

No. 1-09-2819

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. 97 CR 16972
)	
EDWARD LOPEZ,)	Honorable
)	James M. Obbish,
Defendant-Appellant.)	Judge Presiding.

O R D E R

Defendant Edward Lopez appeals from an order of the circuit court of Cook County denying his motion for leave to file a successive *pro se* petition for relief under the Post-Conviction Hearing Act (Act). 725 ILCS 5/122-1 *et seq.* (West 2008). This court previously affirmed defendant's 1999 convictions for first degree murder and aggravated battery with a firearm, but remanded the cause to the trial court for clarification of the sentence imposed. *People v. Lopez*, No. 1-99-2029 (2002) (unpublished order under Supreme Court Rule 23). On remand, the trial court resentenced defendant to respective, consecutive terms of 35 and 7 years' imprisonment, and defendant's subsequent appeal from that judgment was dismissed on defendant's motion. *People v. Lopez*, No. 1-03-2853 (2004) (dispositional order).

Defendant then filed a number of unsuccessful collateral challenges to the judgment entered on his convictions. The chronology of these *pro se* postconviction petition and petitions for relief under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2008)), are set forth in *People v. Lopez*, No. 1-08-0470 (2009) (unpublished order under Supreme Court Rule 23).

On June 22, 2009, defendant moved for leave to file the instant successive *pro se* postconviction petition, in which he alleged multiple instances of ineffective assistance of appellate and trial counsel, and challenged the constitutionality of his consecutive sentences. The court timely reviewed defendant's petition, found that his claims had previously been raised, and were barred by *res judicata*, and also failed to satisfy the cause and prejudice test required to file a successive petition.

The State Appellate Defender, who was appointed to represent defendant in his appeal from that ruling, has filed a motion for leave to withdraw as appellate counsel based on her 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, 95 L. Ed. 2d 539, 107 S. Ct. 1990 (1987), and is accompanied by a memorandum.

Defendant has filed a *pro se* response opposing counsel's motion. In it, he essentially restates the merits of his claims,

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and requests the advancement of his petition for further proceedings under the Act.

In accordance with the mandate of the *Finley* decision, we have carefully examined the record, the material filed by counsel, and defendant's *pro se* response, and have found no issues of arguable merit to be raised on appeal. We, therefore, grant the State Appellate Defender leave to withdraw as counsel and affirm the order of the circuit court of Cook County.

Affirmed.

R. GORDON, J., with GARCIA, P.J., and CAHILL, J., concurring.