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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 Du Page County.
)	
Plaintiff-Appellee,)	
v.)	No. 97-CF-2689
)	
KEISHA COLEMAN,)	Honorable
)	Daniel P. Guerin,
Defendant-Appellant.)	Judge, Presiding.

PRESIDING JUSTICE SCHOSTOK delivered the judgment of the court.
Justices McLaren and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in denying the appellant's petition to vacate prior court order denying her petition to seal criminal record.

¶ 2 **BACKGROUND**

¶ 3 The appellant, Keisha Coleman, committed retail theft in 1997. Initially charged with felony retail theft (720 ILCS 5/16A-3 (West 1996)), the charge was reduced to a misdemeanor and she pled guilty. She was sentenced to 24 months of probation and 40 hours of community service, and paid fines of \$575. She satisfactorily completed her sentence and her probation was terminated on April 19, 2000.

¶ 4 In 2002, the appellant attempted to expunge this conviction. Her petition was stricken because she was not eligible for expungement until April 2005.

¶ 5 In 2006, the appellant was again arrested for retail theft. She received supervision. She was arrested yet again for retail theft in 2011. This time, she participated in the Mental Illness Court Alternative Program (MICAP). When she completed that program, her 2011 conviction was vacated.

¶ 6 On April 18, 2014, the appellant filed a *pro se* petition to seal the criminal record of the 1998 conviction. The State and the Village of Oak Brook both filed objections to the petition, citing the appellant's multiple arrests for retail theft. On August 11, 2014, the trial court (Judge Kathryn Creswell presiding) heard oral arguments on the petition. The appellant stated that she had paid her debt to society and had rehabilitated herself, earning a bachelor's degree and a master's degree in teaching in the 16 years since the conviction at issue. She was a mother of three children, the oldest of whom was poised to enter Eastern Illinois University, and sealing the record would allow her to advance in her career and provide for her children. The State and the Village argued that the appellant's more recent arrests for the same offense indicated that she still was not rehabilitated. The trial court denied the petition on the basis that, considering the appellant's history of arrests for retail theft, the State's interest in preserving the record of the 1998 conviction outweighed the appellant's interest in sealing that record.

¶ 7 The same day, the appellant filed a second *pro se* petition to seal the record of the 1998 conviction. That petition was assigned to Judge Daniel Guerin. The appellant then obtained counsel. At a subsequent court date, the State and the Village pointed out that the denial of the appellant's April 2014 petition to seal was *res judicata*. In February 2015, the appellant's attorney withdrew the second petition to seal and, with leave of court, filed a petition pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2014)), seeking

to vacate the August 11, 2014, order denying the first petition to seal. Oral argument on the 2-1401 petition was held on April 13, 2015, and the trial court denied the petition. This appeal followed.

¶ 8

ANALYSIS

¶ 9 Before addressing the appellant's arguments, we provide some background on her petition. Under the Illinois Criminal Identification Act (Act) (20 ILCS 2630/5 *et seq.* (West 2014)), petitioners may ask the court to seal eligible criminal records. When a record is sealed, the record is physically and electronically maintained, but the record is unavailable to potential employers and others without a court order. See 20 ILCS 2630/5.2(a)(1)(K) (West 2014). Requests made for records sealed under section 5.2(c) must be answered with the same response given "when no records ever existed." 20 ILCS 2630/5.2(d)(9)(C) (West 2014). In cases where a petitioner was convicted of a criminal offense, the record of that conviction, if eligible under the Act, may be sealed four years after the termination of the petitioner's last sentence. 20 ILCS 2630/5.2(c)(3)(B) (West 2014).

¶ 10 When a petitioner seeks to seal a record and an objection is filed, the trial court sets a hearing date and hears evidence on whether the petition should be granted. 20 ILCS 2630/5.2(d)(7) (West 2014). The trial court must grant or deny the petition to expunge or seal "based upon the evidence presented at the hearing." *Id.* Factors that a court may consider include: the strength of the evidence supporting the conviction that the petitioner seeks to seal; the reasons why the State wishes to retain the record of the conviction; "the petitioner's age, criminal record history, and employment history"; the amount of time that has passed between the petitioner's arrest on the charge resulting in the conviction and the filing of the petition to seal or expunge; and "the specific adverse consequences the petitioner may be subject to if the petition is denied." 20 ILCS 2630/5.2(d)(7) (West 2014). "The test is a balancing of the factors"

(*People v. Laguna*, 2014 IL App (2d) 131145, ¶ 16), and “the trial court is vested with broad discretion in ruling on petitions to expunge” (*People v. Carroccia*, 352 Ill. App. 3d 1114, 1122 (2004); see also *Chesler v. People*, 309 Ill. App. 3d 145, 151-52 (1999) (applying the abuse of discretion standard in reviewing trial court’s ruling on a petition to expunge)). A trial court abuses its discretion only when its ruling is arbitrary, fanciful, or unreasonable, or no reasonable person would take the view adopted by the trial court, or when its ruling rests on an error of law. *People v. Olsen*, 2015 IL App (2d) 140267, ¶ 11.

¶ 11 When an unsuccessful petitioner wishes to seek reconsideration of a denial of a petition to seal or expunge, the petitioner may file a petition to vacate either under section 2-1203 of the Code (735 ILCS 5/2-1203 (West 2014)), if the decision was issued less than 60 days prior, or under section 2-1401(c) of the Code (735 ILCS 5/2-1401(c) (West 2014)), if the denial occurred more than 60 days prior. See 20 ILCS 2630/5.2(d)(12) (West 2014). Here, the appellant challenged the trial court’s denial of her petition to seal through a section 2-1401 petition. A court may grant such a petition where the petitioner has shown that she has a meritorious defense, that she was diligent in presenting her defense prior to the initial ruling, and that she was diligent in bringing her 2-1401 petition for relief. *Smith v. Airoom, Inc.*, 114 Ill. 2d 209, 221 (1986). We review *de novo* the denial of a section 2-1401 petition where no evidentiary hearing was held. *People v. Vincent*, 224 Ill. 2d 1, 16-17 (2007).

¶ 12 On appeal, the appellant, who is once again *pro se*, argues that there was no 2006 arrest for retail theft, and her 2011 conviction for retail theft was vacated. Thus, she contends, neither of these arrests should have been considered by the court in weighing whether to seal the record at issue. She also argues that taking her 2011 vacated conviction into account is contrary to the purpose of MICAP, which is to provide treatment for mental illness in lieu of punishment. Finally, she again argues that she has rehabilitated herself and that the record of this conviction is

hampering her ability to advance professionally and to provide for her children. For all of these reasons, she contends that the trial court erred in denying her petition to seal (and thus, that she raised a meritorious defense in her section 2-1401 petition).

¶ 13 As to her first contention, the record indicates that the appellant was in fact arrested in 2006 and charged with retail theft. Although the record does not contain any written exhibits documenting the arrest, the appellant admitted during the oral argument on her petition to seal that this arrest occurred:

“THE COURT: And then you were arrested for retail theft in 2006; is that right?”

THE DEFENDANT: Yes, ma’am.

THE COURT: And what happened on that case? What was the disposition?

THE DEFENDANT: I believe it was supervision.”

Further, although there is some suggestion in the Act that “[a]n order of supervision successfully completed by the petitioner is not a conviction” (see 20 ILCS 2630/5.2(a)(1)(C) (West 2014)), the record contains no evidence that the appellant successfully completed the supervision, and even if she did, she has advanced no legal argument regarding whether such an offense may be considered when considering a petitioner’s “criminal record history” (see 20 ILCS 2630/5.2(d)(7)(C) (West 2014)). “A reviewing court is entitled to have the issues before it clearly defined and is not simply a repository in which appellants may dump the burden of argument and research; an appellant’s failure to properly present his own arguments can amount to waiver of those claims on appeal.” *People v. Chatman*, 357 Ill. App. 3d 695, 703 (2005); see also Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). Accordingly, we decline to find that the trial court erred in considering the appellant’s 2006 arrest.

¶ 14 As to the appellant’s second contention, we do not view the trial court’s consideration of her vacated 2011 conviction of retail theft as an error. The rehabilitative purpose of MICAP is

served through the fact that the 2011 conviction was vacated. The appellant has not cited any legal authority suggesting that a court engaged in the balancing test required when weighing a petition to seal may not consider such a vacated conviction. Rather, the Act provides that a court may consider a petitioner's "criminal record history." 20 ILCS 2630/5.2(d)(7) (West 2014). Although the Act does not define this term, the appellant has failed to advance any legal argument regarding the term's meaning, and thus we also decline to consider this issue. *Chatman*, 357 Ill. App. 3d at 703; see also Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013).

¶ 15 The appellant's final argument—in essence, a simple request to reweigh the factors and overturn the trial court's initial denial of her petition to seal—fares no better. The abuse of discretion standard of review is very deferential. *People v. Radojcic*, 2013 IL 114197, ¶ 33. The mere fact that the reviewing court might have ruled differently is insufficient to rise to the level of an abuse of discretion. *People v. Richardson*, 348 Ill. App. 3d 796, 801 (2004). The facts of this case engender sympathy for the appellant, but to find an abuse of discretion would require this court to find that the trial court's ruling was arbitrary, unreasonable, or contrary to law. *Olsen*, 2015 IL App (2d) 140267, ¶ 11. We simply cannot do so. Here, the appellant's repeated arrests for retail theft support Judge Creswell's decision to deny the appellant's petition to seal. Accordingly, we cannot say that this decision was an abuse of discretion. Further, as the appellant presented no new argument or other matter in her section 2-1401 petition, Judge Guerin did not err in denying that petition.

¶ 16 CONCLUSION

¶ 17 For the foregoing reasons, the judgment of the circuit court of Du Page County is affirmed.

¶ 18 Affirmed.