NOTICE
Decision filed 03/23/23. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2023 IL App (5th) 210152-U

NO. 5-21-0152

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).

LAWRENCE ADAMCZYK,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellant,	)	Jefferson County.
	)	
v.	)	No. 21-MR-12
	)	
GREG MORGENTHALER, in His Official Capacity as Warden,	)	Honorable
	)	Evan L. Owens,
Respondent-Appellee.	)	Judge, presiding.

PRESIDING JUSTICE BOIE delivered the judgment of the court.
Justices Moore and Vaughan concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the circuit court's judgment dismissing the petitioner's *habeas corpus* petition where the petitioner's claim was barred by collateral estoppel, and other issues raised on appeal, but not raised in the lower court, are forfeited. We further find this appeal to be frivolous, but decline to impose sanctions.

¶ 2 The petitioner, Lawrence Adamczyk, filed a *pro se* petition for *habeas corpus* relief (*pro se* petition) pursuant to section 10-102 of the Code of Civil Procedure (Code) (735 ILCS 5/10-102 (West 2020)), in the circuit court of Jefferson County on January 25, 2021.

The respondent, Greg Morgenthaler,[1] in his official capacity as warden of the Big Muddy River Correctional Center (BMRCC), filed a motion to dismiss the complaint and enter a finding of frivolousness on March 8, 2021. The petitioner filed his response on March 31, 2021, and the circuit court dismissed the *pro se* petition, with prejudice, on April 19, 2021.

¶ 3 The petitioner now appeals the circuit court's judgment, raising five issues for this court's review. For the following reasons, we affirm the judgment of the circuit court and find this appeal to be frivolous.

¶ 4 I. BACKGROUND

¶ 5 In 2014, the petitioner was indicted by the Du Page County grand jury charging him with, *inter alia*, attempted aggravated criminal sexual abuse. On March 4, 2016, the circuit court of Du Page County civilly committed the petitioner pursuant to the Sexually Dangerous Persons Act (SDP Act) (725 ILCS 205/0.01 *et seq.* (West 2016)). As part of the civil commitment order, the circuit court dismissed the indictment.

¶ 6 On June 22, 2016, the petitioner filed a petition for relief from judgment in the circuit court of Du Page County pursuant to section 2-1401 of the Code (735 ILCS 5/2-1401 (West 2016)). The petitioner's petition for relief from judgment asserted that (a) the indictment was invalid because it was based on perjury and was illegally procured, (b) his speedy trial rights were violated, and (c) the SDP Act was unconstitutional.

[1]The petitioner initially named Leota Jackson, in her official capacity as warden at the Big Muddy River Correctional Center. Greg Morgenthaler replaced Ms. Jackson during the pendency of this matter and, as such, became the proper respondent in this action. See *Hennings v. Chandler*, 229 Ill. 2d 18, 23 n.2 (2008) (proper defendant in *habeas corpus* action is the person in whose custody the plaintiff resides.).

¶ 7 On September 28, 2016, the circuit court entered an order stating that the State's motion to dismiss the petitioner's 2-1401 petition, filed on September 19, 2016, was granted for the reasons stated on the record and dismissed the petitioner's 2-1401 petition. The circuit court's order also stated that the petitioner's writ of *habeas corpus* was denied on the pleadings since the court had already denied a previous writ of *habeas corpus*,[2] and that the petitioner's motion for injunctive relief, filed on August 15, 2016, was also denied by the circuit court. The circuit court's order went on to state that the petitioner failed to set forth specific factual allegations showing the existence of a meritorious claim or defense, failed to raise any facts unknown to the petitioner or the court at the time of his trial, and that the petitioner's claim that the indictments against him were invalid were irrelevant and were previously litigated by the petitioner, "who represented himself."

¶ 8 On November 16, 2016, the petitioner filed a second petition for relief from judgment pursuant to section 2-1401 of the Code (*id.*). The petitioner's second 2-1401 petition asserted that his indictment was null and void because the Du Page County state's attorney had obtained it through prosecutorial misconduct. The circuit court dismissed the second petition on November 30, 2016. On February 16, 2017, the petitioner filed a third petition for relief from judgment pursuant to section 2-1401 of the Code (*id.*), asserting that

[2]The information contained in the background section is being obtained, in part, from orders that were attached as exhibits to the various motions. The record on appeal does not contain the defendant's original criminal file nor copies of all previous filings outside the current case on appeal. As such, some of the documents referred to are not contained in the record on appeal nor are certain dates attainable. Those documents and/or dates, however, are not necessary to our analysis. We further note that this court may take judicial notice of records in other court cases involving the same parties that are determinative of the cause as such records are readily verifiable facts. See *Walsh v. Union Oil Co.*, 53 Ill. 2d 295, 299 (1972); *Aurora Loan Services, LLC v. Kmiecik*, 2013 IL App (1st) 121700, ¶ 37.

(a) the Du Page County state's attorney fraudulently obtained the indictment, (b) the petitioner was erroneously denied an evidentiary hearing in his previous section 2-1401 litigation, and (c) the petitioner was not given an opportunity to face his accuser during the civil commitment trial. The circuit court found that the petitioner's claims "[had] previously been ruled on by the Court" and dismissed the third petition on March 1, 2017.

¶ 9 On April 5, 2017, the petitioner filed a fourth petition for relief from judgment pursuant to section 2-1401 of the Code (*id*.). The petitioner's fourth petition asserted that he should be immediately released from commitment because the underlying criminal charges were dismissed, and therefore, the SDP Act precluded his commitment. The circuit court again found that the petitioner's "claims were previously denied by this Court," and denied the fourth petition on April 19, 2017.

¶ 10 On November 7, 2017, the petitioner filed a fifth petition for relief from judgment pursuant to section 2-1401 of the Code (*id*.), repeating his claims that he could not be held under the SDP Act when the original charges had been dismissed and his indictment was not legally obtained. On November 28, 2017, the circuit court dismissed the petitioner's fifth petition.

¶ 11 On March 13, 2018, the petitioner filed a petition for a writ of *habeas corpus* in the United States District Court for the Northern District of Illinois, asserting that (a) the indictment was invalid, (b) his detention was illegal, (c) the evidence used to commit him under the SDP Act was insufficient, and (d) the prosecution engaged in misconduct. Ultimately, on March 30, 2020, the federal district court denied the petitioner's petition for a writ of *habeas corpus* finding, *inter alia*, that the petitioner's claims were procedurally

defaulted for the failure to exhaust the claims in the state court, and that the petitioner failed to show cause and prejudice to overcome the procedural default. In a footnote, the Northern District's order further stated as follows:

> "To the extent that [the petitioner] contests the validity of his indictment and legality of his custody once the indictment was dismissed, these arguments are misplaced. He is not being held on the basis of the indictment, and his detention comports with the Sexually Dangerous Person Act, see 725 Ill. Comp. Stat. 205/8 ('If the respondent is found to be a sexually dangerous person then the court shall appoint the Director of Corrections guardian of the person found to be sexually dangerous and such person shall stand committed to the custody of such guardian.'). It is not the case that he could not be held under the SDPA once his criminal charges had been dismissed. *Cf. Kalinowski v. Bond*, 358 F.3d 978, 979 (7th Cir. 2004) (noting that a person may be held as sexually dangerous even after their criminal conviction has expired)." *Adamczyk v. Sullivan*, No. 18 CV 1858, 2020 WL 1529969, at *4 n.8 (N.D. Ill. Mar. 30, 2020).

¶ 12 On July 7, 2020, the United States District Court for the Northern District of Illinois entered an order indicating that the petitioner had filed, in that court, a successive *habeas corpus* petition, a writ of *mandamus*, two motions for reconsideration, and two other motions to amend. The order also indicated that the petitioner had filed a *habeas corpus* petition in United States District Court for the Southern District of Illinois,

challenging the constitutionality of the SDP Act. The matter filed in the Southern District was transferred to the Northern District, and the Northern District dismissed all pending claims as an unauthorized successive *habeas corpus* petition. The Northern District court further stated that, regardless of the procedural bars, a *mandamus* claim would be meritless as the constitutionality of the SDP Act had been settled for 34 years. As such, the Northern District court admonished the petitioner that his challenge to his custody under the SDP Act was completed, that he was engaging in frivolous litigation, and that any new filings would be stricken as frivolous.

¶ 13 On September 29, 2020, the petitioner sought leave from the Illinois Supreme Court to file an original action for *habeas corpus* relief. The petitioner's proposed petition alleged that the circuit court lacked jurisdiction to civilly commit him and exceeded its jurisdiction when it allowed the state's attorney to proceed with a case against him, that the granting of the State's petition for commitment created a bill of attainder, and that the SDP Act was unconstitutional. On November 17, 2020, the supreme court denied the petitioner leave to file a petition for writ of *habeas corpus*.

¶ 14 On February 1, 2021, the petitioner filed another *habeas corpus* petition in the United States District Court for the Southern District of Illinois. The matter was again transferred to the United States District Court for the Northern District of Illinois, as the judgment challenged was entered in that district. See 28 U.S.C. § 2241(d) (2018). The petitioner's *habeas corpus* petition alleged that the circuit court had lacked jurisdiction over him, that the state's attorney acted improperly by moving forward with his case, and

that the SDP Act was unconstitutional. On March 23, 2021, the federal court dismissed the case as an unauthorized, successive *habeas corpus* petition.

¶ 15 On January 26, 2021, the Illinois Supreme Court issued an order denying the petitioner's motion for reconsideration of its November 17, 2020, order denying the petitioner's motion for leave to file a petition for writ of *habeas corpus*. On February 22, 2021, the petitioner filed a motion for reconsideration of the Illinois Supreme Court order of January 26, 2021, which remained pending as of the date in which the petitioner filed the *pro se* petition.

¶ 16 On January 25, 2021, the petitioner filed a *pro se* petition for *habeas corpus* relief, at issue in this appeal, pursuant to article X of the Code (735 ILCS 5/10-101 *et seq*. (West 2020)), in the circuit court of Jefferson County. The *pro se* petition asserted that (a) the indictment was defective, and the State used "false pretense or bribery" in obtaining it, (b) the trial court lacked jurisdiction to civilly commit the petitioner, and (c) the SDP Act, if constitutional, did not apply to the petitioner's case. The respondent filed a motion to dismiss the complaint and enter a finding of frivolousness on March 8, 2021, and the petitioner filed his response on March 31, 2021.

¶ 17 In the petitioner's response to the respondent's motion to dismiss, the petitioner stated that "here are Jointer of Actions to the action already filed." These actions included that the SDP Act was vague; that no identified victim ever existed as required by "725 111/3 a-5"; that the petitioner was disoriented at the time of the alleged offense, which is not a crime; that the petitioner had no past conviction for any sexual related offense; that facts in the indictment were speculation by a non-legal person deemed an expert; that the

indictment was dismissed so it had no legal merit and would need to be pending for the petitioner's detention to be legal; and that the petitioner did not meet the elements required to be determined as a sex offender.

¶ 18 The petitioner's response then goes on to ask the circuit court "to honestly answer yes or no to the above statements and decide the issue on FACTS stated. Is the SDPA a Bill of Attainder?" Finally, the petitioner's response requests an "order of neglect," stating that he was not safely kept or cared for, and a *mandamus* action, which according to the petitioner, "actually shows itself as the best cause of action." On March 31, 2021, the petitioner filed supplemental pleadings in the circuit court to add "clarity to the rights extended by ORDER OF NEGLECT, (735 ILCS 5/10-117), and the MANDUMUS, (5/14-101)."

¶ 19 On April 19, 2021, the circuit court, by docket entry, dismissed the *pro se* petition, with prejudice, finding that the petitioner had raised the same issues in various courts and pleadings, and that his claims were barred by collateral estoppel. The circuit court noted that the petitioner had been made aware of the frivolous nature of his claims by other courts, but declined to order retroactive payment of costs. The circuit court did, however, admonish the petitioner that he would no longer receive the benefit of "free filings" as the claims the petitioner had made in that court had been previously decided. The circuit court entered its written order on April 22, 2021, granting the respondent's motion to dismiss, and entering a finding of frivolousness for the reasons stated in the docket entry of April 19, 2021. The petitioner now appeals the circuit court's judgment arguing that the circuit court erred in dismissing his *pro se* petition.

¶ 20 II. ANALYSIS

¶ 21 The petitioner asserts the following five issues on appeal:

> "Issue 1: Whether IDOC's Director and Warden of BMRCC can leaglly [*sic*] detain me as a matter of law to the SDPA Act.
>
> Issue 2: Whether the SDPA ON FACE construction is a bill attainder prohibited by the U.S. Constitution.
>
> Issue 3: Whether the SDPA construction and application is a 'status offense', conditional statute in violation of the Constitution.
>
> Issue 4: Whether the SDPA ON FACE construction is unconstitutionally vague for all mentally ill accused. For the Appellate.
>
> Issue 5: Whether the wards, SDPs are subjected to punishment being essentially treated like criminally convicted inmates."

¶ 22 The respondent argues that the petitioner's five issues on appeal are barred by collateral estoppel, and that the petitioner's issues two through five, if not barred by collateral estoppel, are forfeited for the petitioner's failure to include issues two through five in his initial petition. The respondent also argues that none of the petitioner's claims state a basis for *habeas corpus* relief, argues that this court should find the petitioner's appeal to be frivolous, and requests this court to impose sanctions against the petitioner.

¶ 23 The issues presented to us on appeal arise from the circuit court's dismissal pursuant to a motion under section 2-619(4) of the Code (735 ILCS 5/2-619(4) (West 2000)). An appeal from a section 2-619 dismissal is subject to *de novo* review. *Raintree Homes, Inc. v. Village of Long Grove*, 209 Ill. 2d 248, 254 (2004). A section 2-619 motion "raises

defects, defenses or other affirmative matter which appears on the face of the complaint or is established by external submissions which act to defeat the plaintiff's claim." *Neppl v. Murphy*, 316 Ill. App. 3d 581, 584 (2000). "[A] section 2-619 proceeding enables the court to dismiss the complaint after considering issues of law or easily proved issues of fact." *Id.* at 585. This court may affirm a dismissal on any basis supported by record, and our disposition is without regard to the circuit court's reasoning. *Ragel v. Scott*, 2018 IL App (4th) 170322, ¶ 19. Further, this court reviews *de novo* the denial of a *habeas corpus* petition. *Id.*

¶ 24 We will first address the respondent's argument that the petitioner's issues two through five are forfeited due to the petitioner's failure to raise the issues in the lower court. It has long been held that the failure to raise an issue in the circuit court results in forfeiture of that issue on appeal. See *People v. Sophanavong*, 2020 IL 124337, ¶¶ 20-21; *Huang v. Brenson*, 2014 IL App (1st) 123231, ¶ 22. The purpose of this rule is to encourage parties to raise their concerns in the circuit courts so that the lower courts have an opportunity to correct any alleged errors prior to appeal. *1010 Lake Shore Ass'n v. Deutsche Bank National Trust Co.*, 2015 IL 118372, ¶ 14.

¶ 25 In this matter, first noting that the petitioner's pleadings and arguments are disjointed and extremely difficult to follow, a review of the *pro se* petition indicates that the petitioner did allege issue one in his *pro se* petition in the lower court. The petitioner argues that all of the issues were raised in the *pro se* petition, or within the plaintiff's response and supplemental pleadings. We acknowledge that the petitioner raised two additional causes of action, first in his response to the motion to dismiss, and then in his

supplemental pleadings. Section 2-609 of the Code (735 ILCS 5/2-609 (West 2020)), however, provides that supplemental pleadings can only be filed by leave of court. There is nothing in the record to indicate that the petitioner obtained leave of court prior to filing his supplemental pleadings. Further, section 2-616 of the Code (§ 2-616) requires any amendment to a pleading to be done by leave of court. In order to add new causes of action to his *pro se* petition, the petitioner was required to seek leave of court. The petitioner failed to request leave of court to file his supplemental pleadings and further failed to request leave of court to amend his *pro se* petition to include the additional causes of action. As such, the additional causes of action, and any arguments contained therein regarding those causes of action, were never properly before the lower court.

¶ 26 We further note, regarding petitioner's issue two, that the petitioner stated that the "SDPA really is a Bill of Attainder" in his *pro se* petition, but that statement was contained in the petitioner's argument regarding the circuit court's jurisdiction and was not a stated issue, nor was there a separate argument, fully briefed, regarding whether the SDP Act was a bill of attainder in his *pro se* petition. As such, although issues two through five were raised in previous pleadings, or in supplemental pleadings, before the circuit and/or federal courts, these issues were not properly raised in the *pro se* petition from which this appeal stems. Therefore, we find that the petitioner's issues two through five are forfeited for the petitioner's failure to properly raise the issues in his *pro se* petition.

¶ 27 Next, the respondent argues that all of the issues within the petitioner's *pro se* petition, including the remaining issue on appeal, are barred by collateral estoppel. A complaint is subject to dismissal if it is "barred by a prior judgment." 735 ILCS 5/2-619(4)

(West 2020). The doctrine of collateral estoppel precludes a party from relitigating an issue decided in a prior proceeding. *Kessinger v. Grefco, Inc.*, 173 Ill. 2d 447, 460 (1996). Collateral estoppel "promotes fairness and judicial economy by preventing relitigation in one suit of an identical issue already resolved against the party against whom the bar is sought." *Id*. Collateral estoppel bars an issue that was resolved against a party on the merits in a prior proceeding, as long as the prior judgment is final, and the party against whom the estoppel is asserted was either a party or in privity with a party in the prior lawsuit. *Id*. at 461.

¶ 28 The circuit court dismissed the *pro se* petition finding that all of the issues raised in the *pro se* petition were barred by collateral estoppel. The circuit court noted that the petitioner had "raised these same issues in various courts and pleadings and the defendant's claims are barred by collateral estoppel." As such, the circuit court dismissed the *pro se* petition with prejudice. Upon our *de novo* review, we find that the trial court did not err in its determination that the plaintiff's remaining claim was barred by collateral estoppel.

¶ 29 Concerning the petitioner's final issue of whether the director of the Illinois Department of Corrections (IDOC) and the warden of the BMRCC could legally detain the petitioner under the SDP Act, the petitioner alleged in this *pro se* petition that, because the indictment had been dismissed and there were no pending criminal charges, he could not be legally detained under the SDP Act. As demonstrated in the background section above, the petitioner has extensively litigated this claim in both the circuit and the federal district courts. A thorough review of the record, and the petitioner's exhaustive pleadings filed in these courts, clearly demonstrates that the petitioner has made numerous claims regarding

the constitutionality of, and his confinement under, the SDP Act. For example, the Northern District's order of March 30, 2020, states that "[the petitioner] claims that his adjudication as a sexually dangerous person was supported by insufficient evidence,[8] but the actual innocence exception to procedural default cannot be satisfied merely by reasserting evidence and arguments that were presented in the original proceeding but did not carry the day." *Adamczyk*, No. 18 CV 1858, 2020 WL 1529969, at *4. Footnote 8 to the Northern District's order went on to state:

> "To the extent that [the petitioner] contests the validity of his indictment and legality of his custody once the indictment was dismissed, these arguments are misplaced. He is not being held on the basis of the indictment, and his detention comports with the Sexually Dangerous Person Act, see 725 Ill. Comp. Stat. 205/8 ('If the respondent is found to be a sexually dangerous person then the court shall appoint the Director of Corrections guardian of the person found to be sexually dangerous and such person shall stand committed to the custody of such guardian.'). It is not the case that could not be held under the SDPA once his criminal charges had been dismissed. *Cf. Kalinowski v. Bond*, 358 F.3d 978, 979 (7th Cir. 2004) (noting that a person may be held as sexually dangerous even after their criminal conviction has expired)." *Id.* at *4 n.8.

¶ 30 Although the petitioner argues that this issue has never been fully litigated and, as such, collateral estoppel does not apply, the requirement that the issue be "actually litigated" does not require that the issue be thoroughly litigated. *Raper v. Hazelett & Erdal*,

114 Ill. App. 3d 649, 653 (1983). "Collateral estoppel may apply 'no matter how slight was the evidence on which a determination was made in the first suit, of the issue to be collaterally concluded.' " *Id.* (quoting *Continental Can Co., U.S.A. v. Marshall*, 603 F.2d 590, 596 (7th Cir. 1979)). Thus, the "full and fair opportunity to litigate" requirement is generally held to be satisfied if the parties to the original action disputed the issue and the trier of fact resolved it.

¶ 31 It is clear that, at a minimum, the Northern District addressed the issue of whether the IDOC's director and the warden of the BMRCC could legally detain the petitioner under the SDP Act and clearly resolved the issue on the merits. In fact, the Northern District's order of July 7, 2020, noted that the "Petitioner previously challenged his custody under the SDP Act in the No. 18 C 1858 *habeas corpus* case, and the Court denied the petition on the merits." As such, the petitioner was a party in the prior Northern District suit, the Northern District resolved this issue against the petitioner, and the Northern District order of March 30, 2020, was a final judgment. Therefore, having found the threshold elements satisfied, we find that this issue is barred by collateral estoppel.

¶ 32 Finally, the respondent argues that this court should not only affirm the circuit court's judgment, but should sanction the petitioner for pursing this frivolous appeal. Although the respondent cites to section 22-105(a) of the Code (735 ILCS 5/22-105(a) (West 2020)), this court's authority to impose sanctions lies within Illinois Supreme Court Rule 375(b) (eff. Feb. 1, 1994). Rule 375(b) states that "[i]f, after consideration of an appeal or other action pursued in a reviewing court, it is determined that the appeal or other action itself is frivolous *** an appropriate sanction may be imposed upon any party." Ill. S. Ct.

R. 375(b) (eff. Feb. 1, 1994). An appeal is deemed frivolous, for the purposes of sanctions, where it is not reasonably well grounded in fact and not warranted by existing law or good faith argument, or if a reasonable, prudent attorney would not in good faith have brought such an appeal. See *Robert H. v. Andrea Abbott H.*, 2019 IL App (5th) 180559, ¶ 23; *Beverly v. Reinert*, 239 Ill. App. 3d 91, 101 (1992). The purpose of the rule for sanctions for a frivolous appeal is to condemn and punish the abusive conduct of litigants. The imposition of sanctions under Rule 375(b) is discretionary. *Jaworski v. Skassa*, 2017 IL App (2d) 160466, ¶ 18.

¶ 33 We would be remiss not to admonish the petitioner that his pleadings and filings have been found frivolous in both the circuit court and the federal district court, and he has been properly admonished by those courts regarding possible sanctions for any further frivolous filings. Although we find that this appeal is not reasonably well grounded in fact and not warranted by existing law, we acknowledge, to a very limited extent, that the petitioner is *pro se* and we will decline to impose sanctions at this time. We caution the petitioner, however, that this court has now also admonished him regarding his pleadings and filings in the appellate court, and we will not hesitate to impose sanctions pursuant to Rule 375(b) for any further frivolous appellate court filings.

¶ 34 Before concluding this matter, we need to address an administrative matter. Attached to the petitioner's reply brief is a "Motion to Consider Ill. S. Ct. Rule 302(b)." The motion requests "the Honorable Court to use Rule 302(b). Also to rule on it as soon as possible." Illinois Supreme Court Rule 302(b) (eff. Oct. 4, 2011) relates to a direct appeal to the Illinois Supreme Court and provides that the supreme court may, after a notice of

appeal is filed in the appellate court, order that the appeal be taken directly to the supreme court in a case in which the public interest requires the prompt adjudication by the supreme court. Rule 302(b) may only be invoked by the supreme court and this court has no authority under the scope of Rule 302(b).

¶ 35 We further note that Illinois Supreme Court Rule 341(j) (eff. Oct. 1, 2020) strictly confines a reply brief to replying to arguments presented in the brief of the appellee, and that Illinois Supreme Court Rule 361 (eff. Dec. 1, 2021) sets forth the requirements for a motion in the reviewing court. Rule 361(b)(2) requires each motion to include a proposed order phrased in the alternative and further provides that no motion shall be accepted by the clerk unless accompanied by such a proposed order. As the petitioner's Rule 302(b) motion was improperly attached to the petitioner's reply brief, and failed to comply with Rule 361(b)(2), the motion is hereby stricken from the record.

¶ 36 Based on the foregoing, we find that the petitioner's issues two through five are forfeited on appeal due to the petitioner's failure to properly raise the issues in the lower courts. We further find that the petitioner's remaining issue one, regarding whether the IDOC's director and warden of BMRCC could legally detain the petitioner as a matter of law under the SDP Act, is barred by collateral estoppel. While we have found this appeal to be frivolous, we have declined to impose sanctions at this time. As stated above, however, we will not hesitate to impose sanctions for any further frivolous appellate court filings.

¶ 37 III. CONCLUSION

¶ 38 For the foregoing reasons, the judgment of the circuit court of Jefferson County is affirmed.

¶ 39 Affirmed.