

NOTICE

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April 11, 2017
Carla Bender
4th District Appellate
Court, IL

2017 IL App (4th) 160295-U

NO. 4-16-0295

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Logan County
CHARLES R. BONE,)	No. 11MR87
Defendant-Appellant.)	
)	Honorable
)	William G. Workman,
)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Presiding Justice Turner and Justice Pope concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's denial of defendant's petition for relief from judgment.

¶ 2 In December 2011, the State filed a petition to declare defendant, Charles R. Bone, a sexually dangerous person (725 ILCS 205/3 (West 2010)). In March 2012, defendant admitted the State's petition. The trial court entered an order finding him a sexually dangerous person and appointed the Director of the Illinois Department of Corrections as his guardian. In January 2016, defendant filed a petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401 (West 2014)) arguing, *inter alia*, the State's December 2011 petition was void because it did not meet the statutory requirements. In April 2016, the court denied his petition and defendant orally motioned the court to reconsider its decision. The court denied the motion. On appeal, defendant argues the court erred when it

dismissed his section 2-1401 petition because the State's December 2011 petition to declare him a sexually dangerous person did not meet the statutory requirements and was therefore void. For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On December 22, 2011, the State filed a petition in Logan County case No. 11-MR-87 to have defendant declared a sexually dangerous person pursuant to section 3 of the Sexually Dangerous Persons Act (Act) (725 ILCS 205/3 (West 2010)). The State based its petition on two criminal cases filed against defendant: (1) Logan County case No. 11-CF-46, in which defendant was charged with criminal sexual assault; and (2) Logan County case No. 11-CF-98, in which defendant was charged with two counts of aggravated criminal abuse and one count of solicitation of a sexual act.

¶ 5 On March 20, 2012, defendant stipulated to the State's petition and that he was a sexually dangerous person. Following defendant's stipulation, the trial court entered an order (1) finding defendant was a sexually dangerous person and (2) appointing the Director of the Illinois Department of Corrections as his guardian.

¶ 6 On January 29, 2016, defendant filed a petition for relief from judgment pursuant to section 2-1401 of the Code (735 ILCS 5/2-1401 (West 2014)). Defendant recognized his petition fell outside of the two-year statutory limit, but he claimed he met an exception because the judgment entered against him was void. Defendant argued the judgment committing him as a sexually dangerous person was void because it exceeded the trial court's authority. Defendant explained the State did not file its December 2011 petition to declare him a sexually dangerous person in the same proceeding as his pending criminal offenses, which, according to defendant, made the trial court's judgment void (725 ILCS 205/3 (West 2010)). Defendant also argued the

State improperly chose the psychiatric evaluators, his placement in prison was unconstitutional, and that he was denied due process.

¶ 7 On February 26, 2016, the State responded to defendant's petition and requested the trial court deny defendant's petition. The State acknowledged it erroneously filed its December 2011 petition as a miscellaneous remedy case (No. 11-MR-87) instead of in the pending criminal felony cases (Nos. 11-CF-46 and 11-CF-98). However, the State noted that, prior to the court's judgment, the State's filing error was discussed and the State requested all three files be combined. The court ordered defendant committed under the Act, and entered the order of commitment in all three cases. The State emphasized the purpose of this filing requirement was to prevent the State from pursuing both a conviction and involuntary commitment. Since the order was also entered in the criminal cases, they "remain open and pending as intended by the [Act]." The State's response also addressed defendant's other arguments. The State argued the trial court undertook the proper method in selecting psychiatric evaluators, and that defendant's other contentions were beyond the two-year limitations period for section 2-1401 petitions because he did not argue the alleged errors render the judgment void.

¶ 8 On March 7, 2016, defendant filed an affidavit in support of his section 2-1401 petition.

¶ 9 On April 20, 2016, the trial court held a hearing on defendant's petition. The court denied the petition, stating, in relevant part, as follows:

"[I]n the court's review for this petition, there are—this is a quasi-criminal/quasi-civil proceeding, but from the court's review of the law out there that a [section] 2-1401 petition does not apply for a civil commitment under the *** Act. For that reason, the petition

filed by the defendant on January 29th, 2016, is going to be denied."

Defendant orally motioned the court to reconsider its decision, and the court denied defendant's oral motion.

¶ 10 This appeal followed.

¶ 11 II. ANALYSIS

¶ 12 On appeal, defendant argues the trial court erred when it dismissed his section 2-1401 petition because the State's December 2011 petition to commit him as a sexually dangerous person did not comply with statutory requirements and was therefore void. The State argues the court properly denied defendant's section 2-1401 petition because it was untimely. We agree with the State.

¶ 13 "A section 2-1401 petition for relief from a final judgment is the forum in a criminal case in which to correct all errors of fact occurring in the prosecution of a cause, unknown to the petitioner and court at the time judgment was entered, which, if then known, would have prevented its rendition." *People v. Haynes*, 192 Ill. 2d 437, 461, 737 N.E.2d 169, 182 (2000). Generally, a defendant must file a section 2-1401 petition within two years of the trial court entering its final judgment. 735 ILCS 5/2-1401(c) (West 2014). Sections 2-1401(a) and (c) of the Code allow a party to obtain relief from a final judgment after two years when the defendant can show legal disability, duress, or fraudulent concealment. 735 ILCS 5/2-1401(a), (c) (West 2014).

¶ 14 In this case, the trial court entered its final judgment on March 20, 2012. Defendant filed his petition on January 29, 2016, well past the two-year statutory requirement. Nevertheless, he suggests because the court's judgment is void it can be attacked at any time. See *People v. Hillier*, 237 Ill. 2d 539, 546, 931 N.E.2d 1184, 1188 (2010). We review *de novo* the

court's dismissal of defendant's section 2-1401 petition requesting relief from a void judgment. *Pekin Insurance Co. v. Campbell*, 2015 IL App (4th) 140955, ¶ 29, 44 N.E.3d 1103.

¶ 15 We note our supreme court abolished the void sentence rule defendant relies upon. *People v. Castleberry*, 2015 IL 116916, ¶ 19, 43 N.E.3d 932. This court concluded the abolition applies retroactively, which means a sentence can only be challenged as void at any time when the trial court lacked either personal or subject matter jurisdiction. See *People v. Stafford*, 2016 IL App (4th) 140309, ¶ 33, 61 N.E.3d 1058 (citing *People v. Davis*, 156 Ill. 2d 149, 156, 619 N.E.2d 750, 754 (1993)). Following this court's reasoning in *Stafford*, "Because defendant does not challenge the trial court's personal or subject matter jurisdiction, under *Castleberry*, we need not address whether his sentence is void." *Stafford*, 2016 IL App (4th) 140309, ¶ 33, 61 N.E.3d 1058. Since defendant does not argue the court lacked personal or subject matter jurisdiction, he cannot show the judgment is void, and therefore, he failed to meet the two-year filing requirement. Accordingly, we uphold the denial of his section 2-1401 petition because it was untimely.

¶ 16 Although the trial court reasoned defendant's petition was improper under the Act, we review the trial court's judgment, not its reasoning. *Hope v. Hope*, 398 Ill. App. 3d 216, 220, 924 N.E.2d 581, 585 (2010). "As a reviewing court, we can sustain the decision of a lower court on any grounds which are called for by the record, regardless of whether the lower court relied on those grounds and regardless of whether the lower court's reasoning was correct." (Internal quotation marks omitted.) *Beacham v. Walker*, 231 Ill. 2d 51, 61, 896 N.E.2d 327, 333 (2008).

¶ 17 III. CONCLUSION

¶ 18 For the foregoing reasons, we affirm the trial court's judgment.

¶ 19 Affirmed.