2014 IL App (1st) 132895-U

SIXTH DIVISION
DECEMBER 31, 2014

No. 1-13-2895

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ZSOCH DUNN,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellant,	)	Cook County.
	)	
v.	)	No. 943003910
	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	Honorable
	)	William O. Maki,
Respondent-Appellee.	)	Judge Presiding.

JUSTICE HALL delivered the judgment of the court.
Justices LAMPKIN and ROCHFORD concurred in the judgment.

O R D E R

¶ 1 *Held*: The trial court's denial of petitioner's second *pro se* petition to seal certain criminal records based, in pertinent part, upon petitioner's criminal history was not abuse of discretion.

¶ 2 In this *pro se* appeal, petitioner Zsoch Dunn appeals from the trial court's denial of his second *pro se* petition to seal records pursuant to the Criminal Identification Act (Act) (see 20 ILCS 2630/5.2 (West 2012)). On appeal petitioner contends that the trial court abused its

discretion when it denied his petition because the record at issue is eligible to be sealed and the court improperly relied on proceedings and evidence from other jurisdictions. We affirm.

¶ 3 The record reveals that in 1994 petitioner was arrested and charged with possession of a stolen motor vehicle (the 1994 record). The charge was later amended to the offense of criminal trespass. Ultimately, a finding of no probable cause was entered and the cause was stricken with leave to reinstate.

¶ 4 In 2010, petitioner filed a *pro se* petition to seal the 1994 record, which the trial court denied. In 2013, petitioner filed, *pro se*, the instant second petition to seal the 1994 record.[1] The State objected, arguing, *inter alia*, that petitioner had a long criminal history with arrests spanning more than 10 years, including a 2009 conviction for disturbing the peace in New Buffalo, Michigan, a 2008 conviction for fraudulent use of a credit or debit card, and a 2001 conviction for possession of a firearm in Cook County.

¶ 5 At the hearing on the petition, petitioner indicated that since the trial court denied his first *pro se* petition to seal, he had all of his other matters sealed and that the 1994 record should be sealed because it had ultimately been dismissed for lack of probable cause. The trial court then asked petitioner for "the compelling reason" that he wanted to seal his record. Defendant indicated that because of the 1994 record, it was hard for him to obtain housing and he was not allowed to attend school in "the West Coast hemisphere states."

¶ 6 The court then inquired as to petitioner's 2008 conviction. Petitioner responded that because that cause was in another jurisdiction, he had not been able to seal it. Furthermore,

[1] Although petitioner captioned his petition as a petition to reconsider the denial of the first petition, the trial court did not treat it as such.

petitioner contended that he was innocent, that the offense was actually committed by his ex-girlfriend and that he was "forced to plead out." The State indicated that petitioner was sentenced to five years of probation in that case on June 3, 2008, and ultimately received a suspended sentence of four years. Petitioner clarified that he was let off early for good behavior. He then accused the State of "overreaching" because the 2008 conviction was in a different jurisdiction. He explained that he was "charged for the admission of an appearance of pleading guilt[y]," but that in his opinion, the facts of the case did not "correspond" to legal guilt and that inadmissible evidence had been used against him.

¶ 7 The trial court then asked petitioner what had changed since the denial of petitioner's first *pro se* petition to seal. Petitioner indicated that he had not been arrested, had been attending church and helping his family, and planned to relocate. The court asked what compelling hardship the 1994 record had created. Petitioner responded that he could not get housing and had been discriminated against when he attempted to go to school or apply for a job. When the court inquired regarding the 2009 incident in New Buffalo, Michigan, petitioner indicated that in that situation he was pushed by his girlfriend and it "ended up being turned into an infraction." He then clarified that the outcome was "disturbance of the peace," he paid the relevant fines, and he had been in "relationship counseling" for over a year.

¶ 8 When the court asked whether petitioner had been arrested since March 2009, petitioner answered "[n]ot to his knowledge." He then indicated that in 2010, he was searched and seized illegally, but that he was not arrested; rather, he "was going through a federal charge with some cops." Ultimately, the court concluded, based upon the "totality of the evidence," that there was

no compelling reason to seal 1994 record, as there was "a lot of history" there, and the court did not see how it was going to impact petitioner's endeavors one way or the other.

¶ 9 On appeal, petitioner contends that the trial court erred when it denied his petition to seal. He argues that he sought to seal an eligible record and that the trial court improperly relied upon matters from other jurisdictions when denying the petition

¶ 10 Initially, this court notes that petitioner's *pro se* brief fails to conform to the requirements prescribed by Supreme Court Rules 341 (eff. Feb. 6, 2013), and 342 (eff. Jan. 1, 2005). Most notably, petitioner has failed to present an organized and cohesive legal argument. Although we recognize that petitioner is a *pro se* litigant, he is still required to comply with Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013), which mandates the argument section of a brief "contain the contentions of the appellant and the reasons therefor, with citation of the authorities" relied upon. See *People v. Stevenson*, 2011 IL App (1st) 093413, ¶ 39 ("A *pro se* petitioner must comply with the rules of procedure required of those represented by counsel, and a court should not apply more lenient standards to a *pro se* petitioner."). "A reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository into which the appealing party may dump the burden of argument and research." *People v. Hood*, 210 Ill. App. 3d 743, 746 (1991). Despite the foregoing deficiencies, however, this court has jurisdiction to consider the merits of this appeal, and we elect to do so.

¶ 11 Under the Act, petitioners may move the court to expunge or seal certain eligible criminal records. Pursuant to section 5.2(c), a petitioner is provided with a means for having certain arrests and convictions hidden from his criminal records through a "sealing." See 20 ILCS 2630/5.2(c) (West 2012). When a record is sealed, the records are physically and electronically

maintained, but such records are unavailable to potential employers and others without a court order. See 20 ILCS 2630/5.2(a)(1)(K) (West 2012). 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 2012). The sealing provision of the Act identifies the records eligible to be sealed as "arrests" or "charges not initiated by arrest" that have resulted in various dispositions, including, *inter alia*, dismissal, acquittal, or conviction reversed or vacated. See 20 ILCS 2630/5.2(c)(2)(A)-(F) (West 2012). In those cases where a petitioner has previously been convicted of a criminal offense, eligible records may be sealed four years after the termination of the petitioner's last sentence. See 20 ILCS 2630/5.2(c)(3)(B) (West 2012).

¶ 12 The same procedures apply regardless of whether a petitioner seeks to expunge or to seal a record, *i.e.*, if an objection is filed, the trial court sets a hearing date and hears evidence on whether the petition should be granted. See 20 ILCS 2650/5.2(d)(7) (West 2012). The trial court shall grant or deny the petition to expunge or seal "based upon the evidence presented at the hearing." See 20 ILCS 2650/5.2(d)(7) (West 2012).

¶ 13 This court has previously held that a "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). An abuse of discretion exists only in those instances where the trial court's decision is "arbitrary, fanciful, or unreasonable, or where no reasonable person would take the view adopted by the trial court." *People v. Leon*, 306 Ill. App. 3d 707, 713 (1999).

¶ 14 In the case at bar, the trial court did not abuse its discretion when, after hearing argument from both petitioner and the State and considering defendant's criminal history, the trial court denied petitioner's motion to seal. The trial court questioned defendant extensively regarding his 2008 conviction for the fraudulent use of a credit card and his 2009 conviction for disturbing the peace as well as inquiring what hardship the 1994 record caused defendant. Based upon this record, we cannot say that the trial court's ruling was arbitrary or that no reasonable person would take the view that it adopted (see *Leon*, 306 Ill. App. 3d at 713), when, after considering both petitioner's arguments and his criminal history, the trial court denied the petition to seal. Accordingly, the court did not abuse its discretion.

¶ 15 Although defendant argues that the trial court improperly relied upon convictions from other jurisdictions in denying his petition, he cites no authority for the proposition that the court was unable to consider such convictions. See Supreme Court Rule 341(h)(7) (eff. Feb. 16, 2013) (the argument in an appellant's brief must include "citation of the authorities and the pages of the record relied on"). Furthermore, he presents this court with no principled basis for treating those convictions differently, and, consequently, his argument must fail.

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

¶ 17 Affirmed.