



See 730 ILCS 5/5-8-1(a)(3), (d)(1) (West 2000). In June 2000, the court sentenced defendant to 19 years' imprisonment.

¶ 5 In September 2001, defendant filed a postconviction petition pursuant to section 122-1 of the Code of Criminal Procedure of 1963 (725 ILCS 5/122-1 (West 2010)). The trial court dismissed defendant's petition as frivolous and patently without merit. This court reversed and remanded, holding the court should have held a hearing on defendant's fitness to plead guilty before accepting defendant's guilty plea. *People v. Shanklin*, 351 Ill. App. 3d 303, 308-09, 814 N.E.2d 139, 145 (2004). In April 2008, the court denied defendant's postconviction petition. This court affirmed and granted OSAD's motion to withdraw. *People v. Shanklin*, No. 4-08-0345 (Nov. 13, 2008) (unpublished order under Supreme Court Rule 23).

¶ 6 In September 2008, defendant filed a successive *pro se* postconviction petition, alleging the trial court did not admonish him regarding MSR and the addition of three years' MSR was a breach of the plea agreement in violation of due process. In October 2008, the court denied defendant's petition, finding, among others, the court admonished defendant of his MSR obligation. This court affirmed the trial court's dismissal of defendant's petition. *People v. Shanklin*, No. 4-08-0892 (Jan. 12, 2010) (unpublished order under Supreme Court Rule 23).

¶ 7 In August 2011, defendant filed the instant petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2010)). Defendant alleged (1) the trial court did not inform him that he would be required to serve three years' MSR, (2) his sentence should be modified to reflect a 16-year prison sentence and three years' MSR, and (3) the court's October 2008 dismissal of his *pro se* postconviction petition was void. On December 28, 2011, the court entered a written order addressing defendant's petition.

The court found defendant was admonished about the required three-year MSR term before it accepted his guilty plea, and because defendant's conviction was finalized prior to December 20, 2005, he is not entitled to the relief provided in *Whitfield*, 217 Ill. 2d 177, 840 N.E.2d 658.

¶ 8 On March 13, 2012, defendant filed a notice of appeal and the trial court appointed OSAD to represent him. In November 2012, OSAD moved to withdraw as appellate counsel, including in its motion a brief in conformity with the requirements of *Pennsylvania v. Finley*, 481 U.S. 551 (1987). The record shows service of the motion on defendant. On its own motion, this court granted defendant leave to file additional points and authorities by December 3, 2012. Defendant did not do so. After examining the record and executing our duties consistent with *Finley*, we grant OSAD's motion and affirm the trial court's judgment.

¶ 9 II. ANALYSIS

¶ 10 OSAD asserts defendant's postconviction petition raises no meritorious issues. Specifically, OSAD contends no colorable argument can be made whether defendant is entitled to relief pursuant to *Whitfield*. We agree with OSAD.

¶ 11 "Section 2-1401 is intended to correct errors of fact, unknown to the petitioner and the court at the time of the judgment, which would have prevented the rendition of the judgment had they been known." *People v. Muniz*, 386 Ill. App. 3d 890, 893, 899 N.E.2d 428, 431 (2008). To be entitled to relief under section 2-1401, the petitioner must set forth specific factual allegations supporting each of the following elements: (1) the existence of a meritorious defense or claim; (2) due diligence in presenting this defense or claim to the circuit court in the original action; and (3) due diligence in filing the section 2-1401 petition. *People v. Lee*, 2012 IL App (4th) 110403, ¶ 15, 979 N.E.2d 992, 996. This court reviews a dismissal of a section 2-1401

petition for an abuse of discretion. *People v. Davis*, 2012 IL App (4th) 110305, ¶ 11, 966 N.E.2d 570, 574.

¶ 12 Defendant's claims must fail. First, *Whitfield* is only applied to cases where the conviction was not final prior to December 20, 2005. *People v. Morris*, 236 Ill. 2d 345, 366, 925 N.E.2d 1069, 1081 (2010). As defendant did not appeal his June 2000 conviction, his conviction was finalized before the December 2005 *Whitfield* decision. Second, the record shows the trial court admonished defendant about the mandatory three years' MSR before accepting his guilty plea. Defendant's claims are contradicted by the record and without merit.

¶ 13 This court previously affirmed the trial court's October 2008 dismissal of defendant's *pro se* postconviction petition. We will not entertain defendant's attempts to further litigate this dismissal.

¶ 14 III. CONCLUSION

¶ 15 For the reasons stated herein, we grant OSAD's motion to withdraw and affirm the trial court's judgment.

¶ 16 Affirmed.