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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of DeKalb County.
)	
Plaintiff-Appellee,)	
)	
v.)	No. 02-CF-216
)	
WILLIE SPATES,)	Honorable
)	Robbin J. Stuckert,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE BIRKETT delivered the judgment of the court.
Justices McLaren and Hudson concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defendant forfeited his arguments on appeal because the arguments are neither clearly drawn nor properly supported by proper and relevant citation to applicable authority.
- ¶ 2 Following a jury trial, defendant, Willie Spates, was convicted of first-degree murder (720 ILCS 5/9-1 (West 2004)) and home invasion (720 ILCS 5/12-11(a)(5) (West 2004)), and defendant was sentenced to a 60-year term of imprisonment for the murder and a consecutive 25-year term of imprisonment for the home invasion, for an aggregate 85-year term of imprisonment. Defendant's conviction was affirmed on direct appeal. *People v. Spates*, No. 2-06-1185 (2009) (unpublished order under Supreme Court Rule 23). Defendant filed a *pro se*

postconviction petition alleging that he had been convicted due to fabricated evidence and perjured testimony. Due to administrative errors, defendant's *pro se* petition was not considered by the trial court within 90 days; likewise, after the petition was advanced to the second stage, the State did not file a motion to dismiss or answer within the time allotted. The matter was then advanced to the third stage by agreement of the parties and the trial court. Following the hearing on the merits, the circuit court of DeKalb County denied the postconviction petition. On appeal, defendant purports to raise 12 issues. Defendant's arguments coalesce around his claim that he was convicted based on fabricated evidence and perjured testimony, procedural errors made by the trial court, and the trial court's misapprehension of the evidence presented in the third-stage evidentiary hearing. We affirm.

¶ 3

I. BACKGROUND

¶ 4 In brief, the evidence at trial overwhelmingly showed that defendant enlisted Ellen Chandler, a cab driver, to transport him to the house of his sister, Ruby Williams, where his wife, the victim, Anita Spates, was residing. Defendant had Chandler approach Williams' door and ask to see Anita. Williams observed defendant hiding nearby; when she observed defendant, Williams attempted to bar her door and warn Anita, who was bathing in an upstairs bathroom. Defendant kicked in the door and dragged both Chandler and Williams upstairs. He forced Chandler into a bedroom and shot Anita multiple times. Defendant fled from Williams' apartment, leaving Chandler and Williams unharmed.

¶ 5 Both Chandler and Williams called for the police. When the police arrived, they discovered Anita, severely injured, on the bathroom floor. She told police and paramedics both that defendant shot her. Emergency surgery was unsuccessful, and Anita succumbed to the numerous gunshot wounds she received. The autopsy revealed that Anita received 18 entry and

reentry bullet wounds; eight of the entry wounds showed stippling, which indicated that the gunshot occurred from a range of about two feet or less. Police recovered 12 shell casings from the bathroom. Ballistics revealed that 10 spent bullets were fired from the weapon recovered from defendant and one spent bullet was sufficiently deformed to make it impossible to conclusively determine whether defendant's weapon had fired it, even though it shared common characteristics with the other 10 bullets. The 12 shell casings were also determined to have been fired from defendant's weapon.

¶ 6 Based on this evidence, defendant was convicted of both first-degree murder and home invasion. Defendant was sentenced to an aggregate 85-year term of imprisonment. Defendant's direct appeal was rejected and his conviction was upheld. *Spates*, No. 2-06-1185 (2009) (unpublished order under Supreme Court Rule 23). Defendant's postconviction petition advanced to a third-stage evidentiary hearing, after which it was denied. Defendant timely appeals.

¶ 7

II. ANALYSIS

¶ 8 On appeal, defendant divides his arguments into 12 issues. Substantively, defendant argues that the State used perjured testimony and fabricated evidence in order to secure his conviction. Defendant also argues that the procedures used by the trial court in considering his postconviction petition were improper and unfair. Additionally, defendant argues that the trial court misunderstood and misjudged the evidence he provided during the third-stage evidentiary hearing.

¶ 9 As an initial matter, defendant proceeds *pro se* in the postconviction proceedings, just as he proceeded *pro se* in the trial court and on appeal. Our review of the record shows that defendant was fully admonished about his right to an attorney during the postconviction

proceedings and his obligations if he relinquished that right and proceeded *pro se*. Defendant then knowingly chose to proceed *pro se* on his postconviction petition. We note that, where a defendant decides to proceed *pro se*, he is responsible for his representation and is held to the same standards as any attorney. *People v. Richardson*, 2011 IL App (4th) 100358, ¶ 12.

¶ 10 Still preliminarily, we also note defendant filed a motion “to file post-conviction appellate brief without post-conviction court’s hearing transcripts,” in which defendant alleges that he has been unable to access his legal files held in storage at the correctional facility. We ordered this motion to be taken with the case. In it, defendant notes particularly that he has not been able to access the “post-conviction court’s hearing transcripts,” but it remains unclear to us whether defendant is specifically referring to the reports of proceedings associated with the postconviction proceedings or to the records for all of the proceedings. Defendant further fails to indicate the effect of his lack of access will have on his ability to comply with the requirements to which his briefs will be subject. Notwithstanding the identified flaws, defendant requests that he be allowed to file his briefs without citing the records of proceedings he references in his briefs. Defendant has not provided sufficient detail and explanation of his difficulties. For example, defendant complains that he has been denied access to his “legal property (court files, transcripts, etc.)” and has been allowed access only one time in seven months. However, defendant does not indicate whether the limited access was due to his own actions resulting in disciplinary sanctions or due to actions taken by others that caused the facility to curtail the access of all inmates to legal materials. Additionally, the record on appeal consists of over 1,300 pages in the common law record and over 6,400 pages in the reports of proceedings, which is fairly substantial. In light of the relatively substantial record, we do not lightly dispense with a party’s obligation to highlight the portions deemed important to his or her arguments. See

People v. Jacobs, 405 Ill. App. 3d 210, 218 (2010) (the appellate court is entitled to have the issues clearly defined with pertinent authority cited and cohesive arguments presented; the appellate court neither functions as an advocate nor is it obligated to comb through the record for error). Nevertheless, we are mindful of the difficulties imposed on defendant and the need to balance those realities against defendant's decision to represent himself in these proceedings and against his obligations to conform to the rules and requirements set forth in the Supreme Court Rules and other rules of procedure. Accordingly, we grant defendant's motion to be relieved of the obligation to provide record citations taken with the case.

¶ 11 Next, we briefly discuss the purpose of and the procedures used in a postconviction proceeding. The Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2014)) sets forth the manner in which a person convicted of a criminal offense can challenge his conviction as being the result of a substantial denial of his rights under the United States or Illinois constitution or both. *People v. Ligon*, 239 Ill. 2d 94, 103 (2010). A postconviction proceeding is civil in nature and is a collateral attack on the defendant's conviction or sentence that does not relitigate the defendant's innocence or guilt. *Id.* Any issues, therefore, considered by the court on the direct appeal are barred by the doctrine of *res judicata*, and issues which could have been considered on direct appeal are deemed to be procedurally defaulted. *Id.*

¶ 12 To commence proceedings under the Act, the defendant files a petition in the circuit court in which the original proceeding took place. *Id.* A non-death-penalty postconviction proceeding contains three stages. *People v. Hodges*, 234 Ill. 2d 1, 10 (2009).

¶ 13 In the first stage, the defendant must clearly set forth the manner in which his constitutional rights were violated. *People v. Tyler*, 2015 IL App (1st) 123470, ¶ 144. In the first stage, the defendant need only present a limited amount of detail, alleging enough facts to

surmount the low threshold of presenting the gist of a constitutional claim. *Id.* The trial court has 90 days in which to review the petition; if the trial court does not determine that the petition is frivolous or patently without merit within that time, the petition will be advanced to the second stage. *Id.*

¶ 14 At the second stage, the trial court must determine whether the petition and any accompanying documentation make a substantial showing of a constitutional violation. *Id.* ¶ 145. In that stage, the State is given 30 days in which to file a motion to dismiss. 725 ILCS 5/122-5 (West 2014). The trial court will deem all well-pleaded facts that are not rebutted by the record as true, and if the petition does not make a substantial showing of a constitutional violation, it will be dismissed. *Tyler*, 2015 IL App (1st) 123470, ¶ 145. If it is not dismissed, the State is to file an answer within 20 days of the denial of the motion to dismiss. 725 ILCS 5/122-5 (West 2014). The matter then advances to the third stage. *Tyler*, 2015 IL App (1st) 123470, ¶ 145.

¶ 15 At the third stage, the court holds an evidentiary hearing, during which the defendant bears the burden of making a substantial showing of a constitutional violation. *Id.* ¶ 146. At the third-stage evidentiary hearing, the trial court may receive proof through affidavits, depositions, oral testimony, and other evidence. *Id.*

¶ 16 As we noted in the factual background above, defendant filed his *pro se* postconviction petition. The petition was not reviewed by the trial court within the 90-day period provided by the Act. 725 ILCS 5/122-2.1(a) (West 2014). The petition was advanced to the second stage. Again, the State did not file a motion to dismiss within the statutory time. 725 ILCS 5/122-5 (West 2014). Indeed, the petition languished for such a long time that the parties and the trial court agreed to simply advance the petition to the third stage. This advance to the third stage

was in the nature of a remedy for the fact that neither the court nor the State had timely addressed defendant's postconviction petition under the Act; we hold that the advance to the third stage, contrary to defendant's belief, did not relax his burden of proof or the State's ability to raise any argument against defendant's claims, including the argument that *res judicata* barred any of defendant's claims.

¶ 17 With these preliminary considerations in mind, we now turn to the issues raised on appeal. We first note that we have carefully reviewed the record and defendant's arguments in his appeal. Defendant's arguments are meandering, repetitive, discursive, incoherent, and virtually impenetrable. Defendant's citation to authority is similarly haphazard. For example, defendant will cite a case for a proposition like the State's use of "testimony known to be false is a practice so lacking in fundamental fairness as to deprive an accused of due process of law." *People v. Martin*, 56 Ill. 2d 322, 325 (1974). However, defendant fails to link the legal principle or black-letter law set forth to the circumstances of his case, the evidence admitted at trial, or the evidence adduced in the third-stage evidentiary hearing. Defendant further fails to construct a pertinent and coherent argument despite his citation to authority that could be relevant to his claims. We have reviewed each of defendant's claims on appeal and each argument suffers from the identified flaws. As we noted above, the appellate court is entitled to have the issues clearly defined with pertinent authority cited and cohesive arguments presented. *Jacobs*, 405 Ill. App. 3d at 218. Where a party fails to appropriately argue a point on appeal, such as by not providing pertinent citation to relevant authority or reasoned argument, it forfeits the issue on appeal. *People v. Johnson*, 385 Ill. App. 3d 585, 608 (2008). We have carefully reviewed each of defendant's arguments and find them to be forfeited because they are unreasoned and unsupported by pertinent authority relevantly and properly invoked.

¶ 18 Even if we set aside the fatal deficiency in defendant's arguments on the issues raised, we would not disturb the trial court's judgment. The substantive issues regarding defendant's claims that the State fabricated evidence and used perjured testimony were either rejected on direct appeal, or could have been raised on direct appeal, and thus, they are subject to the bar of *res judicata*. *Ligon*, 239 Ill. 2d at 103. Defendant's complaints about the trial court's procedures have no merit. The petition was advanced to the third stage not because a motion to dismiss would not have been successful, but because, through administrative error, the matter languished for about a year before the trial court took it up. Finally, the trial court correctly held, in its order following the evidentiary hearing, that defendant had not made a substantial showing of a constitutional violation. In short, defendant was simply unable to demonstrate that the State had indeed fabricated any evidence or that it had knowingly used perjured testimony. Accordingly, substantively, defendant's contentions on appeal fail. Thus, even had defendant properly made his arguments on appeal, he simply did not demonstrate that the trial court's determination that he did not make a substantial showing of constitutional violation was in error.

¶ 19

III. CONCLUSION

¶ 20 For the foregoing reasons, we affirm the judgment of the circuit court of DeKalb County.

¶ 21 Affirmed.