

attempted aggravated kidnapping conviction. Following an appeal, this court affirmed defendant's convictions but modified his sentence to a life sentence for home invasion and a life sentence for armed violence to run concurrently, rather than consecutively. *People v. Parker*, 141 Ill. App. 3d 643, 647 (1986).

¶ 5 Defendant filed a petition for postconviction relief on March 6, 1989. The court granted the State's motion to dismiss the postconviction petition. Defendant appealed. This court remanded the cause for further postconviction proceedings, finding that the petition had not been ruled upon in a timely manner. *People v. Parker*, No. 5-89-0242 (Sept. 18, 1990) (unpublished order pursuant to Supreme Court Rule 23). On July 20, 1991, the circuit court dismissed the petition once again. This court affirmed. *People v. Parker*, No. 5-92-0074 (Dec. 29, 1993) (unpublished order pursuant to Supreme Court Rule 23). On January 3, 2007, defendant filed a petition for *habeas corpus*, which he then withdrew on March 20, 2007, and refiled on June 29, 2007. The circuit court denied defendant's petition for *habeas corpus* and this court affirmed. *People v. Parker*, No. 5-07-0556 (June 10, 2008) (unpublished order pursuant to Supreme Court Rule 23).

¶ 6 Defendant filed the current petition for postjudgment relief pursuant to section 2-1401 of the Code on January 12, 2012. On February 29, 2012, the circuit court dismissed the petition. This appeal followed.

¶ 7 ANALYSIS

¶ 8 In his postjudgment petition, defendant argues that his convictions were carved out of the same act and his sentences should, therefore, be merged into one life sentence rather than two. He argues that the judgment of the circuit court was void as a result.

¶ 9 We review the dismissal of a section 2-1401 petition *de novo*. *People v. Vincent*, 226 Ill. 2d 1, 18 (2007). A section 2-1401 petition must be filed within two years after the entry of the order or judgment (735 ILCS 5/2-1401(c) (West 2010)). The final judgment in a

criminal case is the sentencing. *People v. Jake*, 2011 IL App (4th) 090779, ¶ 24. The statute of limitations for a section 2-1401 petition is two years (735 ILCS 5/2-1401(c) (West 2010)) unless the judgment of the circuit court is void (735 ILCS 5/2-1401(f) (West 2010)). A judgment is void when the circuit court lacked the power to render the judgment or sentence or where the court lacked both personal and subject matter jurisdiction. *People v. Raczkowski*, 359 Ill. App. 3d 494, 496-97 (2005). If the judgment is void, a defendant may attack the judgment at any time. *Id.*

¶ 10 A voidable judgment, however, is a judgment entered erroneously by a court that does possess the inherent power and jurisdiction, both subject matter and personal, to render a judgment. *People v. Davis*, 156 Ill. 2d 149, 155-56 (1993). "Generally, once a court has acquired jurisdiction, no subsequent error or irregularity will oust jurisdiction thus acquired." *Id.* Therefore, a court will not lose jurisdiction simply because it made a mistake in determining either the fact, the law, or both. *Id.* In *Davis*, the defendant argued that multiple convictions stemming from the same act was prohibited and the court's judgment and sentence was void as a result. *Id.* at 157. The supreme court disagreed and found that the circuit court had the power and jurisdiction to render the judgment, and therefore the judgment was not void. *Id.* While the supreme court held that the judgment was not void, it did find that the judgment was voidable and noted that jurisdiction and the power to decide a case does not mean the court will always decide correctly. *Id.* at 156.

¶ 11 In this case, while defendant's sentence may be voidable, it is not void and thus does not overcome the statute of limitations hurdle. Defendant's argument echoes *Davis*, wherein defendant argued that the multiple convictions arose out of the same act. Just like *Davis*, we find that this trial error does not give rise to a void judgment. The circuit court had the inherent power and jurisdiction to render a judgment. There is no evidence to indicate that the circuit court acted outside of its inherent power. Defendant did not allege that the circuit

court lacked the jurisdiction to sentence him. Rather, he alleged that his sentence was void because the circuit court did not merge his sentences. Defendant filed his section 2-1401 petition 28 years after he was sentenced, which far surpasses the 2-year statute of limitations period. Therefore, as the judgment in the case was not void, defendant's petition is time-barred.

¶ 12

CONCLUSION

¶ 13 For the foregoing reasons, the judgment of the circuit court of Jackson County is affirmed.

¶ 14 Affirmed.