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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> NATHAN D., a Minor)	Appeal from the Circuit Court
)	of Winnebago County.
)	
)	No. 07—JD—85
)	
(The People of the State of Illinois,)	Honorable
Petitioner-Appellee, v. Nathan D.,)	K. Patrick Yarbrough,
Respondent-Appellant).)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

Held: Respondent did not sufficiently raise a pro se posttrial claim of ineffective assistance of counsel that triggered the trial court’s duty to inquire; his claim that counsel did not “come see” him did not mean that counsel did not communicate with him to the extent necessary.

Following a trial, respondent, Nathan D., was adjudicated delinquent. The trial court denied respondent’s motion for a new trial, and respondent timely appealed. The only issue raised on appeal is whether a statement made by respondent following the denial of his posttrial motion constituted a *pro se* claim of ineffective assistance of counsel sufficient to require the court to inquire into the basis for the claim. For the reasons that follow, we affirm.

I. BACKGROUND

On May 1, 2007, respondent was adjudicated delinquent based on his admission to committing armed robbery (720 ILCS 5/18—2(a)(2) (West 2006)). The trial court sentenced him to an indeterminate term in the Department of Juvenile Justice (DJJ) and to an adult sentence of eight years in the Department of Corrections, which was stayed on the condition that respondent comply with the provisions of his juvenile sentence.

On May 26, 2009, while respondent was on parole, the State filed a supplemental petition for an adjudication of delinquency, alleging that respondent resisted a peace officer (720 ILCS 5/31—1 (West 2006)). Thereafter, the State filed a motion to lift the stay on the adult prison sentence. Following a hearing on the petition and the motion, the trial court found respondent delinquent for resisting a peace officer and lifted the stay.

On September 29, 2009, respondent filed a motion for a new trial. Following a hearing, the trial court denied the motion. At the conclusion of the proceedings, respondent indicated that he wanted to make a statement, and the following transpired:

“[RESPONDENT]: I would like to make another statement that my PD he ain’t never representing me proper. He ain’t never come see me. So I would like that to be on statement so for when we go to trial for my appeal.

THE COURT: All right, sir. Anything else you’d like to say?

[RESPONDENT]: That’s it.

THE COURT: All right then. Thank you, sir.”

Respondent timely appealed.

II. ANALYSIS

Respondent argues that the statement he made following the denial of his posttrial motion amounts to an “allegation of ineffective assistance of counsel” and that the trial court should have conducted an inquiry into this allegation. Respondent maintains that, because the trial court failed to do so, a remand for a preliminary inquiry is warranted. We disagree.

When a defendant brings a *pro se* posttrial claim of ineffective assistance of counsel, the trial court should make a preliminary inquiry into the factual basis of the defendant’s claim. *People v. Taylor*, 237 Ill. 2d 68, 75 (2010); *People v. Pence*, 387 Ill. App. 3d 989, 994 (2009). If the defendant’s allegations show possible neglect of the case, the court should appoint new counsel to argue the defendant’s claim of ineffective assistance. *Taylor*, 237 Ill. 2d at 75; *Pence*, 387 Ill. App. 3d at 994. However, if the court concludes that the defendant’s claim lacks merit or pertains only to matters of trial strategy, the court may deny the claim. *Taylor*, 237 Ill. 2d at 75; *Pence*, 387 Ill. App. 3d at 994. The threshold question of whether respondent’s statement at sentencing constituted a *pro se* claim of ineffective assistance sufficient to trigger the court’s duty to inquire into the factual basis of respondent’s claim is a question of law; thus, our review is *de novo*. See *Taylor*, 237 Ill. 2d at 75.

We find that respondent’s posttrial statement that his “[public defender] ain’t never representing me proper” because “[h]e ain’t never come see me” was insufficient to warrant further inquiry by the trial court. We note that, contrary to respondent’s claim in his brief, he did not allege during his sentencing hearing “that his defense counsel failed to fulfill his fundamental duty to communicate with [respondent] and apprise him about this case”; rather, he claimed that counsel “ain’t never come see me.” Even assuming *arguendo* that the public defender did not meet with

respondent at the DJJ, it does not follow that the public defender entirely failed to communicate with respondent.

Respondent's alleged claim does not rise to the level of the claims made in the cases he relies on. For instance, respondent did not allege that counsel concealed discovery from him (see, *e.g.*, *People v. Smith*, 268 Ill. App. 3d 574, 578-80 (1994), where the reviewing court found that the defendant was entitled to an evidentiary hearing on his postconviction claim that his attorney concealed police reports from him), nor did he claim that he had no contact at all with counsel (see, *e.g.*, *Hall v. Washington*, 106 F.3d 742, 746 (7th Cir. 1997), where the court found that defense counsel was deficient in failing to contact the defendant in preparation for the defendant's capital sentencing hearing, in failing to present the defendant's mitigation witnesses, and in failing in closing argument to offer any reason, other than blatant disregard of state law, for sparing the defendant's life). Here, respondent claimed only that counsel did not "come see [him]"; he did not claim that counsel failed to communicate with him or failed to apprise him about his case. Indeed, counsel could have met with respondent at the courthouse.

Nevertheless, respondent argues that remand is especially warranted here because of his "unique status" as a juvenile and the unavailability of postconviction relief following a juvenile adjudication. According to respondent, he is entitled "to more and not less protection under the law." However, even with the most liberal reading, respondent's comments simply do not rise to the level of an ineffectiveness claim sufficient to trigger the court's duty to inquire.

III. CONCLUSION

Based on the foregoing, we affirm the order of the circuit court of Winnebago County.

Affirmed.