

APPENDIX

Exhibit A; (Trial Court's order) pages 1-4.

Exhibit B; (Appellate Counsel's Finley motion) pages 1-20.

Exhibit C; (Appellate Court's Summary order) pages 1-6.

Exhibit D; (Supreme Court's order) 1-page.

Exhibit E; (Copy of Indictment) E-1 and E-2.

Exhibit F; (Copy of Jury Instructions) F-1 to F-3.

Exhibit G; (Copy of an example, of Jury Instruction 28.06, Enhancement Instruction) 1-page.

Exhibit H; (Copy of Jury's verdict form) 1-page.

**SUPREME COURT OF ILLINOIS**

SUPREME COURT BUILDING

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March 27, 2024

In re: People State of Illinois, respondent, v. Aramian Scott, petitioner.
Leave to appeal, Appellate Court, First District.
130390

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 05/01/2024.

Rochford, J., took no part.

Very truly yours,

A handwritten signature in cursive ink that reads "Cynthia A. Grant".

Clerk of the Supreme Court

No. 1-23-0699

Order filed September 28, 2023

Fourth 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.

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,

) Appeal from the

Plaintiff-Appellee,

) Circuit Court of

v.

) Cook County.

)

ARAMIAN SCOTT,

) No. 02 CR 28234

Defendant-Appellant.

)

) Honorable

) Vincent M. Gaughan,

) Judge, presiding.

JUSTICE HOFFMAN delivered the judgment of the court.

Presiding Justice Rochford and Justice Martin concurred in the judgment.

SUMMARY ORDER

¶ 1 Defendant Aramian Scott appeals from the circuit court's denial of a *pro se* "Motion for Leave to File a Petition for Writ of *Mandamus*."

¶ 2 Following a 2005 jury trial, defendant was found guilty of first degree murder. The trial court imposed a 46-year sentence, consisting of 21 years for first degree murder and a 25-year enhancement because defendant used a firearm during the offense. We affirmed on direct appeal. See *People v. Scott*, No. 1-05-2057 (2007) (unpublished order under Supreme Court Rule 23).

¶3 Defendant thereafter filed several unsuccessful collateral attacks on his conviction and sentence. See *People v. Scott*, No. 1-09-0191 (2010) (unpublished order under Supreme Court Rule 23); *People v. Scott*, No. 1-14-2713 (2016) (unpublished summary order under Supreme Court Rule 23(c)) (rejecting defendant's challenge to the firearm enhancement); *People v. Scott*, No. 1-19-1499 (2021) (unpublished summary order under Supreme Court Rule 23(c)) (rejecting defendant's challenge to the firearm enhancement).

¶4 On May 2, 2022, defendant filed a *pro se* “Motion for Leave to File a Petition for Writ of *Mandamus*” alleging that the 25-year firearm enhancement was improper because it was not included in the indictment and submitted to the jury, and defendant did not receive written notification of the enhancement prior to trial.

¶5 On October 3, 2022, the circuit court denied defendant relief noting, relevant here, that defendant failed to establish a “clear right to relief” because the sentencing enhancement was properly applied. Moreover, his claim was barred by *res judicata* as he had raised it in prior collateral proceedings.

¶6 On April 19, 2023, defendant's *pro se* motion for leave to file a late notice of appeal was filed in this court. The motion, which was notarized on February 23, 2023, is signed by defendant and includes a certification pursuant to section 1-109 of the Code of Civil Procedure (Code) (735 ILCS 5/1-109 (West 2022)), that “everything” in the motion was true and accurate. The record does not include a certificate of service with a certification pursuant to section 1-109. *Id.* (certification must be made “under penalty of perjury” using verbiage provided in the statute). On April 21, 2023, this court granted defendant leave to file a late notice of appeal.

¶ 7 The office of the Cook County Public Defender, which represents defendant on appeal, 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 counsel has reviewed the record and concluded that an appeal would be without arguable merit. We summarize the issues and legal authority counsel considered in reaching this conclusion.

¶ 8 Counsel first rejected a jurisdictional challenge where the circuit court had authority to hear complaints for *mandamus* and defendant consented to the court's jurisdiction when he filed the *pro se* "Motion for Leave to File a Petition for Writ of *Mandamus*." See, e.g., *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334 (2002) (Illinois circuit courts are courts of general jurisdiction); *People v. Raczkowski*, 359 Ill. App. 3d 494, 497 (2005) (the circuit court obtains personal jurisdiction over a defendant when he appears before the court).

¶ 9 Counsel also discounted a challenge to the denial of *mandamus* relief. Counsel notes that because defendant challenged the 25-year firearm enhancement in prior collateral proceedings, his current claim is barred by *res judicata*. See *People v. Blair*, 215 Ill. 2d 427, 443 (2005) (issues that have been decided by a reviewing court are barred by *res judicata* in future proceedings). Counsel further concludes that because the enhancement was properly applied, defendant has failed to establish either a clear right to relief or a lack of other remedies. See *People ex rel. Alvarez v. Howard*, 2016 IL 120729, ¶ 12 (*mandamus* relief will be granted "only if" a defendant "establishes a clear right to the relief requested, a clear duty of the public official to act, and clear authority in the public official to comply with the act," and the absence of other remedies).

¶ 10 Counsel next asserts that because defendant's argument fails on the facts and the law, the circuit court acted properly when it did not prompt defendant to amend the *pro se* "Motion for

Leave to File a Petition for Writ of *Mandamus*” to state a different cause of action. See 735 ILCS 5/14-109 (West 2022) (the circuit court “shall permit the pleadings to be amended” when a party has pled or established facts that entitle the party to relief, but that party “sought the wrong remedy”).

¶ 11 Counsel finally discounts a procedural challenge to the circuit court’s denial of *mandamus* relief. Counsel notes that although the record does not contain summons to the State and the circuit court, these parties were served by mail with the *pro se* “Motion for Leave to File a Petition for Writ of *Mandamus*.” Further, the court and the State discussed the filing in the report of proceedings and an assistant State’s attorney was present when the circuit court denied defendant relief. See 735 ILCS 5/14-103 (West 2022). Moreover, the circuit court has the authority to dismiss a frivolous *mandamus* complaint, and, here, the filing’s factual allegations were rebutted by the record. See *Owens v. Snyder*, 349 Ill. App. 3d 35, 44-45 (2004).

¶ 12 Counsel mailed copies of counsel’s motion and memorandum to defendant. This court informed defendant that he may file with this court a written explanation of why he thinks there are meritorious issues in his appeal. Defendant has filed a response.

¶ 13 In his response, defendant asserts that the trial court lacked jurisdiction because the sentencing enhancement was unconstitutional at the time of his trial. He further notes that he raised this argument in a prior proceeding, and argues that the enhancement was unconstitutionally imposed because the trial court, rather than the jury, found that he personally discharged a firearm which proximately caused the victim’s death.

¶ 14 After carefully reviewing the record in light of counsel’s memorandum and defendant’s response, we find that this court lacks jurisdiction to consider this appeal. Because defendant filed

a “Motion for Leave to File a Petition for Writ of *Mandamus*,” Illinois Supreme Court Rule 303 regarding civil appeals governs. Ill. S. Ct. R. 303 (eff. July 1, 2017); See *Rodriguez v. Illinois Prisoner Review Board*, 376 Ill. App. 3d 429, 433 (2007) (“*Mandamus* is an extraordinary civil remedy that will be granted to enforce, as a matter of right, the performance of official nondiscretionary duties by a public officer.”); see also *Quinn v. Board of Election Commissioners for City of Chicago Electoral Board*, 2019 IL App (1st) 190189, ¶ 42. Pursuant to Rule 303, a defendant must file an appeal within 30 days of judgment, but a reviewing court may permit a late notice of appeal if that notice is filed “within 30 days after expiration of the time for filing a notice of appeal.” Ill. S. Ct. R. 303(d) (eff. July 1, 2017).

¶ 15 Thus, here, defendant had to mail the *pro se* motion for leave to file a late notice of appeal within 60 days of the circuit court’s October 3, 2022, order. However, the record does not contain a proof of service for the motion which includes certification pursuant to section 1-109 of the Code (735 ILCS 5/1-109 (West 2022) (certification must be made “under penalty of perjury” using verbiage provided in the statute)). Rather, the record merely establishes that the motion was filed in this court on April 19, 2023, a little more than six months after entry of the circuit court’s order. Therefore, this court lacks jurisdiction to consider this appeal, and the order permitting the late notice of appeal was improvidently granted. See *People v. Lyles*, 217 Ill. 2d 210, 220 (2005) (“the appellate court must enforce the [supreme court] rules as written”).

¶ 16 Accordingly, the motion of the office of the Cook County Public Defender for leave to withdraw as counsel is allowed, our order of April 21, 2023, permitting leave to file a late notice of appeal is vacated, and the appeal is dismissed. We note, however, that defendant may still seek

from the supreme court a supervisory order permitting a late notice of appeal. See Ill. S. Ct. R. 383 (eff. July 1, 2017).

¶ 17 This order is entered in accordance with Supreme Court Rule 23(c)(1) (eff. Feb. 1, 2023).

¶ 18 Appeal dismissed.

Argued: 11-05-2024-9406
Decided: 06-13-2024
Appeal from: IL

2024 IL 12345678

Argued: 06-13-2024-9406
Decided: 06-13-2024
Appeal from: IL

Argued: 06-13-2024-9406
Decided: 06-13-2024
Appeal from: IL

Argued: 06-13-2024-9406
Decided: 06-13-2024
Appeal from: IL

SIGNED AND FILED

THURSDAY, JUNE 13, 2024

ILLINOIS SUPREME COURT

**Additional material
from this filing is
available in the
Clerk's Office.**