

NOTICE

This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2024 IL App (4th) 231533-U

NO. 4-23-1533

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

December 31, 2024

Carla Bender

4th District Appellate

Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

WILLIE J. HARRISON,

Defendant-Appellant.

)

)

)

)

)

)

)

)

Appeal from the

Circuit Court of

Winnebago County

No. 09CF791

Honorable

Robert R. Wilt,

Judge Presiding.

JUSTICE LANNERD delivered the judgment of the court.

Presiding Justice Cavanagh and Justice Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court granted the Office of the State Appellate Defender's motion to withdraw as counsel and affirmed the trial court's judgment, as the court correctly dismissed defendant's discovery motion for lack of subject matter jurisdiction.

¶ 2 Eleven years after he was sentenced, defendant, Willie J. Harrison, filed a motion for a subpoena. The trial court dismissed the discovery motion for lack of subject matter jurisdiction. This court appointed the Office of the State Appellate Defender (OSAD) to represent defendant. OSAD moves to withdraw as counsel, asserting the court correctly dismissed the motion for lack of subject matter jurisdiction. We grant OSAD's motion and affirm the court's order dismissing the discovery motion for lack of subject matter jurisdiction.

¶ 3

I. BACKGROUND

¶ 4

In March 2009, defendant lived in an apartment with, among others, Jermaine Rogers. On March 14, 2009, during an early morning altercation with Rogers, defendant stabbed

him. Rogers died from these wounds. Defendant was subsequently charged with four counts of first degree murder (720 ILCS 5/9-1(a)(1), (a)(2) (West 2008)). Defendant argued at trial he killed Rogers with a steak knife in self-defense. The evidence, including testimony from the doctor who performed the autopsy, revealed Rogers died because defendant stabbed him in the back. The trial court found defendant guilty of all four counts.

¶ 5 During posttrial proceedings, defendant asked to have Rogers's body exhumed. Defendant claimed he did not stab Rogers in the back but, rather, stabbed him in the chest, with the steak knife piercing his back. Defendant contended the records from SwedishAmerican Hospital, where Rogers's body was transferred immediately after he was killed, showed Rogers was stabbed in the chest. Defense counsel, who obtained these records, told the trial court he showed them to defendant, and they revealed Rogers was stabbed in the back. The court denied defendant's request to exhume the body. The four counts of first degree murder merged, and defendant was sentenced to 40 years in prison on July 27, 2012. Defendant filed a timely motion to reconsider the sentence, which the court denied. Defendant appealed.

¶ 6 On appeal, defendant argued his sentence was excessive and had to be reduced. The appellate court affirmed. *People v. Harrison*, 2023 IL App (2d) 120827-U.

¶ 7 While defendant's direct appeal was pending, he (1) petitioned *pro se* for postconviction relief under the Post-Conviction Hearing Act (Act) (see 725 ILCS 5/122-1 *et seq.* (West 2012)) and (2) moved *pro se* for leave to file a successive postconviction petition (see *id.* § 122-1(f)). First, in his initial postconviction petition, defendant alleged his trial counsel was ineffective for failing to support the claim of self-defense with evidence indicating Rogers was stabbed in the chest, not the back. The trial court summarily dismissed the petition (see *id.* § 122-2.1(a)(2)). Defendant did not appeal.

¶ 8 Second, in the postconviction petition attached to the *pro se* motion for leave to file a successive postconviction petition, defendant claimed he was mentally unfit during trial and did not knowingly waive his right to a jury trial, and he asserted his actual innocence. The trial court denied defendant leave to file a successive postconviction petition, and defendant appealed. OSAD was appointed as appellate counsel; OSAD moved to withdraw; and the appellate court granted OSAD's motion, affirming the trial court's denial of leave to file the successive postconviction petition. *People v. Harrison*, No. 2-13-0349 (2014) (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 9 After defendant's direct appeal was resolved, he moved for leave to file a second successive postconviction petition (see 725 ILCS 5/122-1(f) (West 2016)). In the postconviction petition attached to this motion, defendant asserted his actual innocence and claimed OSAD denied his right to appeal by moving to withdraw, trial and appellate counsels denied him the effective assistance of counsel by failing to raise his fitness to stand trial, and the trial court denied him due process in adjudicating his postconviction petitions. The court denied defendant leave to file the second successive postconviction petition. Defendant appealed. OSAD was appointed to represent defendant. Thereafter, OSAD moved to withdraw. The appellate court granted OSAD's motion, affirming the trial court's denial of leave to file the second successive postconviction petition. *People v. Harrison*, No. 2-17-0610 (2019) (unpublished summary order under Illinois Supreme Court Rule 23(c)).

¶ 10 Thereafter, defendant moved *pro se* for a subpoena to obtain Rogers's medical records. Defendant argued the medical records would show Rogers was stabbed in the chest, not in the back. The trial court denied the motion, noting "[t]here's not [a] basis for the issuance of the subpoena" because "there's nothing pending before the Court." Defendant did not appeal.

¶ 11 Defendant then moved *pro se* for resentencing. At a hearing on the motion, the State argued (1) the trial court lacked jurisdiction over the motion and (2) defendant lacked standing to seek resentencing under section 122-9 of the Act (725 ILCS 5/122-9 (West 2024)). The court dismissed the motion, finding it lacked jurisdiction. On appeal, OSAD moved to withdraw. We granted that motion and affirmed the trial court's dismissal. *People v. Harrison*, 2023 IL App (4th) 220371-U.

¶ 12 Relevant to this appeal, on September 11, 2023, approximately 11 years after he was sentenced, defendant moved *pro se* for a subpoena to obtain Rogers's medical records and information related thereto. Defendant claimed the medical records from SwedishAmerican Hospital would show, in contrast to the autopsy report, he stabbed Rogers in the chest, not the back. Defendant contended the State and coroner's office lied about what the records presented at trial reflected to obtain defendant's conviction of first degree murder and his trial counsel, who conspired with the State and coroner's office, was ineffective for failing to investigate these claims. At a hearing on the motion, which defendant did not attend, the State argued the trial court lacked jurisdiction over the motion. The court dismissed the motion for lack of jurisdiction.

¶ 13 This timely appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, OSAD moves to withdraw. Counsel for OSAD asserts he (1) read the record on appeal, (2) reviewed the facts and applicable law, and (3) discussed the case with another attorney. OSAD concludes an appeal in this case would be without arguable merit. This court gave defendant the opportunity to respond to the motion. Defendant filed a response.

¶ 16 OSAD submits the trial court lacked subject matter jurisdiction over the September 11, 2023, *pro se* motion for a subpoena. Defendant asserts his motion should be liberally construed

such that the court should have exercised subject matter jurisdiction over it and not dismiss it on a “ ‘technicalit[y].’ ” Whether the trial court lacked subject matter jurisdiction over defendant’s motion for a subpoena is an issue over which we have jurisdiction. *People v. Bailey*, 2014 IL 115459, ¶ 29. We review *de novo* whether the trial court had subject matter jurisdiction. See *People v. Abdullah*, 2019 IL 123492, ¶ 18. We conclude the trial court lacked subject matter jurisdiction over defendant’s motion for a subpoena.

¶ 17 “To enter a valid judgment, a court must have both jurisdiction over the subject matter and jurisdiction over the parties.” *BAC Home Loans Servicing, LP v. Mitchell*, 2014 IL 116311, ¶ 17. Here, at issue is whether the trial court had subject matter jurisdiction over defendant’s motion for a subpoena.

¶ 18 “ ‘[S]ubject matter jurisdiction’ refers to the power of a court to hear and determine cases of the general class to which the proceeding in question belongs.” *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334 (2002). Trial courts in Illinois are courts of general jurisdiction, having original subject matter jurisdiction over all justiciable matters with a few limited exceptions inapplicable here. Ill. Const. 1970, art. VI, § 9.

¶ 19 That said, a trial court’s subject matter over a case is not indefinite. *People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 40 (2011). If no postjudgment motions are filed, a trial court is generally divested of subject matter jurisdiction 30 days after entry of a final judgment. *Bailey*, 2014 IL 115459, ¶ 14. If a postjudgment motion is filed after the final judgment is entered, the trial court’s jurisdiction expires 30 days after the order disposing of the postjudgment motion. *Brigando v. Republic Steel Corp.*, 180 Ill. App. 3d 1016, 1020 (1989). “In a criminal case, the final judgment is the sentence.” *People v. Vara*, 2018 IL 121823, ¶ 14.

¶ 20 Here, the final judgment in defendant’s case was entered on July 27, 2012, when

defendant was sentenced. Three days later, on July 30, 2012, defendant filed a timely motion to reconsider the sentence, the trial court denied it, and defendant filed a timely notice of appeal. See Ill. S. Ct. R. 606(b) (eff. Mar. 20, 2009). When the notice of appeal was filed, the trial court was divested of jurisdiction over the case. *People v. Bounds*, 182 Ill. 2d 1, 3 (1998). Thus, the court lacked jurisdiction to consider the motion for a subpoena defendant filed 11 years after July 30, 2012. See *People v. Hart*, 194 Ill. App. 3d 997, 1000 (1990) (recognizing subpoenas for documents in criminal cases are issued for *pending* litigation).

¶ 21 That said, as OSAD recognizes, we find any argument the trial court could exercise jurisdiction over the motion for a subpoena to be without merit because the motion could not be characterized as another type of action. For example, defendant's motion for a subpoena cannot be construed as a statutory collateral action, such as a postconviction petition (725 ILCS 5/122-1 *et seq.* (West 2022)) or petition for relief from judgment under section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2022)). See *People v. Mingo*, 403 Ill. App. 3d 968, 970-71 (2010). Defendant's motion for a subpoena did not invoke the Act and was not presented as a postconviction petition. Thus, the trial court was not required to construe it as such. See 725 ILCS 5/122-1(d) (West 2022); *People v. Helgesen*, 347 Ill. App. 3d 672, 676 (2004). Likewise, even if the court could construe the motion for a subpoena as a petition for relief from judgment, which we find doubtful at best, it was also untimely, as section 2-1401 of the Code would have required defendant to bring his claims within two years of July 2012. 735 ILCS 5/2-1401(c) (West 2022). Similarly, defendant's motion for a subpoena cannot be construed as a petition for (1) *habeus corpus* (735 ILCS 5/10-102 (West 2022)), (2) new testing of physical evidence (725 ILCS 5/116-3 (West 2022)), or (3) mandamus (*id.* § 14-101 *et seq.*). Defendant's motion sought a court order for access to discovery material, which does not fall under any of these provisions.

¶ 22 Moreover, as OSAD acknowledges, the trial court did not obtain jurisdiction through revestment.

“[F]or the revestment doctrine to apply, *both* parties must: (1) actively participate in the proceedings; (2) fail to object to the untimeliness of the late filing; *and* (3) assert positions that make the proceedings inconsistent with the merits of the prior judgment and support the setting aside of at least part of that judgment. If any one of those requirements remains unmet, the doctrine does not revest the court with jurisdiction.” (Emphases in original.) *Bailey*, 2014 IL 115459, ¶ 25.

Given the State’s objection to the untimeliness of the motion, the court was not revested with jurisdiction. *Id.* Even if, *arguendo*, the court *may* have violated defendant’s due process rights by dismissing the motion for a subpoena at this hearing where defendant was absent (see *People v. Pingelton*, 2022 IL 127680, ¶ 46), any error was harmless because, lacking jurisdiction, the court could only dismiss or strike defendant’s motion (see *People v. Flowers*, 208 Ill. 2d 291, 306 (2003)).

¶ 23 As noted, defendant argues the trial court should have liberally construed his motion for a subpoena as an action over which the court could exercise jurisdiction. We find defendant’s contention unpersuasive. Lack of jurisdiction is not, as defendant characterizes it, a “ ‘technicality’ ” the trial court can overlook. See *id.* at 303 (“Lack of subject matter jurisdiction is not subject to waiver [citation] and cannot be cured through consent of the parties [citation].”).

¶ 24 We determine the trial court properly dismissed defendant’s motion for a subpoena for lack of subject matter jurisdiction. Because the issue before us is limited to whether the trial court had subject matter jurisdiction, and we have found it did not, we grant OSAD’s motion to withdraw. See *id.* at 307 (stating when a trial court lacks subject matter jurisdiction, only matter

properly before the appellate court is the trial court's lack of jurisdiction).

¶ 25

III. CONCLUSION

¶ 26 For the reasons stated, we grant OSAD's motion to withdraw and affirm the trial court's judgment.

¶ 27 Affirmed.