

431(b) (Official Reports Advance Sheet No. 8 (April 11, 2007), R. 431(b), eff. May 1, 2007) regarding the juror's understanding of the four basic constitutional guarantees afforded criminal defendants at trial, especially concerning his right not to testify. He raised no other issues. In December 2008, we affirmed defendant's conviction and sentence, finding any error in not questioning the jurors was harmless given the weight of the evidence against defendant. *People v. Clifton*, No. 4-08-0212 (2008) (unpublished order under Supreme Court Rule 23).

¶ 5 On December 17, 2010, defendant filed a verified *pro se* postconviction petition raising five issues. The petition was accompanied by his notarized affidavit. On February 14, 2011, prior to any action taken by the trial court, defendant filed a verified amended *pro se* petition for postconviction relief elaborating on the same five issues. This petition was accompanied by another affidavit signed by defendant but not notarized.

¶ 6 The claims raised by defendant were: (1) "the police who interrogated the petitioner obtained an incriminating statement from the petitioner in violation of his 1st 5th [*sic*] and 6th Amendment rights;" (2) "public defender failed to file a motion to quash arrest and suppress the statement;" (3) "appellate counsel was ineffective for failing to raise the ineffective assistance of trial counsel claim predicated on trial counsels [*sic*] failure to file a motion to quash arrest and statement;" (4) "there was an insignificant amount of black/African American jurors in the jury pool in violation of the petitioner [*sic*] sixth Amendment right which led to the jury to show bias violation my 1st amendment right;" and (5) "ineffective counsel on the public defender that represented my case during trial, violating my rights to take the juror stand which is violating the Petitioner [*sic*] fifth Amendment rights."

¶ 7 On April 25, 2011, the trial court entered an order dismissing defendant's

amended petition as frivolous and patently without merit. The court found defendant alleged "four violations of his rights: that his statement was not voluntary and should have been suppressed, that the jury was biased due to a lack of minorities, ineffective assistance of trial counsel and ineffective assistance of appellate counsel." The court found the first three claims could have been raised on appeal, but were not. Further, the trial record did not support those claims. As for defendant's claim of ineffective assistance of appellate counsel, the court noted attached to the petition were letters indicating defendant had numerous conversations with appellate counsel and one issue was raised on appeal. Defendant did not allege or show failure to raise other issues on appeal was objectively unreasonable and his appeal was prejudiced by the omission. This appeal followed.

¶ 8

I. ANALYSIS

¶ 9 Defendant argues the allegation in his amended *pro se* postconviction petition the police who interrogated him obtained a statement from him in violation of his fifth amendment rights was entitled to second-stage review, because his supporting affidavit averred he requested an attorney after signing the *Miranda* waiver, but the detective insisted he "must talk" because he signed the waiver and "would get in double trouble." Defendant then gave a statement to the police. Defendant also argues the trial court did not dismiss his entire postconviction petition as it raised five issues and the court only dealt with four when it dismissed his petition.

¶ 10 The State argues defendant's petition did not comply with the requirements of the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 to 122-7 (West 2010)) regarding verification and notarizations, and the trial court's summary dismissal of the petition was appropriate for this reason alone. There is a conflict between districts of this court on the issue.

We need not delve into the conflict because it is not necessary for disposition of this case.

¶ 11 As the trial court noted, defendant's claims the police obtained a statement from him in violation of his constitutional rights; his trial counsel failed to file a motion to quash his arrest and suppress his statement; the jury pool violated his constitutional rights where it was unrepresentative of minorities in the community; and his trial counsel was ineffective and violated his constitutional right to testify on his own behalf all could have been raised on direct appeal but were not. They are forfeited. *People v. Harris*, 206 Ill. 2d 1, 12-13, 794 N.E.2d 314, 323 (2002).

¶ 12 Defendant also claims his appellate counsel was ineffective for failing to raise the ineffectiveness of trial counsel based on trial counsel's failure to file a motion to quash his arrest and suppress his statement to police. Letters attached to the amended postconviction petition show numerous contacts between defendant and appellate counsel and do not support any inference defendant wanted this issue raised on appeal but appellate counsel refused to do so. Defendant has not alleged the failure to raise any other issues on appeal besides the one counsel raised was unreasonable or somehow prejudiced him.

¶ 13 While defendant is correct the partial summary dismissal of a postconviction petition is forbidden under the Act (*People v. Rivera*, 198 Ill. 2d 364, 370-71, 374, 763 N.E.2d 306, 310, 311-12 (2001)), the trial court in this case dismissed the entire amended petition. Defendant argues he raised five issues in his amended petition, but the trial court specifically dismissed only four. He contends he raised the issue of a violation of his right to testify in his own defense and the court failed to discuss this issue. However, defendant couched this argument as a claim of ineffective assistance of trial counsel in somehow interfering with his

right to testify. The trial court clearly stated all defendant's claims of ineffective assistance of trial counsel were forfeited as they could have been raised in his direct appeal. The trial court discussed and dismissed all claims raised by defendant in his amended postconviction petition.

¶ 14

III. CONCLUSION

¶ 15 We 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.

¶ 16 Affirmed.