

No. 1-09-2593

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).

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. 87 CR 11296
)	
DANIEL VAUGHN,)	Honorable
)	Matthew E. Coghlan,
Defendant-Appellant.)	Judge Presiding.

JUSTICE SALONE delivered the judgment of the court.
Justices Pucinski and Sterba concurred in the judgment.

ORDER

¶ 1 Defendant Daniel Vaughn appeals from the summary dismissal of his *pro se* petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2008)). He contends that the circuit court erred in summarily dismissing his petition where he presented new evidence corroborating his claim of systematic abuse and torture by Area 2 detectives who coerced his custodial statement.

¶ 2 We initially affirmed the judgment of the circuit court, finding that the documents that defendant attached to his petition did not provide the requisite factual support for his post-conviction allegations that he was not given *Miranda* warnings before being interviewed by

police, and that his statement was coerced by Chicago police detectives McDermott and Yucaitis. *People v. Vaughn*, No. 1-09-2593 (2011) (unpublished order under Supreme Court Rule 23).

Pursuant to the supervisory order entered by the supreme court (No. 112778 Ill. March 28, 2012), we have vacated our initial order, and now reconsider our decision in light of *People v. Wrice*, 2012 IL 111860. For the reasons that follow, we conclude that a different result is not warranted.

¶ 3 On August 7, 1987, two-month-old Matthew Tayborn died of severe blunt force trauma to his head while in defendant's care. Matthew was the child of Constance Tayborn, defendant's girlfriend. Defendant was not Matthew's biological father, but he helped care for Matthew and Constance's other children. Defendant initially denied being at his girlfriend's apartment on the night of Matthew's death, but later admitted that he accidentally dropped Matthew while lifting him out of the crib. Forensic evidence, however, showed that Matthew's injuries were severe and inconsistent with a fall to the ground.

¶ 4 Before trial, defendant unsuccessfully sought to suppress his statement about dropping Matthew claiming that it was coerced and made without the benefit of *Miranda* warnings. Following a hearing, the trial court denied the motion finding that defendant voluntarily went to the police station for questioning about Matthew's death, that he was advised of his *Miranda* rights by Detective McDermott and the assistant State's Attorney, that he waived these rights, and did not ask for an attorney. The court concluded that defendant's oral and written statements were voluntary, and noted, that "if [Detective Yucaitis] hit [defendant] twice in the face with his fist, we wouldn't be talking about some puffed lip that mysteriously went away by the time he got down to Cook County Department of Corrections."

¶ 5 At trial, the State presented evidence that defendant waived his *Miranda* rights prior to providing oral and written statements to law enforcement personnel. This evidence came

through the testimony of the detectives and the assistant State's Attorney who were present at the relevant times.

¶ 6 Defendant testified that he voluntarily accompanied Detectives McDermott and Yucaitis to Area 2 for questioning regarding Matthew's death. However, he claimed that the detectives placed him in an interrogation room and, without warning, Detective Yucaitis punched him in the mouth twice. Defendant further testified that the detectives never advised him of his *Miranda* rights and his right to have counsel present during questioning, and although he asked for an attorney several times, he did not receive a response.

¶ 7 On cross-examination, defendant viewed a photograph taken of him after the assistant State's Attorney took his written statement and a photograph taken the following day at Cook County Jail. No signs of physical injury were evident in the photographs, and he admitted that he had not sustained any injury to his mouth. He told the doctor at Cook County Jail that the police did not beat him up, but that he was hit in the mouth a couple of times and his lip swelled. He added that Detective McDermott was a "nice guy" and did not hit him. He also admitted that he signed a *Miranda* waiver after being advised of his rights by the assistant State's Attorney who then took his written statement.

¶ 8 A jury subsequently found defendant guilty of first degree murder and the trial court sentenced him to natural life imprisonment without parole. On direct appeal, this court affirmed defendant's conviction and sentence, but declined to address his request for a new suppression hearing because it was based on matters outside the record and, therefore, should be raised in a post-conviction petition. *People v. Vaughn*, No. 1-06-0127 (2008) (unpublished order under Supreme Court Rule 23).

¶ 9 Thereafter, in June 2009, defendant filed the subject *pro se* post-conviction petition alleging, in pertinent part, that he should be granted a new suppression hearing in light of new

information that bolsters his claims that he was not given *Miranda* warnings before being interviewed by police, and that his statement was coerced by Detectives McDermott and Yucaitis. In support, defendant attached portions of the 2006 Report of the Special State's Attorney (2006 Report) regarding an allegation of police misconduct stemming from Detective McDermott's interrogation of Alfonso Pinex at Area 2 on June 28, 1985, and two Chicago Tribune articles from 1993 reporting that Detective Yucaitis was reinstated after being suspended from the police department for his alleged involvement in the torture of Andrew Wilson in 1982.

¶ 10 In a written order, the circuit court summarily dismissed defendant's petition as frivolous and patently without merit. The court observed that generalized claims of abuse, without any link to defendant's case, *i.e.*, some evidence corroborating his allegations, or some similarity between the type of alleged abuse and that presented by the evidence of other cases of abuse, are insufficient to support his claim of coercion. The court noted that there was no evidence that defendant sustained injuries consistent with his claim, and the "new evidence" did not show that he himself was tortured or was not given *Miranda* warnings. This appeal follows.

¶ 11 In his supplemental brief, defendant contends that we must reverse the summary dismissal of his initial post-conviction petition and remand the cause for second stage proceedings in light of *Wrice*, where "[t]he Illinois Supreme Court concluded that *Wrice*'s petition satisfied not just Section 122-2, but the cause-and-prejudice test, and merited second-stage proceedings, based solely on his citation to the Report." Defendant argues that if the conclusions in the 2006 Report about systematic abuse were sufficient to corroborate a successive post-conviction claim in *Wrice* and establish prejudice, then we must necessarily find the 2006 Report sufficient to corroborate his initial claim here. He maintains that the lack of similarity between his allegation of coercion and that outlined in the 2006 Report, is not as important as the "overall" findings of the 2006 Report, quoting the appellate court decision in

Wrice, "This evidence in the Report of widespread, systematic torture of prisoners at Area 2 at or near the time of defendant's incarceration adds further corroboration of defendant's claims his confession was procured by torture." *People v. Wrice*, 406 Ill. App. 3d 43, 53 (2010). Lastly, he notes that his petition, which included portions of the 2006 Report, contained even more corroborating evidence under section 122-2 than in *Wrice*, where the defendant simply cited the 2006 Report as new evidence corroborating his claim of coercion.

¶ 12 *Wrice*, however, does not call into question our originally expressed conclusion that defendant failed to provide the requisite factual support for his post-conviction allegations that he was not given *Miranda* warnings and that his custodial statement was coerced by Area 2 detectives. *Wrice* involved newly discovered evidence of systematic torture of prisoners at Area 2, including the 2006 Report, presented in a petition for leave to file a successive post-conviction petition, not in an initial post-conviction petition as here. In *Wrice*, defendant argued that he established cause because the 2006 Report was not released to the public until July 19, 2006, and he did not receive a copy until February or March 2007. *Wrice*, 2012 IL 111860, ¶ 42. Defendant also argued that he established prejudice because without his confession and the testimony of his sister's boyfriend, the remaining evidence was insufficient to convict him. *Wrice*, 2012 IL 111860, ¶ 42.

¶ 13 This court reversed the circuit court's denial of defendant's request for leave to file a successive petition and remanded the cause for a third-stage evidentiary hearing. *Wrice*, 2012 IL 111860, ¶ 43. In doing so, this court determined that defendant established cause because he could not have corroborated his claims of police torture in his earlier post-conviction petitions because the 2006 Report was not released until 2006. *Wrice*, 2012 IL 111860, ¶ 43. As for prejudice, the appellate court initially observed the rule in *People v. Wilson*, 116 Ill. 2d 29, 41 (1997), that "the use of a defendant's coerced confession as substantive evidence of his guilt is

never harmless error," and determined that defendant established prejudice where he consistently claimed that he was tortured, his claims of being beaten were strikingly similar to those of other prisoners involving the same officers, and his allegations were consistent with the police department's findings of systematic and methodical torture at Area 2 and the 2006 Report's findings of torture. *Wrice*, 2012 IL 111860, ¶ 43.

¶ 14 On appeal to the supreme court, the State challenged only the appellate court's determination that defendant established prejudice, arguing that the rule in *Wilson* was no longer good law in light of *Arizona v. Fulminante*, 499 U.S. 279 (1991), and that the appellate court erred in relying on it. *Wrice*, 2012 IL 111860, ¶ 49. Aside from arguing the applicability of harmless-error review, the State advanced no other argument as to why defendant's post-conviction petition should not proceed. *Wrice*, 2012 IL 111860, ¶ 87. The supreme court ultimately held that harmless-error analysis was inapplicable to defendant's claim that his confession was physically coerced by police officers at Area 2 and modified the rule in *Wilson* to provide that the use of a defendant's *physically* coerced confession as substantive evidence of his guilt is never harmless error and remanded the cause for second stage proceedings. (Emphasis added.) *Wrice*, 2012 IL 111860, ¶¶ 84, 90.

¶ 15 We find nothing in *Wrice* to excuse defendant from providing the requisite factual support for his post-conviction allegations, and we are unpersuaded by defendant's assertion that his initial post-conviction petition contained more corroborating evidence than in *Wrice*, where defendant's petition for leave to file a successive petition included portions of the 2006 Report. In *Wrice*, defendant did *not* simply cite the 2006 Report as new evidence corroborating his claim of coercion, but rather, as this court determined, defendant established prejudice where he consistently claimed that he was tortured, his claims of being beaten were strikingly similar to those of other prisoners involving the same officers, and his allegations were consistent with the

police department's findings of systematic and methodical torture at Area 2 and the 2006 Report's findings of torture. *Wrice*, 2012 IL 111860, ¶¶ 41, 43.

¶ 16 A *pro se* petitioner, as here, is not excused from providing any factual detail surrounding the alleged constitutional violation despite the "low threshold" at the first stage of post-conviction proceedings. *People v. Hodges*, 234 Ill. 2d 1, 10 (2009). Section 122-2 specifically requires some factual documentation which supports the allegations to be attached to the petition, or an explanation as to why they have not been included. 725 ILCS 5/122-2 (West 2008). The purpose of section 122-2 is to show that defendant's post-conviction allegations are capable of objective or independent corroboration. *People v. Collins*, 202 Ill. 2d 59, 67 (2002). *Wrice* does not erode this purpose or the requirement that defendant show some similarity between his allegations of coercion and the generalized evidence of police torture at Area 2. *People v. Anderson*, 375 Ill. App. 3d 121, 141 (2007); *People v. Johnson*, 2011 IL App (1st) 092817, ¶ 80.

¶ 17 As in *Wrice*, defendant, here, attached selected portions from the 2006 Report, which document an allegation of abuse committed by Detective McDermott in June 1985, and two newspaper articles regarding the reinstatement of Detective Yucaitis following his involvement in the 17-hour torture of Andrew Wilson, who then confessed to fatally shooting two police officers. On their face, these documents do not provide any new evidence to corroborate defendant's allegation that police coercion was used against him. *People v. Anderson*, 402 Ill. App. 3d 1017, 1035 (2010). Absent a connection to defendant's case, *i.e.*, "some evidence corroborating defendant's allegations, or some similarity between the type of misconduct alleged by defendant and that presented by the evidence of other cases of abuse," (*Anderson*, 375 Ill. App. 3d at 138), they fail to provide the necessary support for his claim. Although defendant alleged that Detective Yucaitis punched him, the record is devoid of evidence that he suffered any injuries consistent with his claim of coercion (*People v. Hinton*, 302 Ill. App. 3d 614, 625

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(1998)), and the allegations of systematic abuse and torture in the documents submitted by defendant bear no reasonable similarity to his claim (*Johnson*, 2011 IL App (1st) 092817, ¶ 80).

¶ 18 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 19 Affirmed.