

No. 1-11-2080

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. 00 CR 8750
)	
MARCEL HUNTER,)	Honorable
)	Michael Brown,
Defendant-Appellant.)	Judge Presiding.

JUSTICE KARNEZIS delivered the judgment of the court.
Presiding Justice Hoffman and Justice Cunningham concurred in the judgment.

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

¶ 1 Defendant, Marcel Hunter, appeals the summary dismissal of his *pro se* petition for relief under the Post-Conviction Hearing Act. 725 ILCS 5/122-1 *et seq.* (West 2010). The record shows that on November 25, 2003, defendant was sentenced to concurrent, respective terms of 55, 30, 10 and 10 years' imprisonment on his bench convictions of armed violence, attempted armed robbery, aggravated battery and unlawful use of a weapon by a felon. On direct appeal, this court vacated the judgment entered on his aggravated battery conviction, vacated the extended-term sentence for attempted armed robbery and remanded the cause for resentencing on that conviction, and affirmed the judgment in all other respects. *People v. Hunter*, No. 1-04-2256 (2006). On remand, defendant was sentenced to 12 years' imprisonment for attempted

armed robbery.

¶ 2 Defendant filed the instant post-conviction petition on May 13, 2011, alleging that his right to due process was violated by the imposition of the 55-year sentence on his armed violence conviction. He maintained that "courts in Illinois have held that penalties for armed violence predicated on certain offenses have been found unconstitutionally disproportionate to penalties for other offenses," and requested that his case be docketed for a hearing. The circuit court dismissed defendant's petition as frivolous and without merit, finding that defendant's claim was barred by *res judicata* and waiver since he had already challenged that sentence on direct appeal.

¶ 3 The State Appellate Defender, who was appointed to represent defendant, has filed a motion in this court requesting leave to withdraw 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 (1987), and is accompanied by a memorandum.

¶ 4 In accordance with the mandate of *Pennsylvania v. Finley*, we have carefully examined the record in this case and counsel's memorandum, and have found no issues of arguable merit to be asserted on appeal. Accordingly, we grant the motion of the State Appellate Defender for leave to withdraw as counsel and affirm the order of the circuit court of Cook County. This order is entered pursuant to Illinois Supreme Court Rule 23(c)(2)(eff. Jul. 1, 2011).

¶ 5 Affirmed.