

NOTICE
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2012 IL App (4th) 110445-U

Filed 1/23/12

NO. 4-11-0445

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff-Appellee,

v.

JEFFERY THEADORE DAVIS,

Defendant-Appellant.

) Appeal from

) Circuit Court of

) McLean County

) No. 08CF1267

)

) Honorable

) Charles G. Reynard,

) Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.

Justices Appleton and Pope concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court had jurisdiction to deny defendant's petition for *habeas corpus*, and defendant asserted no viable grounds on which *habeas* relief could be granted.

¶ 2 Defendant, Jeffery Davis, was convicted after a bench trial of aggravated battery and sentenced to five years imprisonment in the Illinois Department of Corrections (DOC). On direct appeal the judgment was affirmed. *People v. Davis*, 2012 IL App (4th) 100188-U, (unpublished order under Supreme Court Rule 23) (Jan. 5, 2012). In May 2010, defendant filed a petition for *habeas corpus* (735 ILCS 5/10-101 *et seq.* (West 2010)). In March 2011, the trial court denied the petition for *habeas corpus* relief. Defendant appeals, contending the court lacked jurisdiction to deny his claim based on a speedy-trial violation because the State was in procedural fault as to all claims and facts contained in the *habeas corpus* petition. We disagree and affirm.

¶ 3

I. BACKGROUND

¶ 4

The procedural history of defendant's conviction for aggravated battery in McLean County case No. 4-10-0188 is complicated because of defendant's numerous *pro se* motions in that case while represented by counsel; his appeal; a *pro se* petition for postconviction relief erroneously dismissed by the trial court and then reinstated; defendant's *pro se* requests for supervisory orders from the court, the Chief Judge of the Circuit, and the Supreme Court of Illinois; defendant's *pro se* request for federal rules of procedure to apply to his various motions or to proceed in federal court; the later withdrawal of his *pro se* postconviction petition; and the petition for *habeas corpus* that incorporates or references many of defendant's complaints dating from his arrest.

¶ 5

Defendant's petition for *habeas corpus* essentially alleges he was denied his right to a speedy trial, as well as other rights, and recites all the perceived deficiencies in his prosecution and sentence. Defendant argues his *habeas corpus* petition was erroneously dismissed. Defendant contends because the State did not file a written answer to his petition (1) there has been a procedural default, (2) the court no longer had jurisdiction to deny his claim and his unlawful, unconstitutional conviction should be vacated and (3) he should be immediately released and compensated with \$2,000.

¶ 6

Defendant filed his *habeas corpus* petition in May 2010 not long after his notice of appeal was filed in the underlying judgment. Shortly before this petition, he also filed a *pro se* postconviction petition and various motions for supervisory orders. Later, defendant filed additional *pro se* motions and after his erroneously dismissed postconviction petition was reinstated, he waived his right to counsel and withdrew his postconviction petition.

¶ 7 The trial court was also called upon to address defendant's motion for a substitution of judge because of prejudice. This issue was resolved after a hearing in late September 2010. Defendant was in the custody of the DOC and moved to another facility. This caused delay in bringing him back before the court, but at a December 2010 status hearing where defendant appeared *pro se*, the court determined the only pending matter was the *habeas corpus* petition that was set for hearing in February 2011.

¶ 8 At the February hearing, the trial court heard from defendant and the State, considered the defendant's petition and the record, and took the matter under advisement. On March 23, 2011, the petition for *habeas corpus* was denied by written order.

¶ 9 II. ANALYSIS

¶ 10 *Habeas corpus* relief in Illinois is available only on the specific grounds noted by statute (735 ILCS 5/10-124 (West 2010)). Defendant asserts, without citation to any relevant authority, that the trial court had no jurisdiction to deny his *habeas corpus* petition. Defendant also contends the legal process was defective in some substantial way. The record belies defendant's claims.

¶ 11 Defendant was before the court because he was convicted and sentenced for aggravated battery and thereafter filed a panoply of postconviction motions seeking redress for alleged violations of his rights. The State contested the myriad of claims at every juncture. Defendant waived counsel, elected to proceed *pro se*, and had full consideration (or the opportunity for the full consideration) of every one of his claims either at trial, posttrial, appeal, or by postconviction or *habeas corpus*. The State did not file a formal, written answer to the *habeas corpus* petition, but every one of defendant's claims were forfeited, adjudicated, or contested by

the State.

¶ 12 When defendant appeared for hearing in February 2011, he made no reference to the lack of a written response by the State and did not seek a default. Instead, he argued his position against an assistant State's Attorney and before a trial judge who were both intimately familiar with the entire record and defendant's pleadings.

¶ 13 If defendant had a viable claim of error, which he does not, it has been forfeited because he did not raise the issue, failed to object to the alleged error, and participated in the proceeding where the State clearly opposed his petition. A lack of objection forfeits his claim. See *People v. Hestand*, 362 Ill. App. 3d 272, 279, 838 N.E.2d 318, 324 (2005).

¶ 14 The trial court found, in its written order, that *habeas corpus* relief was not applicable and we agree. The court had jurisdiction; no act or omission occurred after imprisonment which entitled defendant to be discharged; and the process afforded defendant was not defective. The record shows most, if not all, delays in the underlying case were attributable to defendant. Defendant did not raise the speedy-trial issue in the trial court. Defendant contributed to delay by filing *pro se* motions even though he was represented by counsel during the original proceedings on the underlying conviction. Claims of double jeopardy, an issue of compulsory joinder, and ineffective assistance of counsel are frivolous and without merit.

¶ 15 The writ of *habeas corpus* is not a catchall substitute for other procedures designed to address claimed errors in the trial court. Seven specific instances entitle a prisoner to *habeas corpus* relief. 735 ILCS 5/10-124 (West 2010). None are present here. The trial court concluded defendant was not entitled to *habeas corpus* relief, and we agree.

¶ 16 III. CONCLUSION

¶ 17 We affirm the trial court's denial of defendant's petition for *habeas corpus* and as part of our judgment, we grant the State its statutory assessment of \$50 against defendant as costs of this appeal.

¶ 18 Affirmed.