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).

No. 3–09–0874

Order filed April 6, 2011

IN THE

APPELLATE COURT OF ILLINOIS

THIRD JUDICIAL DISTRICT

A.D., 2011

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Plaintiff-Appellee,	)	Will County, Illinois,
	)	
v.	)	No. 08–CF–864
	)	
WILLIAM HANDFORD,	)	Honorable
	)	Carla Alessio-Policandriotes,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Presiding Justice Carter and Justice Holdridge concurred in the judgment.

ORDER

Held: The trial court's failure to conduct any inquiry into defendant's posttrial claims of ineffective assistance of counsel did not constitute harmless error. The cause is remanded for the trial court to conduct a proper inquiry into defendant's allegations of ineffective assistance of counsel.

Following a bench trial, the court found defendant guilty of the offense of burglary. After trial, but before the hearing on posttrial motions, defendant sent a *pro se* letter to the court complaining of defense counsel's ineffective performance. Without either acknowledging or addressing defendant's complaints pertaining to defense counsel, the court denied defendant's

posttrial motion and sentenced defendant to 10 years imprisonment. On appeal, defendant argues that the trial court failed to conduct a proper inquiry into defendant's posttrial claims of ineffective assistance of counsel. We remand the cause to the trial court for further proceedings.

FACTS

On May 1, 2008, a Will County grand jury issued a bill of indictment charging defendant with one count of burglary in violation of section 19-1(a) of the Criminal Code of 1961 (720 ILCS 5/19-1(a) (West 2006)). Following a two-day bench trial, the court found defendant guilty on June 3, 2009. On June 9, 2009, the clerk of the court filed a letter directed to the trial judge from defendant, dated June 5, 2009. In the letter, defendant stated that he "was deeply troubled by the guilty verdict of above case and Mr. Beck's [defense counsel's] performance and lack of preparedness!" Defendant asked the court to review the matter and advise him of his "options."

Defendant also provided the court with a copy of a letter that defendant sent to defense counsel which was also dated June 5, 2009. In that letter to defense counsel, defendant stated that the photographs presented at trial did not depict the garage that was allegedly burglarized and asserted that the witnesses who testified concerning the photographs at trial were either mislead or lying. Defendant stated, in the letter he wrote to defense counsel, that the tool box offered into evidence did not belong to defendant and asked why defense counsel did not review the photographs or the evidence with him before trial. Defendant questioned defense counsel regarding the absence of any pretrial evidentiary motions and expressed his concern that counsel did not take "the proper time to sit down" with defendant and "get a real clear understanding of this case!" Defendant claimed that because of defense counsel's actions, "it was almost impossible to properly defend me in this matter." Defendant said that he was "genuinely

disturbed" and "clearly RAILROADED!" Defendant also said that counsel "stood by and was not properly prepared!"

After several continuances at defendant's request, the parties appeared before the court on September 9, 2009. First, the court considered and then denied defense counsel's motion for new trial or judgment notwithstanding verdict filed on June 15, 2009. Next, the trial court heard sentencing alternatives from counsel and then sentenced defendant, subject to Class X sentencing, to 18 years imprisonment.

On September 16, 2009, defense counsel filed a motion to reconsider sentence and several days later, defendant filed a *pro se* motion to reconsider sentence. On October 23, 2009, after hearing arguments, the trial court granted defendant's motion to reconsider sentence and reduced defendant's sentence to 10 years imprisonment. On October 26, 2009, the clerk of the court filed a notice of appeal on defendant's behalf.

ANALYSIS

The record reveals that defendant sent a letter to the court on June 5, 2009, expressing his concerns regarding defense counsel's "performance and lack of preparedness" and attached a copy of the letter defendant sent to defense counsel on that same day outlining defendant's concerns regarding counsel's inadequate performance. It is well established that the rule created by our supreme court in *People v. Krankel*, 102 Ill. 2d 181 (1984), requires the trial court to examine a defendant's posttrial claims of ineffective assistance of counsel. A trial court must conduct an adequate inquiry into a defendant's *pro se* claims of ineffective assistance of counsel before rejecting those claims. *People v. Moore*, 207 Ill. 2d 68, 81-82 (2003).

On appeal, defendant claims that the trial court erred by failing to inquiry into

defendant's *pro se* posttrial claims of ineffective assistance of counsel. The State concedes that the trial court did not conduct an inquiry as required by *People v. Krankel*, 102 Ill. 2d 181, and *People v. Moore*, 207 Ill. 2d 68, and therefore erred. However, the State argues the court's error was harmless because defendant's allegations of ineffectiveness were patently without merit and the evidence of defendant's guilt was overwhelming.

When a trial court does not exercise its discretion within the bounds of the law, we review the legal question presented independently of the trial court's judgment. Accordingly, we review *de novo*. See *People v. Moore*, 207 Ill. 2d at 75 (citing *People v. Williams,* 188 Ill. 2d 365, 369 (1999)); *In re Lawrence M.,* 172 Ill. 2d 523, 526 (1996).

We reject the State's contention that harmless error precludes remand in this case. In *Moore*, our supreme court stated that "[i]n the absence of a ruling by the trial court on the defendant's *pro se* post-trial motion, we decline to consider its merits." *People v. Moore*, 207 Ill. 2d at 81, (citing *People v. Jackson,* 158 Ill. App. 3d 394, 401 (1987)). The court went on to observe that under these circumstances, " 'it is simply not possible to conclude that the trial court's failure to conduct an inquiry into those allegations was harmless beyond a reasonable doubt.' " *People v. Moore,* 207 Ill. 2d at 81, (quoting *People v. Jackson*, 243 Ill. App. 3d 1026, 1036-37 (1993)). In *Moore*, our supreme court remanded the matter to the trial court to conduct an inquiry into defendant's allegation of ineffective assistance.

In this case, the trial court did not conduct any inquiry to determine whether defendant's allegations were meritless and did not rule on the issue of ineffective assistance. Consequently, following the guidance of our supreme court in *Moore*, we remand this matter to the trial court for the limited purpose of allowing the trial court to conduct the required preliminary

investigation regarding the merit of defendant's claims of ineffective assistance of counsel and whether new counsel should be appointed on defendant's behalf.

CONCLUSION

This cause is remanded to the trial court for further proceedings on defendant's posttrial claims of ineffective assistance of counsel consistent with the terms of this order.

Remanded with directions.