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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. X9 494 248
	)	
SHAWN M. BAHRS,	)	Honorable
	)	Paul Pavlus,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE HYMAN delivered the judgment of the court.  
Presiding Justice Griffin and Justice Walker concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm the trial court's summary dismissal of defendant's postconviction petition for lack of standing where defendant was not incarcerated for the offense challenged in his petition.

¶ 2 *Pro se* defendant Shawn M. Bahrs appeals the summary dismissal of his petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2016)). He contends that the trial court erroneously dismissed his petition based on lack of standing. We affirm. In his petition, Bahrs, who currently serves a 30-year conviction for DUI in an unrelated

2011 case, challenges only his 1992 conviction. Because Bahrs is not serving a sentence for the offense he is purporting to challenge, he lacks standing.

¶ 3 Background

¶ 4 Initially, we note that the record on appeal is sparse, bordering on inadequate. It consists of an 80-page common law record, a 10-page supplemental common law record, and a 7-page report of proceedings. Generally, the appellant carries the burden to provide a complete record on appeal. *People v. Henderson*, 2011 IL App (1st) 090923, ¶ 45.

¶ 5 To the extent that we can glean from the record, on May 18, 1988, Bahrs pled guilty to driving under the influence (DUI) (case number X9 494 428) and aggravated fleeing and attempting to elude police officers (case number X9 494 438). He received respective sentences of one year of conditional discharge and one year of supervision, in addition to a fine and restitution. Because Bahrs failed to satisfy the requirements of his conditional discharge, the trial court entered a conviction for DUI on November 20, 1992.

¶ 6 On September 27, 2016, Bahrs filed a *pro se* postconviction petition, challenging his “1987 DUI conviction” based on “newly discovered evidence and change in DUI law.” In his petition, Bahrs argued he pled guilty to the 1987 DUI and aggravated fleeing in exchange for one year of conditional discharge, a \$500 fine, and restitution. Bahrs’s plea counsel informed him that the DUI would be removed from his record after one year. Twenty years later, DUI penalties for repeat offenders “drastically increased from misdemeanor in increments to a Class X Felony.” In 2011, Bahrs was convicted of a fourth DUI (case number 11 CF 204) and was sentenced to 30 years’ imprisonment due to his “1987 DUI conviction.” He claimed that he

would not have pled guilty in 1987 had he known at the time that his blood had been illegally seized.

¶ 7 On December 19, 2016, the trial court summarily dismissed Bahrs’s petition, finding he lacked standing. Bahrs was then in custody for a separate case, and the court observed that he had not attempted to withdraw his plea, and served his conditional discharge. On March 2, 2017, we allowed Bahrs to file a late notice of appeal.

¶ 8 Analysis

¶ 9 On appeal, Bahrs contends the trial court erroneously dismissed his petition for lack of standing. He alleges that his attorney informed him that the 1992 DUI conviction would be “conditionally discharged” one year after he pled guilty in 1988. Thus, he argues that his 1992 DUI conviction was improperly used to enhance his 2011 DUI conviction, which resulted in the 30-year sentence that he is currently serving. Bahrs further argues that the trial court lacked jurisdiction to “impose a violation of supervision finding him guilty” of the 1992 DUI because more than five years had elapsed since the offense occurred, and he therefore could challenge that void conviction at any time.

¶ 10 The Act sets forth a three-stage process as a means for criminal defendants to challenge their convictions or sentences on grounds of constitutional violations. *People v. Beaman*, 229 Ill. 2d 56, 71 (2008). Under the Act, “[a]ny person imprisoned in the penitentiary may institute a proceeding under this Article.” 725 ILCS 5/122-1(a) (West 2016). But, a defendant who has fully served his or her underlying sentence before filing a postconviction petition no longer has standing to file a petition. *People v. Carrera*, 239 Ill. 2d 241, 253 (2010).

¶ 11 The trial court properly dismissed Bahrs’s petition for lack of standing. Bahrs is imprisoned, but not for the offense which he challenges in his petition. *People v. West*, 145 Ill. 2d 517, 519 (1991) (to have standing to challenge conviction under the Act, “[t]he person must be in prison for the offense he is purporting to challenge”). Bahrs received conditional discharge for his DUI stemming from his 1987 arrest. Because he did not satisfy the requirements of his conditional discharge, the trial court unsatisfactorily terminated it, resulting in the 1992 DUI conviction. Bahrs’s petition challenges only his 1992 conviction. Bahrs, therefore, is not serving a sentence for the offense he is purporting to challenge and lacks standing to challenge the 1992 DUI. See *Carrera*, 239 Ill. 2d at 253 (“Given the fact that defendant had fully served his underlying sentence prior to filing his postconviction petition, defendant’s liberty was not curtailed by the state in any way, and he was not a person ‘imprisoned in the penitentiary,’ as required in order to file a claim for postconviction relief.”).

¶ 12 In his reply brief, Bahrs claims that the trial court erred by not recharacterizing his petition “under the proper State remedy.” Bahrs did not raise this argument in his opening brief, and has forfeited it. See Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018) (“Points not argued [in an appellant’s brief] are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.”).

¶ 13 Affirmed.