendant Donald McDonald appeals from the circuit court's order dismissing his petition for relief from judgment filed pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West Supp. 2019)).

¶ 2 Following a 1995 jury trial, defendant was convicted of criminal sexual assault and sentenced to life imprisonment as a habitual criminal. We affirmed on direct appeal. *People v. McDonald*, No. 1-95-2669 (1996) (unpublished order under Illinois Supreme Court Rule 23).

¶ 6 On October 27, 2020, defendant filed a motion for leave to file a late notice of appeal. The Office of the State Appellate Defender, which represents defendant on appeal, filed a motion for leave to withdraw as appellate counsel, citing *Pennsylvania v. Finley*, 481 U.S. 551 (1987). On December 22, 2021, we denied counsel's motion until counsel moved in our supreme court for a supervisory order for the filing of a late notice of appeal. On January 20, 2022, our supreme court granted defendant's motion for a supervisory order and directed this court to treat his October 27, 2020, motion for leave to file a late notice of appeal as a properly perfected appeal. *McDonald v. Gordon*, No. 128059 (Ill. Jan. 20, 2022) (supervisory order).

¶ 7 Counsel has now filed another motion for leave to withdraw as appellate counsel, pursuant to *Finley*. Counsel has submitted a memorandum in support of the motion, stating that counsel has reviewed the record and concluded that an appeal would be without arguable merit. Copies of the motion and memorandum were sent to defendant, who was advised that he may submit any points in support of his appeal.

¶ 8 On May 4, 2022, defendant filed a response. He reiterates the claims from his petition, challenges the circuit court's judgment on procedural grounds, and presents other theories of relief. He further disputes counsel's conclusions that his petition is untimely and his claims are not cognizable under section 2-1401. He contends that counsel is providing unreasonable assistance by not amending his petition and is moving to withdraw due to a heavy caseload, not because his case lacks merit.

¶ 9 After carefully reviewing the record in light of counsel's motion and memorandum, and defendant's response, we agree with counsel's conclusion. Thus, the motion of the Office of the

APPENDIX C

1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF COOK)
4
5 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
6 COUNTY DEPARTMENT - CRIMINAL DIVISION
7
8 THE PEOPLE OF THE STATE OF)
9 ILLINOIS,)
10)
11 Plaintiff,)
12)
13 vs.) No. 94-CR-08118-01
14)
15 DONALD LEE McDONALD,)
16)
17 Defendant.)
18)
19)
20)
21)
22)
23)
24)

REPORT OF PROCEEDINGS had of the
above-entitled cause, before the HONORABLE LeROY K.
MARTIN, JR., one of the judges of said Court, on the
23rd day of May, A.D., 2019.

KATHY SZOTEK
Official Court Reporter
Criminal Division
CSR: #084-004657

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THE COURT: Donald McDonald.

Affirmed.

(End of proceedings.)

1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF COOK)

4 I, KATHY SZOTEK, an Official Court Reporter
5 within and for the Circuit Court of Cook County,
6 Criminal Division, do hereby certify that I have
7 reported in shorthand in the report of proceedings
8 had in the above-entitled cause; that I thereafter
9 caused the foregoing to be transcribed into
10 typewriting, which I hereby certify is a true and
11 accurate transcript of the proceedings had before the
12 Honorable LeRoy K. Martin, Jr., Judge of said court.

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21 Dated this 14th day of

22 December, 2020.

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Kathy Szotek

Official Shorthand Reporter
Circuit Court of Cook County
County Department - Criminal
Division
Certification No. 084-004657

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
5 COUNTY DEPARTMENT-CRIMINAL DIVISION

6 THE PEOPLE OF THE)
7 STATE OF ILLINOIS,)
8)
9 Plaintiff,)
10 vs.) No. 94 CR 08118-01
11)
12 DONALD LEE MCDONALD,)
13)
14 Defendant.)

15 REPORT OF PROCEEDINGS of the hearing had
16 before the HONORABLE MARY M. BROSNAHAN on the 27th day
17 of March 2020, in Chicago, Illinois.

18 APPEARANCES:

19 HON. KIMBERLY M. FOXX,
20 State's Attorney of Cook County, by
21 MR. PAUL JOYCE,
22 Assistant State's Attorney,
23 on behalf of the People.

24 Sandra Battaglia
Official Court Reporter
Criminal Division
C.S.R. #084-003168

1 THE CLERK: Room 203, Judge Kenworthy.

2 There are three arraignments and the
3 general order.

4 THE COURT: All right. As to Judge Kenworthy's
5 court call, everything there today is held over 5-1 of
6 '20.

7 (WHEREUPON the above-entitled cause
8 was continued to 5-1-20.)
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TO THE APPELLATE COURT OF ILLINOIS

(Appellate Court Number)

PEOPLE OF THE STATE OF ILLINOIS)

vs.)

(INDICTMENT NO.) 94-CR-8118

(Judge) Nicholas Ford

Donald Lee McDonald, Sr)

LATE NOTICE OF APPEAL

An appeal is taken from the order or judgment described below::

- (1) APPELLANT'S NAME: Donald Lee McDonald, Sr
- (2) APPELLANT'S ADDRESS: P.O. Box 112, Joliet, IL 60434
- (3) APPELLANT'S ATTORNEY: PRO SE
ADDRESS: N/A
- (4) OFFENSE: Criminal Sexual Assault
- (5) JUDGMENT: Guilty PLEA/FINDING/VERDICT
- (6) DATE OF JUDGMENT OF SENTENCE: June 30, 2020
- (7) SENTENCE: Natural life
- (8) STATE WHY YOU BELIEVE YOUR APPEAL HAS MERIT: This Court's decision in People v. Bass N.E. 3d (2019) 2019 IL App. (1st) 160640.
- (9) STATE WHY YOUR FAILURE TO FILE A NOTICE OF APPEAL WITHIN 30 DAYS WAS NOT DUE TO YOUR CULPABLE NEGLIGENCE: The Circuit Court failed to inform me of there decision or answer status request due to Covid-19

WHEREFORE, appellant prays the Court to grant the late notice of appeal, pursuant to Supreme Court Rule 606(c).

Donald L. McDonald, Sr
APPELLANT