

APPELLATE COURT OF ILLINOIS, FIFTH DISTRICT

People v. Endicott

2025 IL App (5th) 230438 · No. 5-23-0438 · Decided December 24, 2025

SUMMARY

The Illinois Appellate Court, Fifth District, reviewed the dismissal of portions of Scott P. Endicott’s amended postconviction petition. The court held that postconviction counsel provided unreasonable assistance by failing to address the petition’s untimeliness and remanded for further second-stage proceedings with new counsel, while concluding that the sex-offender-registration claim was nonmeritorious because the defendant was not subject to registration under the applicable statute.

CASE DETAILS

COURT	Appellate Court of Illinois, Fifth District
WRITING FOR THE COURT	Justice Moore; Justice Welch; Justice McHaney
JURISDICTION	Illinois Appellate Court, Fifth District
DECIDED	December 24, 2025
DOCKET	5-23-0438
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed the second-stage dismissal of portions of his amended petition for postconviction relief, arguing that appointed postconviction counsel provided unreasonable assistance under Illinois Supreme Court Rule 651(c).
STANDARD OF REVIEW	De novo review applies to the dismissal of a postconviction petition at the second stage and to whether appointed postconviction counsel complied with Rule 651(c).
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Scott P. Endicott v. The People of the State of Illinois

TOPICS

- post-conviction relief
- ineffective assistance
- appellate procedure
- statutory interpretation
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether postconviction counsel provided unreasonable assistance under Illinois Supreme Court Rule 651(c) by failing to amend the petition to allege that the late filing was not due to the defendant's culpable negligence.
2. Whether postconviction counsel provided unreasonable assistance by failing to include a claim that plea counsel should have admonished the defendant about lifetime sex-offender registration.
3. What remedy follows from postconviction counsel's noncompliance with Rule 651(c).

HOLDINGS

1. Postconviction counsel provided unreasonable assistance by failing to amend the petition to allege facts supporting the contention that the untimely filing was not the defendant's culpable negligence, particularly after the State raised the statute-of-limitations defense.
2. Postconviction counsel did not provide unreasonable assistance by declining to amend the petition to assert that plea counsel was ineffective for failing to advise Endicott about lifetime sex-offender registration because Endicott's murder convictions did not require registration under the Sex Offender Registration Act.
3. The portion of the circuit court's order dismissing the claims as untimely was reversed, and the matter was remanded for further second-stage proceedings with new postconviction counsel.

KEY QUOTATIONS

“where postconviction counsel failed to fulfill the duties of Rule 651(c), remand is required, regardless of whether the claims raised in the petition had merit.” (¶ 26)

“A reasonable level of assistance includes, inter alia, “attempting to overcome procedural bars, including timeliness, that will result in dismissal of a petition if not rebutted.”” (¶ 29)

“Fulfillment of the third obligation under Rule 651(c) does not require postconviction counsel to advance frivolous or spurious claims on defendant’s behalf.” (¶ 33)

FACTUAL BACKGROUND

Endicott pleaded guilty pursuant to an Alford plea to two counts of first degree murder in exchange for dismissal of other charges and was sentenced to 60 years' imprisonment. He later filed a pro se postconviction petition outside the statutory deadline, asserting actual innocence, ineffective assistance, and an alleged failure to admonish him about lifetime sex-offender registration. Appointed postconviction counsel filed amended petitions but did not allege facts addressing culpable negligence for the late filing or respond to the State's timeliness argument. The circuit court dismissed the untimely claims, while the appellate court determined that counsel's failure to address the procedural bar constituted unreasonable assistance.

PROCEDURAL HISTORY

Endicott pleaded guilty to two counts of first degree murder and received a 60-year sentence. After unsuccessful proceedings concerning withdrawal of the plea, fitness, ineffective assistance of plea counsel, and sentencing, he filed a late pro se postconviction petition asserting actual innocence and other constitutional claims. The circuit court advanced the petition to the second stage, appointed counsel, and later dismissed portions of the second amended petition as untimely, barred by res judicata, or meritless; it denied the actual-innocence claim after a third-stage evidentiary hearing. The appellate court reversed in part and remanded for further second-stage proceedings with new counsel.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the portion of the circuit court's order dismissing the claims as untimely and remand for further second-stage proceedings, with new postconviction counsel appointed and an opportunity for the defendant to replead. The remand concerns claims not subject to res judicata. Appellate counsel must provide copies of their briefs to circuit court counsel, including new postconviction counsel, and to the circuit court.

CASES CITED

- Cirro Wrecking Co. v. Roppolo, 153 Ill. 2d 6, 17-19 (1992)
- People v. Endicott, 2018 IL App (5th) 140567-U
- People v. Endicott, No. 5-12-0427, ¶¶ 12-14 (2014)
- People v. Pitsonbarger, 205 Ill. 2d 444, 455 (2002)
- People v. Towns, 182 Ill. 2d 491, 502 (1998)
- People v. Little, 2012 IL App (5th) 100547, ¶ 12
- People v. Turner, 2024 IL App (2d) 210753-U, ¶ 28
- People v. Coleman, 183 Ill. 2d 366, 380-82, 385 (1998)
- People v. Pendleton, 223 Ill. 2d 458, 473 (2006)
- People v. Alberts, 383 Ill. App. 3d 374, 377 (2008)
- People v. Allen, 2015 IL 113135, ¶ 24
- People v. Wallace, 2018 IL App (5th) 140385, ¶¶ 27, 31, 53
- People v. Turner, 187 Ill. 2d 406, 410, 416 (1999)
- People v. Perkins, 229 Ill. 2d 34, 42, 44 (2007)
- People v. Jones, 2011 IL App (1st) 092529, ¶ 23
- People v. Russell, 2016 IL App (3d) 140386, ¶¶ 10-12
- People v. Profit, 2012 IL App (1st) 101307, ¶ 18
- People v. Johnson, 154 Ill. 2d 227, 238 (1993)
- People v. Greer, 212 Ill. 2d 192, 205, 209 (2004)
- Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984)

- People v. Domagala, 2013 IL 113688, ¶ 36
- People v. Simpson, 2015 IL 116512, ¶ 35
- People v. Bell, 2018 IL App (4th) 151016, ¶ 37
- People v. Kuehner, 2015 IL 117695, ¶¶ 20-22, 24, 27
- People v. Dixon, 2018 IL App (3d) 150630, ¶¶ 21-22

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