

FIRST DIVISION  
SEPTEMBER 30, 2015

No. 1-14-0993

**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. 02 CR 6639
	)	
MICHAEL SAMANTA,	)	Honorable
	)	Carol Howard,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE CUNNINGHAM delivered the judgment of the court.  
Presiding Justice Liu and Justice Harris concurred in the judgment.

**ORDER**

¶ 1 **Held:** The judgment of the trial court is affirmed where our supreme court in *People v. McChriston*, 2014 IL 115310, previously rejected the issues raised by defendant in his petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2012)).

¶ 2 In 2006, defendant Michael Samanta was convicted by jury of first degree murder for the July 28, 2001, shooting death of a 12-year-old victim, which carried a mandatory prison sentence of 20 to 60 years and three years mandatory supervised release (MSR). 730 ILCS 5/5-4.5-20(a), (1) (West 2004). Defendant was found guilty under an accountability theory based upon his

participation in the shooting. The State supported its theory with evidence that defendant gave the shooter his gun to commit the offense and drove the shooter to and from the scene of the crime. The State also introduced evidence of defendant's admission to police of his involvement in the offense.

¶ 3 Following the guilty verdict, the trial court sentenced defendant to 25 years' imprisonment. The sentencing order did not state that defendant would be required to serve a term of MSR, nor did the trial judge mention MSR at the sentencing hearing. This court affirmed defendant's conviction and sentence on direct appeal. *People v. Samanta*, No. 1-06-3361 (2006) (unpublished order under Supreme Court Rule 23). Defendant raised several issues in his direct appeal, but did not challenge the imposition of MSR.

¶ 4 Defendant, with the assistance of counsel, also filed a postconviction petition pursuant to the Post-Conviction Hearing Act (725 ILCS 5/122-1 (West 2008)), raising issues not related to the MSR term. The circuit court summarily dismissed defendant's postconviction petition and this court affirmed (*People v. Samanta*, No. 1-09-0589 (2010) (unpublished order under Supreme Court Rule 23)).

¶ 5 Then in 2013, assisted by counsel, defendant filed a petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2012)), arguing that the Illinois Department of Corrections (DOC) impermissibly added a three-year MSR term to his 25-year sentence. The State responded by filing a motion to dismiss contending the issues defendant raised in his petition were decided by our supreme court in *People v. McChriston*, 2014 IL 115310. Defendant conceded the *McChriston* decision "settled this matter \*\*\* in the State's favor" and the circuit court subsequently granted the State's motion and dismissed defendant's petition for failure to state a cause of action. 735 ILCS 5/2-615 (West

2012). Defendant now appeals from that ruling, alleging the trial court erred by dismissing defendant's petition because *McChriston*, in essence, was wrongly decided. For the reasons that follow, we affirm the judgment of the circuit court.

¶ 6 Defendant's arguments on appeal are essentially the same arguments raised in his written petition for relief from judgment. Specifically, defendant contends that the DOC's enforcement of an MSR term that was not indicated by the trial court at sentencing or in the written order violates the separation of powers clause of the Illinois Constitution and his federal constitutional right to due process. The State asserts, once again, that the *McChriston* court rejected the same arguments now advanced by defendant.

¶ 7 The trial court's dismissal of a section 2-1401 petition for failure to state a claim for relief is reviewed *de novo*. *People v. Vincent*, 226 Ill. 2d 1, 16 (2007).

¶ 8 In *People v. McChriston*, 2014 IL 115310, ¶¶ 3, 8, *cert. denied*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 59 (2014), the defendant argued that because the trial court did not reference the mandatory MSR term at the sentencing hearing or in the written sentencing order, the DOC impermissibly imposed the MSR term attached to his sentence. Our supreme court rejected the separation of powers argument, stating as follows:

"Defendant's position relies on the premise that the MSR term was not included as part of his original sentence because it was not written in the sentence. If under the plain language of the statute, however, the MSR term was included automatically into the sentence, even if not specifically written, then the DOC did not add onto defendant's sentence by imposing the MSR term, and defendant's separation of powers argument must fail." *Id.* ¶ 16.

Our supreme court further held that the imposition of MSR did not violate due process, rejecting the defendant's reliance on *Hill v. United States ex rel. Wampler*, 298 U.S. 460 (1936), and *Earley v. Murray*, 451 F. 3d 71 (2d Cir. 2006). *McChriston*, 2014 IL 115310, ¶¶ 29-31.

¶ 9 As defendant acknowledges, and this court reiterates, we have no power to reverse a decision of our supreme court (*People v. Hill*, 408 Ill. App. 3d 23, 29 (2011)) and are bound by its precedent. *People v. Ladd*, 294 Ill. App. 3d 928, 937 (1998).

¶ 10 Although defendant asserts that he is asking "this court to consider matters that were not necessarily raised in the *McChriston* case," a review of defendant's arguments on appeal proves otherwise. For example, defendant argues, "[h]aving something added by operation of law when the Court must set the sentence would appear to have problems with separation of powers." See *McChriston*, 2014 IL 115310, ¶ 16. Defendant also argues, "how can the sentence be extended beyond what was pronounced by the court?" See *id.* ¶¶ 29-31. Consequently, in light of the precedent set by our supreme court in *McChriston*, defendant's challenge to his term of MSR must fail.

¶ 11 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 12 Affirmed.