

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

FILED

September 27, 2016
Carla Bender
4th District Appellate
Court, IL

2016 IL App (4th) 140653-U
NO. 4-14-0653

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Champaign County
ANTHONY M. LINDSEY,)	No. 12CF1192
Defendant-Appellant.)	
)	Honorable
)	Heidi N. Ladd,
)	Judge Presiding.

PRESIDING JUSTICE KNECHT delivered the judgment of the court.
Justices Harris and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* We grant the office of the State Appellate Defender’s motion to withdraw as appellate counsel and affirm the trial court’s judgment as any request for review would be frivolous.

¶ 2 This case comes to us on a motion from the office of the State Appellate Defender (OSAD) to withdraw as appellate counsel for defendant, Anthony M. Lindsey, on the ground any request for review would be frivolous. We grant OSAD’s motion and affirm the trial court’s judgment.

¶ 3 I. BACKGROUND

¶ 4 On June 26, 2013, defendant pleaded guilty to one count of residential burglary (720 ILCS 5/19-3(a) (West 2010)) and was sentenced to four years’ imprisonment and two years’ mandatory supervised release (MSR). Defendant was accorded nine-days of credit for time served in presentence custody.

¶ 5 In January 2014, defendant filed a *pro se* motion, asserting the trial court failed to accord him the appropriate amount of presentence credit. In February 2014, the trial court issued a corrected sentencing judgment according defendant 542 days of presentence credit.

¶ 6 In June 2014, defendant filed a *pro se* “Motion [f]or Enforcement of Judgment.” Defendant asserted the Illinois Department of Corrections (DOC) was unwilling to recalculate his release date based on his corrected sentencing judgment. Later that month, the trial court denied defendant’s motion, finding it did not have jurisdiction over DOC or the power to grant the requested relief. Defendant filed a timely notice of appeal, and OSAD was appointed to represent defendant on appeal.

¶ 7 In April 2016, OSAD filed a motion for leave to withdraw as counsel. OSAD asserted it had reviewed the record and concluded any request for review would be frivolous. OSAD’s proof of service indicates defendant was provided with a copy of the motion. On our own motion, we granted defendant leave to file additional points and authorities. Defendant did not file a response.

¶ 8 II. ANALYSIS

¶ 9 OSAD asserts any request for review of the trial court’s judgment would be frivolous as (1) the court’s jurisdictional ruling was correct; and (2) the issue in this case is moot.

¶ 10 Defendant’s June 2014 motion asserted DOC was unwilling to recalculate his release date based on his corrected sentencing judgment. On June 26, 2013, defendant was sentenced to four years’ imprisonment. On December 24, 2015, defendant was released to serve his MSR term. See Lindsey, Anthony M., Illinois Department of Corrections: Offender Search, <https://www.illinois.gov/idoc/Offender/Pages/InmateSearch.aspx> (search “IDOC#”; enter “R53646”) (last visited Sept. 2, 2016). Accordingly, the record refutes any claim DOC failed to

accord defendant the presentence credit set out in the corrected sentencing judgment. Moreover, any challenge regarding whether defendant was given the proper sentence credit is moot as he was released to serve his MSR term. See *People v. McNulty*, 383 Ill. App. 3d 553, 558, 892 N.E.2d 73, 77 (2008) (sentencing challenge is moot where a defendant has completed serving his or her sentence); *People v. Whitfield*, 217 Ill. 2d 177, 202, 840 N.E.2d 658, 673 (2005) (the courts have no authority to strike or shorten an MSR term); *People v. Porm*, 365 Ill. App. 3d 791, 794-95, 851 N.E.2d 205, 207-08 (2006) (finding the defendant's sentencing challenge was moot where he had discharged his prison term and only the period of MSR remained).

¶ 11

III. CONCLUSION

¶ 12 We grant OSAD's motion to withdraw as counsel and affirm the trial court's judgment.

¶ 13 Affirmed.