

**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).

NO. 4-09-0099

Order Filed 3/29/11

IN THE APPELLATE COURT  
OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Macon County
ANTOINE E. RIDLEY,	)	No. 01CF270
Defendant-Appellant.	)	
	)	Honorable
	)	Katherine M. McCarthy,
	)	Judge Presiding.

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PRESIDING JUSTICE KNECHT delivered the judgment of the court.  
Justices Turner and McCullough concurred in the judgment.

**ORDER**

*Held:* Pursuant to *Pennsylvania v. Finley*, no meritorious issue can be raised on appeal. Accordingly, OSAD's motion to withdraw as counsel on appeal is allowed, and the trial court's judgment is affirmed.

This appeal comes to us on the motion of the office of the State Appellate Defender (OSAD) to withdraw as counsel on appeal on the ground no meritorious issues can be raised in this case as to the January 2009 denial of defendant's July 2008 amended postconviction petition. For the following reasons, we agree and affirm.

I. BACKGROUND

In July 2002, a jury convicted defendant, Antoine E. Ridley, of first degree murder (720 ILCS 5/9-1(a)(1) (West 2000)). In September 2002, the trial court sentenced defendant

to 50 years in prison. Defendant appealed his conviction and sentence and this court affirmed. *People v. Ridley*, No. 4-02-1040 (December 16, 2004) (unpublished order under Supreme Court Rule 23). Defendant later filed a petition for leave to appeal to the Supreme Court of Illinois. The supreme court denied the petition on March 30, 2005. *People v. Ridley*, 214 Ill. 2d 547, 830 N.E.2d 7 (2005).

In June 2006, defendant pro se filed a petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 through 122-8 (West 2006)). The State moved to dismiss defendant's petition, arguing the petition was untimely and the claims were (1) barred by *res judicata* and (2) without merit. The trial court appointed counsel to represent defendant. In July 2008, appointed counsel filed an amended postconviction petition. The State again responded with a motion to dismiss. In January 2009, the trial court granted the State's motion.

In February 2009, defendant filed a notice of appeal, and the trial court appointed OSAD to serve as his attorney. In March 2010, OSAD moved to withdraw, attaching to its motion a brief in conformity with the requirements of *Pennsylvania v. Finley*, 481 U.S. 551 (1987). The record shows service of the motion on defendant. This court granted defendant's *pro se* motion for an extension of time to file additional points and authorities to May 15, 2010. Defendant has done so. In June

2010, the State filed a responding brief. In November 2010, defendant *pro se* filed a reply brief. After examining the record and executing our duties in accordance with *Finley*, we grant OSAD's motion and affirm the trial court's judgment.

## II. ANALYSIS

OSAD argues no colorable argument can be made the trial court erred by dismissing defendant's amended postconviction petition. Specifically, OSAD contends, in part, the court properly struck the petition pursuant to section 122-1(c) of the Act (725 ILCS 5/122-1(c) (West 2006)). We agree.

### A. Defendant's Failure To Comply with Section 122-1(c) of the Act

Section 122-1(c) provides as follows:

"When a defendant has a sentence other than death, no proceedings under this Article shall be commenced more than 6 months after the conclusion of proceedings in the United States Supreme Court, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence. If a petition for certiorari is not filed, no proceedings under this Article shall be commenced more than 6 months from the date for filing a certiorari petition, unless the petitioner alleges facts showing that the

delay was not due to his or her culpable negligence." 725 ILCS 5/122-1(c) (West 2006).

Defendant admits his petition was untimely filed but asserts the delay is not due to his culpable negligence. Specifically, defendant argues he filed his initial postconviction petition without benefit of counsel and "within 15 months of the Illinois Supreme Court denying his motion for leave to appeal, which is not an unreasonable amount of time."

Postconviction proceedings may not be commenced outside the time-limitation period in the Act unless the defendant alleges sufficient facts to show the delay in filing was not due to the defendant's culpable negligence. 725 ILCS 5/122-1(c) (West 2006). Culpable negligence entails blamable neglect involving "'a disregard of the consequences likely to result from one's actions.'" *People v. Bocclair*, 202 Ill. 2d 89, 106, 789 N.E.2d 734, 744 (2002) (quoting Black's Law Dictionary 1056 (7th ed. 1999)). The culpable-negligence standard in the Act "contemplates something greater than ordinary negligence and is akin to recklessness." *Bocclair*, 202 Ill. 2d at 108, 789 N.E.2d at 745.

It is well settled all citizens are charged with knowledge of the law. *Bocclair*, 202 Ill. 2d at 104, 789 N.E.2d at 743. Ignorance of the law or legal rights will not excuse a

delay in filing a lawsuit. *Boclair*, 202 Ill. 2d at 104-05, 789 N.E.2d at 743-44. Thus, the sole obligation of knowing the time requirements for filing a postconviction petition remains with the defendant. See *People v. Lander*, 215 Ill. 2d 577, 588-89, 831 N.E.2d 596, 603 (2005).

In this case, defendant admits his petition was untimely filed but asserts the delay was not "unreasonable." Defendant shows an indifference to the consequences likely to follow from his actions. It is the sole responsibility of the defendant to ensure the petition is timely filed. Defendant has failed to establish he lacks culpable negligence for the late filing of his petition.

We review the trial court's judgment and not the reasons given for the judgment. See *People v. DeBerry*, 372 Ill. App. 3d 1056, 1058, 868 N.E.2d 382, 383 (2007). Thus, we will affirm the trial court on any basis supported by the record. We find the petition was untimely and defendant has not established he was not culpably negligent for the untimely filing. Thus, the court did not err in granting the State's motion to dismiss defendant's petition.

Further, we have carefully reviewed the record with respect to each of defendant's allegations of error and find they are without merit.

### III. CONCLUSION

For the reasons stated, we grant OSAD's motion to withdraw and affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

Affirmed.