

No. 1-09-1267

**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).

**SIXTH DIVISION**  
February 4, 2011

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 08 CR 19120
	)	
SANDERS RAGGS a/k/a SANDLE RAGGS,	)	Honorable
	)	Mary Margaret Brosnahan,
Defendant-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE GARCIA delivered the judgment of the court.

Justices Cahill and R.E. Gordon concurred in the judgment.

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**O R D E R**

*HELD:* The trial court made an adequate inquiry into defendant's allegation of ineffective assistance of counsel where it discussed the allegation at length with defendant and his claim was insufficient on its face. The judgment of the trial court was affirmed.

After a bench trial, defendant Sanders Raggs, a.k.a. Sandle Raggs, was found guilty of burglary and was sentenced as a Class

X offender to eight years in prison. On appeal, defendant contends that the trial court failed to conduct an adequate inquiry into his oral *pro se* posttrial claim of ineffective assistance of counsel, arguing that there should have been some interchange between the trial court and defendant's trial counsel. We affirm.

At a joint bench trial, the evidence established that about midnight on September 23, 2008, the police found defendant and codefendant Gregory Jones, who is not a party to this appeal, in a trailer which operated as a business office inside a fenced car lot owned by United Auto Sales at 520 North Cicero in Chicago. The trailer included two offices and a storage room. Both defendants argued that their unauthorized presence in the trailer did not demonstrate an intent to commit a theft.

Eugene LeFebvre testified that he performed part-time security duties for the car lot, which he could see from his residence. Around midnight on the night of the crime, LeFebvre heard the security dogs barking, observed two offenders enter the trailer through a window, and called 9-1-1.

Officer Matthew McDonough, one of the responding officers, testified that when he arrived at the car lot, he saw defendant poke his head out of an open window in the trailer. McDonough then jumped over the fence and entered the trailer through the open window. Inside, he saw defendant in the building hallway

1-09-1267

and Jones in the second office, and placed them both in custody. McDonough noticed a crate with multiple tools packed up near the open window and another packed box near the door of the building.

Mohammad Bahramirad, the owner of United Auto, testified he did not know defendant or Jones, and did not give them permission to enter the business office at any time. Bahramirad had left the office building at 7 p.m. the night before, locked the doors and checked to make sure all the windows were closed. The power tools and an air compressor were locked in the storage room in an orderly fashion when he left. When he returned to the office after the break-in, tools and an air compressor had been packed up and moved to the office near the door and open window.

Defendant chose not to testify. Jones testified he had broken into the trailer on the night in question to smoke PCP, and had no intention to remove anything from the trailer.

The trial court found both defendants guilty of burglary. In finding defendant guilty, the trial court looked at the circumstances surrounding defendant's arrest: defendant was found at a closed business office at midnight, had entered without authorization through a window, and tools that had been locked in a storage room when the owner left earlier that evening were found packed in boxes near the open window. The court found the owner's testimony to be especially credible.

At sentencing, defendant alleged that his trial counsel had been ineffective because she had failed to use the police report to impeach Officer McDonough. The discussion went as follows:

"DEFENDANT: Look, the police report was issued to my Public Defender, and I asked her would she argue the police report in your courtroom, your Honor. And she told me, Why we should argue a police report in your courtroom because the officer came in your courtroom under oath and testified to me looking out a window at him in his police report.

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THE COURT: Well, let me just back up and let you know a police report is not evidence. They don't come in to evidence during trial. They can't submit a police report to me. The only use of a police report is when a witness is on the stand to possibly impeach them.

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DEFENDANT: The police in fact impeached himself, because when he testified, he testified to something wasn't in the police report, your Honor. This is what I'm saying now. The officer's testimony that he got on your stand and testified wasn't, wasn't in his police report, your Honor. That's why --

THE COURT: What part wasn't in his police report? What are you specifically saying?

DEFENDANT: \*\*\* he said that he saw me look through a window, out a window at him, which the 9-1-1 caller said that when he looked out his house, he said he couldn't see who went inside the trailer. So the officer testified that he knew that it was Mr. Raggs who come to a window and looked out from the trailer and ran and hid inside of a trailer from him. \*\*\* The police report will show you right here, your Honor, that it wasn't the truth.

THE COURT: What wasn't the truth? What did he say on the stand that's not in his report? I'm not understanding you.

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DEFENDANT: Because I wasn't even in a window, your Honor.

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THE COURT: Okay. So whether your face was in the window or not it doesn't change the fact that you were found in the trailer with stuff piled up by the door, a trailer that wasn't yours, that you had no permission to be in."

The trial court continued on with sentencing, and sentenced defendant as a Class X offender to eight years in prison.

On appeal, defendant contends that the trial court's inquiry into his posttrial ineffective assistance of counsel claim was inadequate because the court did not discuss the allegation with his trial counsel. Defendant requests a remand and a new hearing on his ineffective assistance of counsel claim.

When a defendant presents a *pro se* posttrial claim of ineffective assistance of counsel, the trial court must conduct an adequate inquiry into the factual basis of his claim, commonly referred to as the "Krankel inquiry." People v. Moore, 207 Ill. 2d 68, 77 (2003); People v. Krankel, 102 Ill. 2d 181 (1984). If the claim has no merit or pertains only to matters of trial strategy, then the court may deny the motion. Moore, 207 Ill. 2d at 78. The job of the reviewing court is to determine whether the trial court's inquiry into the defendant's allegations was adequate. Moore, 207 Ill. 2d at 78. The question of the adequacy of the inquiry is one of law, so we review this issue *de novo*. Moore, 207 Ill. 2d at 75; People v. Vargas, 396 Ill. App. 3d 465, 478 (2009).

In evaluating a defendant's posttrial *pro se* claim of ineffective assistance of counsel, the court may discuss defendant's allegations with trial counsel, ask for a more detailed explanation from defendant, or rely on "its knowledge of

counsel's performance at trial and 'the insufficiency of the defendant's allegations on their face.' " People v. Milton, 354 Ill. App. 3d 283, 292 (2004), quoting Moore, 207 Ill. 2d at 78-79.

Here, we find that the court did conduct an adequate inquiry into the basis for defendant's claim. The trial court gave defendant an opportunity to explain and then support his claim. Defendant argued that his trial counsel had access to the police report and he had wanted it entered into evidence. The trial court explained to defendant that police reports may not be entered into evidence at trial but may only be used to impeach witnesses. Defendant then went on to argue that he wanted his trial counsel to impeach McDonough because the officer testified to information that was not in the police report. While at first the trial court was unsure as to what defendant was arguing, it gave him the opportunity to clarify. Once it was clear that the conflict between McDonough's testimony and the police report to which defendant was referring centered on whether McDonough actually saw defendant poke his head out of the trailer window, the trial court explained that whether his face was seen in the window did not "change the fact that [he was] found in the trailer with stuff piled up by the door, a trailer that wasn't [his], that [he] had no permission to be in." Additionally, the decision whether to impeach a witness is generally a matter of

trial strategy, and will not support a claim of ineffective assistance of counsel. People v. Smith, 177 Ill. 2d 53, 92 (1997); People v. Clay, 379 Ill. App. 3d 470, 481 (2008).

Notably, the arrest report states that "McDonough observed Raggs peek out of window" and McDonough's trial testimony was the same. As it was clear that defendant's allegations were insufficient on their face, a discussion with trial counsel was unnecessary.

For the foregoing reasons, we find that the trial court conducted an adequate inquiry into defendant's *pro se* claim of ineffective assistance of counsel. Accordingly, we affirm the judgment of the trial court.

Affirmed.