

(West 2004)). In September 2005, defendant pleaded guilty and, in December 2005, the trial court sentenced him to a 25-year prison term. Defendant took no appeal.

¶ 5 In June 2010, defendant filed a *pro se* section 2-1401 petition for relief from judgment (735 ILCS 5/2-1401 (West 2010)) alleging his guilty plea was involuntarily and unknowingly given based on (1) erroneous advice of counsel and (2) diminished capacity to comprehend the proceedings due to a lack of literacy and basic education. Defendant asserted the trial court should consider his untimely petition because he was under a legal disability—an apparent "lack of formal education and lack of comprehensive abilities"—which tolled the two-year period in which section 2-1401 petitions must be filed.

In September 2010, the trial court dismissed defendant's petition on the State's motion, finding (1) the petition was barred by the two-year time limit on section 2-1401 petitions and (2) even if defendant's petition was timely, it failed to state a cause of action upon which relief could be granted. Defendant took no appeal.

¶ 6 In October 2010, defendant filed a *pro se* petition for postconviction relief (725 ILCS 5/122-1 (West 2010)), alleging he was denied the effective assistance of counsel as guaranteed by the United States Constitution and the Illinois Constitution. In January 2011, the trial court dismissed defendant's *pro se* postconviction petition as frivolous and patently without merit. Defendant failed to appeal.

¶ 7 In June 2012, defendant filed a *pro se* motion for leave to file a successive postconviction petition and his successive postconviction petition. The petition alleged that House Bill 1500 (enacted by Pub. Act 80-1099 (eff. Feb. 1, 1978)), which amended the Illinois Criminal Code of 1961 and the Unified Code of Corrections, enacting the

determinate Class X sentencing guidelines and the provisions for rules and regulations for early release, was illegally enacted. Specifically, defendant alleged Governor James Thompson, who sponsored the bill, threatened the legislature that he would use campaign contributions to support those who backed the bill and to assure those who opposed the bill would not be reelected. Defendant classified this as an attempt by Governor Thompson to impose his will on the General Assembly, and therefore, the enactment of the bill was illegal. Defendant attached to his successive petition transcripts from the House and Senate Journal and an affidavit from Ronald L. Stoecker, a "[j]ailhouse lawyer" who was "fluent in criminal litigation." The affidavit stated that Stoecker "happened to make mention to [defendant], that House Bill 1500 and Public Act 80-1099 were illegally enacted." The petition alleged this was new evidence because defendant was unaware that the statute in question was illegally enacted until his conversation with Stoecker.

¶ 8 The same month, the trial court denied defendant's motion for leave to file the successive postconviction petition, finding the claim raised therein could have been raised in his June 2010 section 2-1401 petition and his October 2010 postconviction petition. The trial court found defendant had failed to show cause for his failure to bring the claim, and therefore, the claim was forfeited and the motion denied.

¶ 9 In July 2012, defendant filed a motion to reconsider the trial court's order denying his motion for leave to file a successive postconviction petition. The motion asserted that the successive postconviction petition contained a constitutional claim, which could be raised at any time. The next day, the court entered an order denying defendant's motion to reconsider for the reasons stated in its order denying his motion for leave to file

a successive postconviction petition.

¶ 10 This appeal followed. The trial court appointed OSAD to represent defendant on appeal. In June 2013, OSAD filed a motion 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 on defendant. On its own motion, this court granted defendant leave to file additional points and authorities, which he did on August 2, 2013. The State has responded.

¶ 11 II. ANALYSIS

¶ 12 On appeal, OSAD contends no meritorious issues can be raised for review. Specifically, OSAD contends no colorable argument can be made that (1) the statute under which defendant was convicted was void and (2) the trial court failed to follow the proper procedure to dismiss the *pro se* petition at the first stage of postconviction proceedings. We agree.

¶ 13 A. The Claims in Defendant's Successive Postconviction Petition Are Forfeited

¶ 14 The Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 to 122-7 (West 2012)) contemplates the filing of only one postconviction petition. *People v. Pitsonbarger*, 205 Ill. 2d 444, 456 (2002). "Any claim of substantial denial of constitutional rights not raised in the original or an amended petition is waived." 725 ILCS 5/122-3 (West 2012). The procedural bar of forfeiture will be relaxed only where fundamental fairness requires. *People v. Tenner*, 206 Ill. 2d 381, 392 (2002). Fundamental fairness requires a court to make an exception to the forfeiture provision of section 122-3 of the Act and grant leave to defendant to file a successive postconviction petition where defendant can meet the cause-

and-prejudice test. *Id.* at 392-93. "Under this test, claims in a successive post-conviction petition are barred unless the defendant can establish good cause for failing to raise the claimed error in prior proceedings and actual prejudice resulting from the error." *Id.* at 393. "Cause" is established when the defendant shows some objective factor impeded his ability to raise the claim in the original postconviction proceedings. *Id.* "Prejudice" is established when a defendant shows the claimed error so infected his trial that the resulting conviction violated due process. *Id.*

¶ 15 Defendant cannot show that an objective factor impeded his ability to raise the claim in his original postconviction petition. At the time defendant filed his first postconviction petition, the transcripts of the legislative debates over the statute had been in existence for over 32 years. Defendant could have raised this claim because the facts on which he now relies were readily available. Defendant identifies no objective factor that impeded his ability to raise his claim, and accordingly, we find defendant has failed to meet the "cause" prong of the cause-and-prejudice test.

¶ 16 Defendant argues that because the statute in question was illegally enacted, his sentence is void. Further, defendant argues, void sentences can be attacked at any time, directly or collaterally. OSAD responds that no colorable argument can be made that the statute in question is void. We agree with OSAD.

¶ 17 Defendant asserts Governor Thompson bought votes in favor of the statute and committed bribery, which were illegal actions rendering the statute void. OSAD counters by arguing that even if Governor Thompson's actions violated bribery statutes (see *People v. Brandstetter*, 103 Ill. App. 3d 259, 265 (1982)), improper legislative motives do

not undermine the validity of an enacted law. Therefore, OSAD contends, defendant's sentence is not void.

¶ 18 It is a well-settled principle that courts will not inquire into the legislature's motive for acting in a particular way. See *People ex rel. Woodyatt v. Thompson*, 155 Ill. 451, 469 (1895); *Donovan v. Holzman*, 8 Ill. 2d 87, 96 (1956); see also *United States v. O'Brien*, 391 U.S. 367, 383 (1968) ("It is a familiar principle of constitutional law that this Court will not strike down an otherwise constitutional statute on the basis of an alleged illicit legislative motive."). As defendant's sole claim before us is that House Bill 1500 (Pub. Act 80-1099 (eff. Feb. 1, 1978)) was enacted because of an alleged illicit motive, we decline to find the statute in question void. Therefore, no colorable argument can be made that defendant's sentence is void.

¶ 19 B. The Trial Court Committed No Procedural Error in Denying Defendant's Successive Postconviction Petition

¶ 20 OSAD further contends no colorable argument can be made that the trial court failed to follow the proper procedure in dismissing the *pro se* motion for leave and successive petition. We agree.

¶ 21 Defendant filed his motion for leave to file a successive postconviction petition on June 21, 2012. Five days later, the trial court denied defendant's motion, finding defendant failed to show cause as to why the court should consider his otherwise forfeited claim of error. Notice was sent to defendant that same day.

¶ 22 Here, the trial court took action on defendant's motion for leave and successive petition well within the 90-day time frame contemplated by the Act. See 725

ILCS 5/122-2.1(a) (West 2012). Notice was sent to defendant in accordance with the Act. See 725 ILCS 5/122-2.1(a)(2) (West 2012). Therefore, no colorable argument can be made that the trial court failed to follow the proper procedure in dismissing defendant's motion for leave and successive petition.

¶ 23

III. CONCLUSION

¶ 24

For the reasons stated, we grant OSAD's motion to withdraw as appellate counsel and affirm the trial court's judgment. As part of our judgment, we award the State \$50 against defendant as costs of this appeal. 55 ILCS 5/4-2002(a) (West 2012).

¶ 25

Affirmed.