

2012 IL App (1st) 113115-U

FOURTH DIVISION  
December 13, 2012

No. 1-11-3115

**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).

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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. 10 CR 21924
	)	
AGATA BYLICA,	)	Honorable
	)	Catherine M. Haberkorn,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE PUCINSKI delivered the judgment of the court.  
Presiding Justice Lavin and Justice Epstein concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Defendant's negotiated guilty plea waived all non-jurisdictional defects or defenses. Appeal dismissed where defendant sought to challenge the trial court's denial of her motion to suppress, but defendant failed to file a motion to withdraw her guilty plea following her conviction.
- ¶ 2 Defendant Agata Bylica pleaded guilty to possession of a controlled substance (less than 15 grams of a substance containing heroin) and was sentenced to probation for 18 months. On appeal she challenges the denial of her motion to quash her arrest and suppress the evidence found pursuant to that arrest.

¶ 3 Defendant was arrested on November 18, 2009, and charged with possession of a controlled substance. She moved to quash her arrest and suppress the evidence. That motion was denied following an evidentiary hearing. Although the record itself is unclear, it would appear that defendant then entered into a negotiated guilty plea. She was convicted and sentenced to an 18-month term of probation. Defendant did not file a motion to withdraw her guilty plea. Instead, she filed this appeal.

¶ 4 As we have noted, the record is not clear as to whether defendant entered a guilty plea or proceeded by means of a stipulated bench trial. The State in its brief states that defendant was found guilty pursuant to a negotiated guilty plea. Defendant has failed to file a transcript of the proceedings in which she was convicted and sentenced. Her brief on appeal fails to state the crime of which she was convicted or the sentence imposed and it does not state whether her conviction was pursuant to a negotiated plea of guilty. It would appear that the State is correct in its factual assertions, as the memorandum of orders bears the notation "JWPGFG," which we interpret as indicating a jury waiver, a plea of guilty, and a finding of guilty. These factual matters are critical because a defendant who enters a plea of guilty waives all nonjurisdictional defenses or defects (*People v. Horton*, 143 Ill. 2d 11, 22 (1991); *People v. Thompson*, 404 Ill. App. 3d 265, 270 (2010)), including a challenge to a trial court's ruling on a motion to suppress evidence (*People v. Cunningham*, 286 Ill. App. 3d 346, 348 (1997)). Furthermore, to file an appeal from a negotiated plea, a defendant must first file a motion to withdraw that plea in the trial court. *People v. Linder*, 186 Ill. 2d 67, 74 (1999); *People v. DeRosa*, 396 Ill. App. 3d 769, 774 (2009). Absent such a motion, we must dismiss defendant's appeal. *Linder*, 186 Ill. 2d at 74; *DeRosa*, 396 Ill. App. 3d at 774. On the other hand if, rather than entering a plea of guilty, a defendant proceeds by means of a stipulated bench trial, he preserves for appeal the trial court's ruling on a motion to suppress. *Horton*, 143 Ill. 2d at 22; *Thompson*, 404 Ill. App. 3d. at 270.

¶ 5 In an effort to clarify this matter, we ordered defense counsel to file a supplemental record consisting of the transcripts of the proceedings in which defendant was convicted and sentenced. Defense counsel has failed to comply with this order. An appellant is required to provide the reviewing court with a record which is sufficient to support his claims of error, and in the absence of such a record, doubts and deficiencies arising from an insufficient record will be construed against the appellant. *People v. Hunt*, 234 Ill. 2d 49, 58 (2009). Accordingly, we resolve the ambiguities in this record against defendant and find, in accordance with the notation in the memorandum of orders, that she entered a plea of guilty, which waived any claim of error in the denial of her motion to suppress. *Horton*, 143 Ill. 2d at 22. Furthermore, because we find that defendant failed to file a motion to withdraw her plea of guilty, we must dismiss this appeal. *DeRosa*, 396 Ill. App. 3d at 774.

¶ 6 Appeal dismissed.