

2011 IL App (2d) 100393-U  
No. 2-10-0393  
Order filed September 27, 2011

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Du Page County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 05-CF-367
	)	
JEREMY L. SCHLOSS,	)	Honorable
	)	Daniel P. Guerin,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE BOWMAN delivered the judgment of the court.  
Justices McLaren and Zenoff concurred in the judgment.

**ORDER**

*Held:* The trial court properly summarily dismissed defendant's postconviction petition, which asserted a violation not in the proceedings resulting in his conviction but in the subsequent civil commitment proceedings.

¶ 1 Defendant, Jeremy L. Schloss, appeals the summary dismissal of his petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2010)). We affirm.

¶ 2 On June 28, 2005, per a plea agreement, defendant was found guilty of aggravated criminal sexual abuse (720 ILCS 5/12-16(a)(2) (West 2004)) and sentenced to three years of sex-offender treatment probation. On October 3, 2005, the State petitioned to revoke his probation. At a hearing

held October 11, 2005, defendant admitted the petition's allegations. On November 1, 2005, the trial court accepted the admission, revoked defendant's probation, and sentenced him to seven years' imprisonment and two years of mandatory supervised release (MSR). After the court denied defendant's motion to reconsider the sentence, he appealed. However, on his motion, this court dismissed the appeal. *People v. Schloss*, No. 2-05-1266 (2006) (minute order).

¶ 3 On January 27, 2010, defendant filed his petition under the Act. The petition asserted that, at the probation-revocation hearing, he and the State had "entered into an agreement [under] which the defendant would be sentenced to a maximum term of 7 yrs [sic]" but that the negotiated sentence had been "amended," denying defendant "the benefit of the bargain" and violating due process.

¶ 4 In support of this claim, the petition asserted that, on July 7, 2008, defendant's sentence had been "extended" in a proceeding under the Sexually Violent Persons Commitment Act (Commitment Act) (725 ILCS 207/1 *et seq.* (West 2008)) to commit defendant to the Department of Corrections (DOC). The petition cited section 15(e) of the Commitment Act, which reads:

"The filing of a petition under this Act shall toll the running of the term of parole or mandatory supervised release until:

- (1) dismissal of the petition filed under this Act;
- (2) a finding by a judge or jury that the respondent is not a sexually violent person;
- or
- (3) the sexually violent person is discharged under Section 65 of this Act

\*\*\*." 725 ILCS 207/15(e) (West 2008).

¶ 5 According to the petition, by initiating the proceeding under the Commitment Act, the State violated its promise that defendant would serve two years of MSR, because it "suspended the MSR at this time, to be reinstated at a later date extending the imposed sentence to a longer sentence under

the guise of a civil proceeding.” This unilateral extension of defendant’s MSR term, the petition asserted, violated *People v. Whitfield*, 217 Ill. 2d 177 (2005).

¶ 6 The petition contained no affidavit verifying its contents (see 725 ILCS 5/122-1(b) (West 2010)). It attached copies of the original criminal charges and the judgments in the criminal and probation-revocation cases, but no documents related to the proceedings under the Commitment Act. However, we may take judicial notice of information on the DOC’s website. *Ashley v. Pierson*, 339 Ill. App. 3d 733, 739-40 (2003). The website lists defendant’s “Parole Date” as “released to DHS [Department of Human Services] supervision on 07-03-2008” and his “Projected Discharge Date” as “To Be Determined.” [www.idoc.state.il.us](http://www.idoc.state.il.us) (last visited August 25, 2011).

¶ 7 The trial court summarily dismissed defendant’s petition (see 725 ILCS 5/122-2.1(a)(2) (West 2010)). The court’s order stated that, on July 1, 2008, the State filed its petition under the Commitment Act; as a result, under section 15(e) of the Commitment Act, defendant’s MSR period was tolled as of July 1, 2008. However, *Whitfield* did not apply, because, in the probation-revocation proceeding, the court had informed defendant of the MSR term in his new sentence and there had been no agreement on sentencing. See *Whitfield*, 217 Ill. 2d at 195. Defendant timely appealed.

¶ 8 On appeal, defendant has abandoned his *Whitfield* claim. However, he contends that his petition also raised a potentially meritorious claim that, in bringing the proceeding under the Commitment Act, the State denied him due process by indefinitely extending his MSR term.

¶ 9 On our *de novo* review (see *People v. Robinson*, 217 Ill. 2d 43, 60 (2005)), we hold that the trial court properly dismissed the petition. Although the court did not rely on this reason, we may affirm its judgment on any ground called for by the record. See *People v. Tripp*, 306 Ill. App. 3d 941, 952 (1999).

¶ 10 Even if defendant’s due process attack on the Commitment Act has arguable merit (which we do not decide), it is not cognizable under the Act. As pertinent here, a person may initiate a proceeding under the Act if he or she asserts that “*in the proceedings which resulted in his or her conviction* there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both[.]” (Emphasis added.) 725 ILCS 5/122-1(a)(1) (West 2010).

¶ 11 This language places defendant’s claim outside the Act. Defendant does not now contend—and did not contend in his petition—that his constitutional rights were violated in the proceedings that resulted in his conviction. He asserts only that the subsequent and separate proceedings under the Commitment Act violated his rights. Defendant’s argument rests entirely on the operation of section 15(e) of the Commitment Act in a civil proceeding that long postdated the criminal proceedings. The Act excludes claims based on alleged constitutional violations in proceedings under the Commitment Act. *People v. Steward*, 406 Ill. App. 3d 82, 92 (2010); see also *People v. Lawton*, 212 Ill. 2d 285, 297 (2004) (Act does not allow claims based on proceedings under Sexually Dangerous Persons Act (725 ILCS 205/0.01 *et seq.* (West 2010))).

¶ 12 For the foregoing reason, the trial court properly dismissed defendant’s postconviction petition. Therefore, the judgment of the circuit court of Du Page County is affirmed.

¶ 13 Affirmed.