No. 2-21-0035
Summary Order filed January 13, 2022

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)(l).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Winnebago County.
Plaintiff-Appellee,	)	
v.	)	No. 02-CF-2206
DEMETRIOUS L. BLAYLOCK,	)	Honorable Randy Wilt,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices Hudson and Birkett concurred in the judgment.

SUMMARY ORDER

¶ 1 Defendant, Demetrious L. Blaylock, appeals from the denial of his motion for leave to file a successive petition under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1(f) (West 2020)). Because defendant did not establish prejudice as required by section 122-1(f) of the Act, we affirm.

¶ 2 Defendant filed a motion for leave to file a successive postconviction petition. See 725 ILCS 5/122-1(f) (West 2020). In his proposed petition, he asserted an as-applied eighth-amendment challenge to his 45-year prison sentence for first-degree murder (720 ILCS 5/9-1(a)(2) (West 2002)). He alleged that he was 23 years old when he committed the crime and that, under

by demonstrating that the claim not raised so infected the trial that the resulting conviction or sentence violated due process. 725 ILCS 5/122-1(f) (West 2020).

¶ 5 The cause-and-prejudice test is a higher standard than that applied to a first-stage dismissal of an initial petition. People v. Smith, 2014 IL 115946, ¶ 35. A defendant must make a prima facie showing of both cause and prejudice. People v. Bailey, 2017 IL 121450, ¶ 24. We review de novo a trial court's denial of leave to file a successive petition. People v. LaPointe, 2018 IL App (2d) 160903, ¶ 33.

¶ 6 We turn to our recent decisions on Miller's applicability to young adults. In People v. Mauricio, 2021 IL App (2d) 190619, the defendant, who was 20 years old when he committed first-degree murder, argued on direct appeal that his 55-year prison sentence violated the eighth amendment as applied to him. Mauricio, 2021 IL App (2d) 190619, ¶ 14. Specifically, he asserted that recent changes to statutes and case law supported his position that a young adult could challenge his sentence under Miller. Mauricio, 2021 IL App (2d) 190619, ¶ 17.

¶ 7 After discussing Miller and our supreme court's application of its principles to juvenile defendants (see People v. Holman, 2017 IL 120655, ¶ 40 (applying Miller principles to a juvenile defendant sentenced to a discretionary life term); see also People v. Buffer, 2019 IL 122327, ¶ 41 (holding that a prison sentence longer than 40 years for a juvenile is a de facto life sentence under Miller)), we noted that our supreme court had never extended Miller to a defendant over 18 years old. Mauricio, 2021 IL App (2d) 190619, ¶ 19. We added that, in People v. Harris, 2018 IL 121932, our supreme court noted that Miller drew a clear line between those defendants who were under 18 when they offended and those who were 18 and older. Mauricio, 2021 IL App (2d) 190619, ¶ 20 (citing People v. Harris, 2018 IL 121932, ¶¶ 58, 60-61). (The court in Harris rejected a Miller-based facial challenge; the defendant there "[did] not rely on his particular circumstances

IL App (3d) 170705, ¶ 13). We then noted that our decisions had consistently rejected the proposition that courts might selectively apply Miller to young adults; we declined the defendant's invitation to depart from that established position Mauricio, 2021 IL App (2d) 190619, ¶ 23 (citing Kulpin, 2021 IL App (2d) 180696, ¶ 62 (declining to apply Miller to 20-year-old defendant); People v. Anderson, 2021 IL App (2d) 191001, ¶ 25 (same as to 21-year-old defendant); People v. Suggs, 2020 IL App (2d) 170632, ¶ 35 (23-year-old defendant); People v. Hoover, 2019 IL App (2d) 170070, ¶¶ 37-39) (22-year-old defendant)). Thus, we held that, because the defendant was 20 years old when he committed his offense, he could not raise an as-applied challenge under Miller to his sentence. Mauricio, 2021 IL App (2d) 190619, ¶ 24.

¶ 10 Adhering to the reasoning of our prior decisions, we hold that defendant, who was 23 years old when he committed first-degree murder, cannot use an as-applied eighth-amendment challenge under Miller to contest his 45-year prison sentence. Accordingly, he cannot show that he was prejudiced as required by section 122-1(f) of the Act.[1] Thus, the trial court properly denied his motion for leave to file a successive postconviction petition.

¶ 11 We affirm the judgment of the circuit court of Winnebago County.

¶ 12 Affirmed.

[1] Because we hold that defendant did not establish prejudice, we need not decide whether he established cause.

Document: People v. Blaylock, 2023 Ill. LEXIS 539

People v. Blaylock, 2023 Ill. LEXIS 539

Supreme Court of Illinois

September 27, 2023, Decided

128146

Reporter

2023 Ill. LEXIS 539 * | 2023 WL 6446433

People State of Illinois, respondent, v. Demetriaus L. Blaylock, petitioner.

Notice: DECISION WITHOUT PUBLISHED OPINION

Prior History: **[*1]** Leave to appeal, Appellate Court, Second District. 2-21-0035.

Opinion

Petition for Leave to Appeal Denied.

Content Type: Cases

Terms: people v. blaylock

Narrow By: Sources: Illinois State Cases, Combined

Date and Time: Dec 18, 2023 01:09:42 p.m. EST

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SUMMARY ORDER

¶ 1 Defendant, Demetrious L. Blaylock, appeals from the denial of his motion for leave to file a successive petition under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1(f) (West 2020)). Because defendant did not establish prejudice as required by section 122-1(f) of the Act, we affirm.

¶ 2 Defendant filed a motion for leave to file a successive postconviction petition. See 725 ILCS 5/122-1(f) (West 2020). In his proposed petition, he asserted an as-applied eighth-amendment challenge to his 45-year prison sentence for first-degree murder (720 ILCS 5/9-1(a)(2) (West 2002)). He alleged that he was 23 years old when he committed the crime and that, under

the principles of Miller v. Alabama, 567 U.S. 460 (2012), which had not been decided when he was sentenced, he should be resentenced so that the trial court can properly consider the Miller principles as they apply to him. The trial court found that defendant had established cause for not raising such a claim in a prior postconviction petition but had failed to establish prejudice. Accordingly, the court denied the motion for leave to file a successive petition. Defendant filed this timely appeal.

¶ 3 On appeal, defendant contends that, although he was over the age of 18 when he committed the offense, he should be allowed to raise, in a successive postconviction petition, an as-applied eighth-amendment challenge to his sentence. We have recently and repeatedly rejected such an argument, and we adhere to those decisions in holding that defendant has not established prejudice as required by section 122-1(f) of the Act.

¶ 4 The Act provides a procedure by which a defendant may assert that his conviction was based on a substantial denial of his rights under either the federal or state constitutions. 725 ILCS 5/122-1(a)(1) (West 2020). However, the Act contemplates the filing of a single petition, providing: "Any claim of substantial denial of constitutional rights not raised in the original or an amended petition is waived" (725 ILCS 5/122-3 (West 2020)). See People v. Coleman, 2013 IL 113307, ¶ 81. Because successive petitions impede the finality of criminal litigation, the statutory bar to multiple petitions will be relaxed only when fundamental fairness so requires. People v. Holman, 2017 IL 120655, ¶ 25. Specifically, section 122-1(f) of the Act provides that a defendant must obtain leave of court to file a successive petition, and then only after establishing cause for failing to bring the claim in his initial petition and prejudice resulting from that failure. 725 ILCS 5/122-1(f) (West 2020). A defendant shows cause by identifying an objective factor that impeded his ability to raise a specific claim during the initial postconviction proceeding and shows prejudice

by demonstrating that the claim not raised so infected the trial that the resulting conviction or sentence violated due process. 725 ILCS 5/122-1(f) (West 2020).

¶ 5 The cause-and-prejudice test is a higher standard than that applied to a first-stage dismissal of an initial petition. People v. Smith, 2014 IL 115946, ¶ 35. A defendant must make a prima facie showing of both cause and prejudice. People v. Bailey, 2017 IL 121450, ¶ 24. We review de novo a trial court's denial of leave to file a successive petition. People v. LaPointe, 2018 IL App (2d) 160903, ¶ 33.

¶ 6 We turn to our recent decisions on Miller's applicability to young adults. In People v. Mauricio, 2021 IL App (2d) 190619, the defendant, who was 20 years old when he committed first-degree murder, argued on direct appeal that his 55-year prison sentence violated the eighth amendment as applied to him. Mauricio, 2021 IL App (2d) 190619, ¶ 14. Specifically, he asserted that recent changes to statutes and case law supported his position that a young adult could challenge his sentence under Miller. Mauricio, 2021 IL App (2d) 190619, ¶ 17.

¶ 7 After discussing Miller and our supreme court's application of its principles to juvenile defendants (see People v. Holman, 2017 IL 120655, ¶ 40 (applying Miller principles to a juvenile defendant sentenced to a discretionary life term); see also People v. Buffer, 2019 IL 122327, ¶ 41 (holding that a prison sentence longer than 40 years for a juvenile is a de facto life sentence under Miller)), we noted that our supreme court had never extended Miller to a defendant over 18 years old. Mauricio, 2021 IL App (2d) 190619, ¶ 19. We added that, in People v. Harris, 2018 IL 121932, our supreme court noted that Miller drew a clear line between those defendants who were under 18 when they offended and those who were 18 and older. Mauricio, 2021 IL App (2d) 190619, ¶ 20 (citing People v. Harris, 2018 IL 121932, ¶¶ 58, 60-61). (The court in Harris rejected a Miller-based facial challenge; the defendant there "[did] not rely on his particular circumstances

in challenging his sentence under the eighth amendment but, rather, contend[ed] that the eighth amendment protection for juveniles recognized in Miller should be extended to all young adults under the age of 21." Harris, 2018 IL 121932, ¶ 53.) We further emphasized that we have explicitly and repeatedly held that Miller created a bright-line rule limiting its holding to those who were under 18 when they offended (Mauricio, 2021 IL App (2d) 190619, ¶ 20 (citing People v. Hoover, 2019 IL App (2d) 170070, ¶ 30)) and that Miller simply does not apply to a life sentence imposed on a defendant who was at least 18 when he committed his offense (Mauricio, 2021 IL App (2d) 190619, ¶ 20 (citing People v. LaPointe, 2018 IL App (2d) 160903, ¶ 47)).

¶ 8 We further rejected the defendant's argument—the same one made by defendant here—that we should apply Miller to young adults because new research on brain development in young adults has led to recent statutory changes to the Uniform Code of Corrections wherein the legislature established a parole review for offenders who committed crimes before the age of 21 (730 ILCS 5/5-4.5-115(b) (West 2020)). Mauricio, 2021 IL App (2d) 190619, ¶ 21. In doing so, we reiterated our comment in People v. Kulpin, 2021 IL App (2d) 180696, that it is the function of the legislature, not the courts, to extend Miller to defendants 18 or older. Mauricio, 2021 IL App (2d)) 190619, ¶ 21 (citing Kulpin, 2021 IL App (2d) 180696, ¶ 62). We added that, because new research is not a new rule of law, we would not apply Miller to the defendant's sentence. Mauricio, 2021 IL App (2d) 190619, ¶ 21.

¶ 9 Also, like defendant here, the defendant in Mauricio contended that, in Harris, our supreme court left open the possibility that a defendant 18 or older could raise an as-applied challenge under Miller. Mauricio, 2021 IL App (2d) 190619, ¶ 22. In rejecting that argument, we quoted the Third District's comment that Harris "merely 'suggested that an as-applied challenge under Miller had not been foreclosed.' " Mauricio, 2021 IL App (2d) 190619, ¶ 23 (quoting People v. Bland, 2020