

Order filed May 31, 2023  
Modified upon denial  
of rehearing June 13, 2023.

2023 IL App (5th) 200238-U  
NO. 5-20-0238

IN THE  
APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

NOTICE

This order was filed under  
Supreme Court Rule 23 and is  
not precedent except in the  
limited circumstances allowed  
under Rule 23(e)(1).

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Williamson County.
	)	
v.	)	No. 00-CF-200
	)	
CHRISTOPHER L. ALEXANDER,	)	Honorable
	)	Jeffrey A. Goffinet,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE WELCH delivered the judgment of the court.  
Justices Cates and Barberis concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's denial of the defendant, Christopher Alexander's, motion for leave to file a successive petition for postconviction relief is affirmed where the defendant failed to satisfy the cause and prejudice test.

¶ 2 The defendant, Christopher Alexander, was convicted in Williamson County of first degree felony murder for participating in the underlying offense of armed robbery that led to the death of 78-year-old Maxine McKenzie. The defendant was sentenced to 60 years' imprisonment. The defendant filed a direct appeal, and on September 8, 2006, this court affirmed the defendant's conviction and sentence. See *People v. Alexander*, No. 5-04-0322 (2006) (unpublished order under Illinois Supreme Court Rule 23). On June 13, 2007, the defendant filed a *pro se* petition for postconviction relief. Counsel was appointed and an amended petition was filed, but the trial court

dismissed the petition at the second stage of the postconviction proceedings where it found that the defendant failed to make a substantial showing that his appellate counsel was ineffective. Thereafter, this court affirmed the dismissal. See *People v. Alexander*, 2021 IL App (5th) 170300-U. Relevant to this appeal, on July 9, 2020, the defendant filed a motion for leave to file a successive postconviction petition. The trial court denied the motion, finding that the defendant had not satisfied the cause and prejudice test necessary to file a successive petition. For the reasons that follow, we affirm.

¶ 3

### I. BACKGROUND

¶ 4 As the facts of this case have been iterated several times, we will state only those facts necessary for this appeal. On July 9, 2020, the defendant filed a motion for leave to file a successive postconviction petition pursuant to section 122-1(f) of the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1(f) (West 2018)). The defendant’s motion argued that his 60-year sentence was a *de facto* life sentence, he was 21 years old at the time of the offense, and new research and studies had emerged in neurology, sociology, and behavioral psychology about the continuing brain development in “emerging adults.” He asserted that this new research indicated that emerging adults were more similar to adolescents than fully mature adults and therefore less blameworthy and more capable of reform. He argued that under *Miller v. Alabama*, 567 U.S. 460 (2012), and its progeny, his 60-year sentence violated the eighth amendment prohibition against cruel and unusual punishment under the United States Constitution and the proportionate penalties clause under the Illinois Constitution.

¶ 5 On July 15, 2020, the trial court entered a written order finding that, “The court is bound to follow existing precedent and chooses not to make law. No precedent extends the juvenile principles argued by Movant to adults over 21. Defendant urges this court to apply the analysis

used for a juvenile offender in *Miller* to him, a 21-year[-]old adult at the time of his offenses. The Court declines to do so.” The defendant appeals.

¶ 6

## II. ANALYSIS

¶ 7 On appeal, the defendant argues that the trial court erred in denying his motion to file a successive postconviction petition where it found that *Miller* and its progeny did not apply to him as he was 21 years old at the time of his offenses. The defendant argues that based on newly available scientific studies, he should have been considered an “emerging adult” at the time of his sentencing, and the *Miller* factors should have been considered by the trial court in crafting an appropriate sentence. Based on the following, we agree with the reasoning of the trial court and find that the defendant cannot establish prejudice.

¶ 8 The Act provides a method for criminal defendants to assert that “in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both.” 725 ILCS 5/122-1(a)(1) (West 2018). “A proceeding under the Act is a collateral attack on the judgment of conviction.” *People v. Wrice*, 2012 IL 111860, ¶ 47. Although our supreme court has made clear that the Act contemplates only one postconviction proceeding, its caselaw establishes two bases upon which the bar against successive proceedings will be relaxed: (1) a showing of cause and prejudice or (2) a claim of actual innocence. *People v. Edwards*, 2012 IL 111711, ¶¶ 22-23.

¶ 9 When a defendant seeks to file a successive postconviction petition, he must first obtain leave of court. 725 ILCS 5/122-1(f) (West 2018). Leave of court may be granted only if defendant demonstrates “cause” for his failure to bring the claim in his initial postconviction proceeding and “prejudice” resulting therefrom. See *id.* (codifying the cause-and-prejudice test articulated in *People v. Pitsonbarger*, 205 Ill. 2d 444, 458-60 (2002)); *Wrice*, 2012 IL 111860, ¶ 48. A defendant

shows cause by identifying an objective factor that impeded his ability to raise a specific claim in his initial postconviction petition. 725 ILCS 5/122-1(f) (West 2018); *Wrice*, 2012 IL 111860, ¶ 48. A defendant shows prejudice by demonstrating that the claim not raised in his initial postconviction petition so infected his trial that the resulting conviction or sentence violated due process. *Wrice*, 2012 IL 111860, ¶ 48. It is defendant's burden to establish a *prima facie* showing of cause and prejudice in order to be granted leave before further proceedings on his claims can follow (*People v. Bailey*, 2017 IL 121450, ¶ 24; *People v. Smith*, 2014 IL 115946, ¶ 30), and both elements must be satisfied for defendant to prevail (*People v. Guerrero*, 2012 IL 112020, ¶ 15). We review *de novo* a court's denial of a motion for leave to file a successive petition.

¶ 10 Here, the defendant committed the crime when he was 21 years old. As this court has previously found, a 20-year-old offender is an adult. See *People v. White*, 2020 IL App (5th) 170345, ¶ 20. We agree with the trial court that the precedent created by *Miller* and its progeny does not apply to the defendant. The defendant's age makes him an adult under both this court's caselaw and supreme court precedent. Therefore, we adopt the reasoning of the trial court and find that the court did not err in denying the defendant's motion for leave to file a successive postconviction petition.

¶ 11 III. CONCLUSION

¶ 12 For the foregoing reasons, the order of the circuit court of Williamson County denying the defendant's petition for leave to file a successive postconviction petition is hereby affirmed.

¶ 13 Affirmed.