



depart." Because the State challenges only the propriety of the dismissal of the trespassing charge, we will limit our review to issues involving that charge.

¶ 5 On December 30, the defendant filed a motion to dismiss the charge, contending "that on the face of the criminal complaint the Defendant cannot be guilty of criminal trespass as a matter of law." The motion was called for a hearing on April 18, 2012. At the hearing, counsel for the defendant began by describing for the court the physical location of the property upon which the trespass allegedly occurred. The defendant then tendered, over the State's objection, documents purporting to show that Erin Kern was not a listed owner of the property upon which the defendant was alleged to have trespassed. Defense counsel then argued that because Erin Kern, who was identified on the citation as the "owner" of the property, did not in fact own the property, the trespassing charge against the defendant must be dismissed.

¶ 6 The State countered the defendant's arguments by insisting that the presentation of any evidence other than the citation itself was improper in a hearing on a motion to dismiss for failure to state a cause of action. Although the State told the court that it would "stipulate" to the deeds, the State argued throughout the hearing that the court should not consider the evidence offered by the defendant, but should instead confine its inquiry to the four corners of the charging instrument.

¶ 7 At the conclusion of the hearing, the court granted the defendant's motion to dismiss the trespassing charge. This appeal followed.

¶ 8 DISCUSSION

¶ 9 The circuit court has the inherent authority to dismiss a criminal complaint prior to trial, but this authority is limited in that a court may exercise it only pursuant to one of the reasons enumerated in section 114-1(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/114-1(a) (West 2010)). Although the court has inherent authority to dismiss a charge

for reasons other than those listed, this extraordinary power should " ' "be exercised only when failure to do so will effect a deprivation of due process or result in a miscarriage of justice." ' " *People v. Soliday*, 313 Ill. App. 3d 338, 342 (2000) (quoting *People v. Fassler*, 153 Ill. 2d 49, 58 (1992) (quoting *People v. Sears*, 49 Ill. 2d 14, 31 (1971))).

¶ 10 Pursuant to section 114-1(a)(8), a complaint that does not state an offense is subject to dismissal upon motion of the defendant. *People v. Redwood*, 335 Ill. App. 3d 189, 192 (2002). Where a criminal charge adequately informs the accused of the nature, cause, and elements of the charge against him, it is error for a court to dismiss the charge for failure to state an offense. *Soliday*, 313 Ill. App. 3d at 342.

¶ 11 When ruling on a motion to dismiss for a failure to state an offense, the court must confine its inquiry into the sufficiency of the charging instrument, and it may not inquire into the evidence upon which the allegations are premised. *Id.* The determination of whether the evidence supports a conviction is the province of the finder of fact, and the weighing of evidence is not properly before the court on a motion to dismiss for failure to state an offense. *Id.* at 343.

¶ 12 Here, the citation issued to the defendant made clear the time, place, and conduct that were alleged to have given rise to the charge. The citation thus satisfied all the requirements necessary to adequately inform the defendant of the nature, cause, and elements of the charge against him so that he could prepare a defense, and the court's dismissal of the charge based upon evidence and argument unrelated to the facial sufficiency of the charge was in error.

¶ 13 The defendant focuses in his brief on the State's "stipulation" to the deeds being entered into evidence in arguing that the State knowingly charged the defendant with conduct that it knew to be untrue. Thus, the defendant contends, the court was correct to dismiss the charge, despite the citation's admitted sufficiency. Whether the allegations upon which the charge was premised were in fact true was for the finder of fact to decide at trial, not for the

court to decide in a pretrial hearing on a motion to dismiss pursuant to section 114-1(a)(8). The court was restricted to considering only whether the charging instrument sufficiently apprised the defendant of the charges he faced, and—as the defendant now acknowledges—it clearly went beyond the four corners of the citation in deciding to dismiss the charge.

¶ 14 For the foregoing reasons, we reverse the circuit court's grant of the defendant's motion to dismiss and remand to the circuit court for further proceedings consistent with this order.

¶ 15 Reversed and remanded.