

No. 1-15-2855

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Respondent-Appellee,)	Cook County.
)	
v.)	
)	No. 09 CR 8795
EDWARD SIGMAN,)	
)	Honorable
Petitioner-Appellant.)	Diane G. Cannon,
)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

ORDER

¶ 1 *Held:* The order dismissing petitioner’s petition for postconviction relief was entered within 90 days of its filing, in compliance with section 122-2.1(a) of the Post-Conviction Hearing Act (725 ILCS 5/122-2.1(a) (West 2014)).

¶ 2 Petitioner-appellant Edward Sigman appeals from the order of the circuit court of Cook County summarily dismissing his petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2014)). We affirm the circuit court.

¶ 3 BACKGROUND

¶ 4 Following a jury trial, the petitioner was convicted of predatory criminal sexual assault. This court affirmed his conviction and sentence on direct appeal. *People v. Sigman*, 2014 IL App (1st) 121718-U (unpublished order under Supreme Court Rule 23).

¶ 5 On February 4, 2015, petitioner filed a *pro se* post-conviction petition raising several claims of error, the merits of which are not at issue in this appeal. On April 28, 2015, the trial court summarily dismissed the petition, making an oral finding that the petition was patently frivolous and without merit. In addition to the transcript of that finding, the dismissal order is reflected by (1) a handwritten entry on a docket “half-sheet” dated April 28, 2015, as well as (2) a criminal disposition sheet of the same date.

¶ 6 A subsequent entry in the half-sheet reflects that the order was received by the clerk’s office on May 15, 2015. The clerk’s office prepared a certified report of disposition, signed and dated May 15, 2015, which states:

“The following disposition was rendered before [the trial court judge] on April 28, 2015. The petition for post-conviction relief is respectfully denied as being patently frivolous and without merit. I hereby certify that the foregoing has been entered of record on the above captioned case.”

¶ 7 On October 21, 2015, this court granted petitioner’s motion to file a late notice of appeal.

¶ 8 ANALYSIS

¶ 9 We first note that we have jurisdiction to consider this appeal, as petitioner was granted leave to file a late notice of appeal from the final order dismissing his petition. Ill. S. Ct. R. 606(c) (eff. Dec. 11, 2014).

¶ 10 Petitioner argues that the summary dismissal of his petition should be vacated and the matter remanded for further proceedings, contending that the court did not “enter an order” dismissing his petition within 90 days after it was filed, as required by section 122-2.1(a) of the Post-Conviction Hearing Act (Act). 725 ILCS 5/122-2.1(a) (West 2014). Petitioner acknowledges that the court dismissed the petition on April 28, 2015 (within 90 days of the petition’s February 4, 2015 filing), but argues that the dismissal order was not entered until May 15, 2015, when the clerk issued the certified report of disposition. The State contends that the dismissal order was entered on April 28, 2015, within section 122-2.1(a)’s 90-day requirement.

¶ 11 The Act creates a three-stage procedure for examining a petition for postconviction relief. *People v. Hodges*, 234 Ill. 2d 1, 10 (2009). At the first stage, the court independently reviews the petition’s allegations to determine if summary dismissal is warranted. *Id.* Section 122-2.1(a) of the Act codifies this procedure:

“Within 90 days after the filing and docketing of each petition, the court shall examine such petition and enter an order thereon pursuant to this Section.

(2) If the petitioner is sentenced to imprisonment and the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the findings of fact and conclusions of law it made in reaching its decision.” 725 ILCS 5/122-2.1(a)(2) (West 2014).

¶ 12 Petitioner argues that the court did not comply with the 90-day period set forth in section 122-2.1(a) because it did not “enter an order by filing it with the clerk of the court” until May 15, 2015. Petitioner relies on the supreme court’s decision in *People v. Perez*, 2014 IL 115927, which addressed “whether the circuit court complies with the 90-day requirement of section 122-2.1(a) *** when it signs and dates an order of dismissal on the ninetieth day after the petition is filed and docketed, but the order is not filed by the clerk until the ninety-first day.” *Id.* ¶ 1.

¶ 13 The *Perez* court recognized that the dispositive question is when the order is “entered” within the meaning of section 122-2.1(a). *Id.* ¶ 13. After examining the statutory language of the Act as well as Supreme Court Rule 272 (eff. Nov. 1, 1990), the supreme court concluded that under section 122-2.1(a) “the court’s decision is ‘entered,’ *** when the judgment is placed of record.” *Perez*, 2014 IL 115927, ¶ 25. The *Perez* court found that the dismissal order in that case was not entered when the judge signed it, but on the following day when the clerk stamped the order. As that occurred 91 days after the petition was filed, the supreme court remanded for second-stage postconviction proceedings. *Id.* ¶ 29.

¶ 14 Petitioner argues that *Perez* requires a file-stamped document from the clerk of court for an order to be “entered” under the Act, and that the half-sheet and criminal disposition sheet dated April 28, 2015 do not constitute entry of the dismissal order. However, since *Perez*, this court determined in *People v. Cooper*, 2015 IL App (1st) 132971, that a dismissal order is entered when it has been recorded on a half-sheet and criminal disposition sheet:

“[A] court summarily dismisses a postconviction petition when its decision is entered of record. *People v. Perez*, 2014 IL 115927 (citing Ill. S. Ct. R. 272 (eff. Nov. 1, 1990)). Here, the court reached a decision on July 24 to dismiss [petitioner’s] petition, and

that decision was clearly communicated to the clerk of the court and spread of record, as documented by the July 24 docket or ‘half-sheet’ entry of dismissal. The order is further evidenced by the certified report of disposition, referring to a July 24 dismissal, sent to [petitioner] on August 5 ***. The entry of a dismissal order on July 24 does not depend on the record containing a transcript for that day or an order signed by the judge himself.” *Cooper*, 2015 IL App (1st) 132971, ¶ 14.

¶ 15 *Cooper* is dispositive under the facts of this case. As in *Cooper*, the trial court’s summary dismissal order was reflected by a half-sheet docket entry as well as a certified report of disposition are both of which were dated April 28, 2015. These documents establish that the dismissal order was “spread of record” and entered on that date. Accordingly, we affirm the trial court’s dismissal of petitioner’s postconviction petition.

¶ 16 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 17 Affirmed.