

SUPREME COURT OF ILLINOIS

People v. Gayden

2020 IL 123505 (Ill. 2020) · No. 123505 · Decided February 9, 2021

SUMMARY

The Illinois Supreme Court affirmed Lanard Gayden’s conviction for unlawful use or possession of a weapon based on possession of a shotgun with a barrel shorter than 18 inches. The court held that the trial record was insufficient to determine whether counsel was ineffective for failing to file a motion to suppress evidence. It also held that Gayden could have filed a postconviction petition while his direct appeal was pending and declined to expand postconviction relief after he had completed his sentence.

CASE DETAILS

|                       |                                                                                                                                                                                                                                            |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Illinois                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Justice Thomas; Justice Kilbride; Justice Garman; Justice Karmeier; Justice Theis; Justice Neville; Chief Justice Burke                                                                                                                    |
| JURISDICTION          | Illinois                                                                                                                                                                                                                                   |
| DECIDED               | February 9, 2021                                                                                                                                                                                                                           |
| DOCKET                | 123505                                                                                                                                                                                                                                     |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Defendant appealed his conviction for unlawful use or possession of a weapon to the Illinois Supreme Court after the appellate court affirmed and declined to decide his ineffective-assistance claim because the record was insufficient. |
| STANDARD OF REVIEW    | The sufficiency of the record to decide the ineffective-assistance claim presented a question of law reviewed de novo. Ineffective assistance is evaluated under Strickland's two-prong test.                                              |
| PRECEDENTIAL VALUE    | Published, precedential opinion of the Supreme Court of Illinois; expressly overrules People v. Fellers in part.                                                                                                                           |
| PARTIES               | Lanard Gayden v. The People of the State of Illinois                                                                                                                                                                                       |

TOPICS

- ineffective assistance
- suppression of evidence
- fourth amendment
- state post-conviction relief
- appellate procedure

## PRACTICE AREAS

criminal procedure

post-conviction relief

constitutional law

appellate procedure

ineffective assistance of counsel

## QUESTIONS PRESENTED

1. Whether the trial record was sufficiently developed to determine that counsel was ineffective for failing to file a motion to suppress the shotgun.
2. Whether the Illinois Supreme Court should permit further development of the ineffective-assistance claim through a postconviction petition or by retaining appellate jurisdiction and remanding for an evidentiary hearing after Gayden had completed his sentence.
3. Whether the appellate court's approach in *People v. Fellers*, allowing retention of jurisdiction and remand for an evidentiary hearing when a defendant could no longer pursue postconviction relief, was permissible.

## HOLDINGS

1. The record was insufficient to determine whether a motion to suppress would have been meritorious, whether counsel's decision not to file the motion was strategic, or whether Gayden was prejudiced. Accordingly, the ineffective-assistance claim could not be resolved on direct appeal.
2. The Post-Conviction Hearing Act does not provide relief to a defendant who is no longer imprisoned in the penitentiary, and the court could not expand the Act to permit a petition after Gayden completed his sentence.
3. The court declined to direct the appellate court to retain jurisdiction and remand for an evidentiary hearing when the defendant could no longer file a postconviction petition.
4. *People v. Fellers* is overruled to the extent it authorized retaining appellate jurisdiction and remanding for an evidentiary hearing in these circumstances.

## KEY QUOTATIONS

*“In order to establish ineffective assistance based on counsel’s failure to file a suppression motion, the defendant must demonstrate both that the unargued suppression motion was meritorious and that a reasonable probability exists that the trial outcome would have been different had the evidence been suppressed.”* (¶ 28)

*“As Carrera recognized, this court cannot expand the remedy set forth in the Act in order to bring a defendant’s case within the reach of the Act if he has fully served his sentence.”* (¶ 43)

*“To the extent the court in Fellers held to the contrary, we hereby overrule that decision.”* (¶ 48)

## FACTUAL BACKGROUND

Police responded to a report of a man with a gun at a Chicago residence. According to trial testimony, Officer Glinski saw Gayden holding a shotgun, saw him throw it to the floor, and forced open the apartment door after

Gayden attempted to shut it; another officer recovered a loaded shotgun with a 17½-inch barrel. Gayden denied possessing or seeing the gun and was convicted after a bench trial. The arrest report also contained additional information about an alleged altercation and threats involving Gayden's girlfriend, but the circumstances bearing on probable cause and exigent circumstances were not fully developed at trial.

## PROCEDURAL HISTORY

Following a bench trial in the Circuit Court of Cook County, Gayden was convicted of knowingly possessing a shotgun with a barrel less than 18 inches long and sentenced to two years' imprisonment and one year of mandatory supervised release. The Illinois Appellate Court affirmed but declined to resolve his claim that trial counsel was ineffective for failing to file a motion to suppress, concluding that the record was inadequate. After Gayden completed MSR while his appeal was pending, the Illinois Supreme Court granted leave to appeal and affirmed.

## DISPOSITION

affirmed

## CASES CITED

- People v. Bew, 228 Ill. 2d 122, 127, 134 (2008)
- People v. Aguilar, 2013 IL 112116
- Strickland v. Washington, 466 U.S. 668 (1984)
- People v. Henderson, 2013 IL 114040, ¶¶ 11, 15
- People v. White, 221 Ill. 2d 1, 21 (2006)
- People v. Luedemann, 222 Ill. 2d 530 (2006)
- People v. Harris, 224 Ill. 2d 115, 124-27, 131, 135 (2007)
- People v. Carrera, 239 Ill. 2d 241, 246, 258-59 (2010)
- People v. Rissley, 206 Ill. 2d 403, 415 (2003)
- Pennsylvania v. Finley, 481 U.S. 551, 556-57 (1987)
- People v. Warr, 54 Ill. 2d 487, 491 (1973)
- People v. Fellers, 2016 IL App (4th) 140486, ¶¶ 34, 36
- Massaro v. United States, 538 U.S. 500, 504-05 (2003)