

No. 1-09-2530

FIFTH DIVISION
February 10, 2011

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 99 CR 1273
)	
CHRISTOPHER HOLLY,)	Honorable
)	James M. Obbish,
Defendant-Appellant.)	Judge Presiding.

JUSTICE JOSEPH GORDON delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Howse
concurred in the judgment.

S U M M A R Y O R D E R

Defendant Christopher Holly appeals the dismissal of his *pro se* petition for relief under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2008)) by the circuit court of Cook County. This court previously affirmed the summary dismissal of defendant's *pro se* petitions for post-conviction and post-judgment relief, contesting the consecutive sentences of 15 and 5 years' imprisonment imposed on his fully negotiated guilty

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pleas to second degree murder and concealment of a homicidal death. *People v. Holly*, Nos. 1-04-0272, 1-04-3745 (2005) (unpublished order under Supreme Court Rule 23).

Following a series of *pro se* filings not at issue here, defendant filed the subject section 2-1401 petition requesting a full review of the facts because the victim "did in fact die from natural causes, i.e. a heart attack, [so] there is absolutely no question the trial court lacked authority to sentence [him] to second degree murder, do [*sic*] to the fact no 'murder' had taken place." The circuit court dismissed defendant's section 2-1401 petition *sua sponte*, noting that this case involved fully negotiated pleas of guilty upon stipulated facts.

Defendant appealed, and the State Appellate Defender, who was appointed to represent him, has now filed a motion for leave to withdraw based on his conclusion that an appeal in this cause would be without arguable merit. The motion was made pursuant to *Pennsylvania v. Finley*, 481 U.S. 551 (1987), and is accompanied by a memorandum.

After carefully reviewing the record in this case and the aforesaid memorandum in compliance with the mandate of *Pennsylvania v. Finley*, we have found no issues of arguable merit to be asserted on appeal. We therefore grant the motion of the State Appellate Defender for leave to withdraw as counsel and affirm the judgment of the circuit court of Cook County.

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This order is entered in accordance with Illinois Supreme Court Rule 23(c)(2) (eff. Jan. 1, 2011).

Affirmed.