

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).

2015 IL App (4th) 120774-U

NO. 4-12-0774

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
April 7, 2015
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Vermilion County
ALVIN C. BEASLEY,)	No. 11CF749
Defendant-Appellant.)	
)	Honorable
)	Michael D. Clary,
)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Pope and Justice Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The disposition in *People v. Beasley*, 2014 IL App (4th) 120774, 9 N.E.3d 1205, is modified to reverse and remand with directions.

¶ 2 This court, in *People v. Beasley*, 2014 IL App (4th) 120774, 9 N.E.3d 1205, held the trial court erred by denying defendant's request for a jury instruction on involuntary manslaughter and reversed the trial court. By supervisory order, the Illinois Supreme Court directed this court to supplement our judgment to explain whether a remand with directions or a reversal without remand is appropriate. *People v. Beasley*, No. 117762, 22 N.E.3d 1166 (2014) (nonprecedential supervisory order on denial of petition for leave to appeal). We modify our decision in *Beasley* to include a "remand with directions."

¶ 3 I. BACKGROUND

¶ 4 In December 2011, defendant was charged with three counts of first degree murder (720 ILCS 5/91-(a)(1), (a)(2) (West 2010)) following the death of Deryon S. Mullins. A jury trial was held in June 2012. At the close of evidence, defendant tendered instructions for second degree murder and involuntary manslaughter. The trial court permitted the instruction on second degree murder, but it denied the involuntary-manslaughter instruction. In *Beasley*, 2014 IL App (4th) 120774, ¶¶ 25, 27, 9 N.E.3d 1205, we found the decision denying the involuntary-manslaughter instruction an abuse of discretion and reversed the judgment of the court.

¶ 5 In September 2014, our supreme court exercised its supervisory authority and directed this court to supplement our decision in *Beasley*. The court mandated we explain whether a remand with directions is proper or whether reversal without remand is appropriate.

¶ 6 II. ANALYSIS

¶ 7 We have examined our holding in *Beasley*, as well as other decisions in which courts of review found error in the denial of a tendered instruction for a lesser offense (see *e.g.*, *People v. Smith*, 402 Ill. App. 3d 538, 548, 931 N.E.2d 864, 873 (2010), *People v. Williams*, 293 Ill. App. 3d 276, 282, 688 N.E.2d 320, 325 (1997)), and we conclude the proper order should include a remand with directions. Defendant is entitled to a retrial. So long as defendant's testimony regarding intent is consistent with his testimony at his first trial, he is entitled to an instruction on involuntary manslaughter.

¶ 8 III. CONCLUSION

¶ 9 We modify our reversal in *Beasley* to reverse and remand with directions for a new trial.

¶ 10 Reversed and remanded with directions.