

No. 1-13-1317

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 01 CR 22606
	)	
MICHAEL LACY,	)	Honorable
	)	Anna Helen Demacopoulos,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE GORDON delivered the judgment of the court.  
Presiding Justice Palmer and Justice McBride concurred in the judgment.

**O R D E R**

- ¶ 1 *Held:* The circuit court's denial of defendant's petition for relief from judgment affirmed where his sole contention has been rejected by the Illinois Supreme Court.
- ¶ 2 Defendant Michael Lacy appeals from an order of the circuit court of Cook County denying his *pro se* petition for relief from judgment under section 2-1401 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1401 (West 2012)). He solely contends that the court erred in denying his petition because the unilateral addition of a term of mandatory supervised release

(MSR) by the Illinois Department of Corrections (IDOC), which was not imposed by the trial court when he was sentenced, violated his right to due process and is void.

¶ 3 Following a 2005 jury trial, defendant was convicted of aggravated criminal sexual assault and two counts of armed robbery, then sentenced to 25 years' imprisonment. At sentencing, the trial court did not advise defendant that he would be required to serve a three-year term of MSR, and the MSR term was not included in the written sentencing order. On direct appeal, this court affirmed defendant's convictions and sentence. *People v. Lacy*, No. 1-05-2137 (2007) (unpublished order under Supreme Court Rule 23).

¶ 4 In June 2008, defendant filed a petition for relief under the Post-Conviction Hearing Act (725 ILCS 5/122-1 *et seq.* (West 2008)), alleging that his trial counsel rendered ineffective assistance. The circuit court dismissed defendant's petition during second-stage proceedings, and this court affirmed that judgment on appeal. *People v. Lacy*, 407 Ill. App. 3d 442 (2011).

¶ 5 On December 19, 2012, defendant filed the instant *pro se* petition for relief from judgment pursuant to section 2-1401 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1401 (West 2012)). Defendant alleged that his due process rights were violated when IDOC added to his sentence a three-year term of MSR, which had not been imposed by the trial court. The circuit court found that defendant filed his petition beyond the two-year statute of limitations, and that he did not raise a substantive question of law or fact that was not previously raised, and accordingly, denied his petition.

¶ 6 On appeal, defendant maintains that the addition of the MSR term by IDOC violated his right to due process and is void. In his opening brief, defendant acknowledges that the supreme court rejected this precise argument in *People v. McChriston*, 2014 IL 115310, but argues that

*McChriston* was wrongly decided. He also stated that he was preserving this issue for later review as a petition for writ of *certiorari* in *McChriston* was pending before the United States Supreme Court when he filed his brief with this court. In his reply brief, defendant acknowledges that the Supreme Court has since denied a writ of *certiorari* in *McChriston v. Illinois*, 135 S. Ct. 59 (Oct. 6, 2014), but he continues to maintain that *McChriston* was wrongly decided, and asks this court to strike his MSR term or reduce his sentence by three years.

¶ 7 As defendant concedes, the precise argument he raised was rejected by our supreme court in *McChriston*. *McChriston*, 2014 IL 115310, ¶¶ 24-31. In *McChriston*, the court found that, prior to a 2011 amendment, the plain language of the sentencing statute (730 ILCS 5/5-8-1(d) (West 2006)) provided that a sentence included a period of MSR as if it were written within the sentence by operation of the law. *McChriston*, 2014 IL 115310, ¶ 17. Accordingly, the court held that the trial court's sentencing order included a term of MSR, even if the trial court did not mention the MSR term at sentencing or in its written sentencing order. *McChriston*, 2014 IL 115310, ¶ 17. *McChriston* further held that the unambiguous language of the statute provided that the MSR term was automatically included as part of the defendant's sentence, and that IDOC did not increase the defendant's sentence when it enforced the MSR term. *McChriston*, 2014 IL 115310, ¶ 23. Therefore, the defendant's argument that there was a violation of his right to due process failed. *McChriston*, 2014 IL 115310, ¶¶ 23, 31.

¶ 8 Under the principle of *stare decisis*, this court lacks authority to overrule decisions of the Illinois Supreme Court, and thus, we are bound to follow the court's holding in *McChriston*. *People v. Artis*, 232 Ill. 2d 156, 164 (2009). We therefore reject defendant's identical argument in this case, and affirm the judgment of the circuit court of Cook County.

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¶ 9 Affirmed.