

No. 1-11-2198

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).

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of Cook County
Plaintiff-Appellee,)	
)	
v.)	Nos. 09 CR 12509
)	09 CR 12510
)	
JON GILES,)	Honorable
)	Shelley Sutker-Dermer,
Defendant-Appellant.)	Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

SUMMARY ORDER

¶ 1 Defendant Jon Giles pled guilty to two counts of armed robbery, and was sentenced to two concurrent terms of 21 years' incarceration, each of which included a 15-year sentence enhancement under the armed robbery statute. Defendant subsequently filed a petition for relief from judgment under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401(f) (West 2010)) (the 2-1401 petition), which the trial court dismissed. On appeal, defendant contends that the trial court erred in dismissing his 2-1401 petition because the legislature's amendment of the armed violence statute did not cure the unconstitutionality of the 15-year firearm enhancement in the armed robbery statute. For the following reasons, we affirm the judgment of the circuit court.

¶ 2 Defendant's sole contention on appeal is either the alleged unconstitutional portion of his sentences must be vacated or he must be resentenced in accordance with his plea agreement and the applicable statutes. Defendant notes that, in *People v. Hauschild*, 226 Ill. 2d 63, 85-87 (2007), the supreme court held that the 15-year firearm sentence enhancement for armed robbery violated the proportionate penalties clause of the state constitution because the enhanced sentence for armed robbery with a firearm (21 to 45 years) was greater than the sentence for armed violence predicated on robbery with a firearm (15 to 30 years). Defendant then argues that, although the legislature subsequently amended the armed violence statute to remove robbery as a predicate offense, under *People v. Manuel*, 94 Ill. 2d 242 (1983), that action did not cure the unconstitutionality of the armed robbery statute. According to defendant, the 15-year sentencing enhancement remains void because the legislature has not re-enacted or amended the armed robbery statute since the 15-year firearm enhancement was found unconstitutional.

¶ 3 On March 21, 2013, after the filing of defendant's reply brief, our supreme court issued its decision in *People v. Blair*, 2013 IL 114122. The supreme court examined and rejected precisely the same arguments presented to us, and held that the unconstitutionality of the 15-year sentencing enhancement in the armed robbery statute was cured by the legislature's subsequent amendment of the armed violence statute. *Id.* at ¶¶ 25-27. Defendant's contention is therefore without merit.

¶ 4 Accordingly, we affirm the judgment of the circuit court of Cook County. This order is entered in accordance with Supreme Court Rule 23(c)(2). Ill. S. Ct. R. 23(c)(2) (eff. July 1, 2011).

¶ 5 Affirmed.