

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
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of Du Page County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 00-CF-1704
)	
SHAWN M. BAHRS,)	Honorable
)	George J. Bakalis,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice Jorgensen and Justice Zenoff concurred in the judgment.

ORDER

Held: The trial court properly denied defendant's section 2-1401 petition, as his claims either were raised or could have been raised in earlier proceedings.

¶ 1 At issue in this appeal is whether the petition of defendant, Shawn M. Bahrs, that was filed pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2008)) was properly denied. We determine that it was. Thus, we affirm.

¶ 2 Following a jury trial, defendant was convicted of, among other things, unlawful possession of a converted motor vehicle, but the jury found him not guilty of unlawful possession of a stolen

motor vehicle (see 625 ILCS 5/4-103(a)(1), (b) (West 2000)). Defendant was sentenced to 12 years' imprisonment, and he appealed. On appeal, defendant argued, among other things, that the jury's verdicts were legally inconsistent. This court affirmed. *People v. Bahrs*, No. 2-07-0986 (2009) (unpublished order under Supreme Court Rule 23).

¶ 3 Subsequently, defendant petitioned for postconviction relief, moved to vacate the court's judgment, and moved to file a successive postconviction petition. In many of these proceedings, defendant took issue with the fact that he was convicted of unlawful possession of a converted motor vehicle but was acquitted of unlawful possession of a stolen motor vehicle. Defendant argued, in various ways, that this was unjust or inconsistent.

¶ 4 After pursuing those avenues and being denied relief, defendant petitioned for relief under section 2-1401 of the Code. In that petition, defendant claimed, as he did in other proceedings, that the jury's verdicts were legally inconsistent and that he should not be punished more severely than a defendant convicted of theft of a vehicle. The trial court denied the petition, noting that the issues defendant raised were or could have been raised previously. Defendant moved to reconsider, the trial court denied the motion, and defendant appealed. Counsel appointed to represent defendant on appeal moved to withdraw, and this court granted that motion. Defendant now proceeds *pro se* with his appeal from the trial court's denial of his section 2-1401 petition.

¶ 5 "A section 2-1401 petition for relief from a final judgment is the forum in a criminal case in which to correct all errors of fact occurring in the prosecution of a cause, unknown to the petitioner and court at the time judgment was entered, which, if then known, would have prevented its rendition." *People v. Haynes*, 192 Ill. 2d 437, 461 (2000). "A section 2-1401 petition, however, is 'not designed to provide a general review of all trial errors nor to substitute for direct appeal.'" *Id.*

(quoting *People v. Berland*, 74 Ill. 2d 286, 314 (1978)). Thus, “[p]oints previously raised at trial and other collateral proceedings cannot form the basis of a section 2-1401 petition for relief.” *Id.* Likewise, points raised in a section 2-1401 petition that could have been raised at trial or in other collateral proceedings but were not will not afford a defendant relief. See *Berland*, 74 Ill. 2d at 313-14 (after noting that trial court properly dismissed petition, our supreme court observed that the issues the defendant raised in his section 2-1401 petition were or could have been raised previously). Because reviewing whether the claims that defendant raised in his petition were or could have been raised previously does not require us to defer to the trial court’s reasoning in denying the petition, our review is *de novo*. See *People v. Hubbard*, 2012 IL App (2d) 101158, ¶ 14.

¶ 6 Defendant argues in his brief that his sentence for unlawful possession of a converted motor vehicle is improper because defendants convicted of theft of a motor vehicle, which defendant claims is a more serious offense, are punished less severely. Although this precise issue was not raised in earlier proceedings, it could have been. Thus, the issue is forfeited.

¶ 7 Defendant then argues that his conviction of unlawful possession of a converted motor vehicle is legally inconsistent with his acquittal of unlawful possession of a stolen motor vehicle. That specific issue has been raised before, including in defendant’s direct appeal to this court. Thus, we determine that the doctrine of *res judicata* bars our review of it now.

¶ 8 Given that the points defendant raised were or could have been raised previously, we affirm the trial court’s denial of defendant’s petition.

¶ 9 For these reasons, the judgment of the circuit court of Du Page County is affirmed.

¶ 10 Affirmed.