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2017 IL App (3d) 150267-U

Order filed April 11, 2017

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2017

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 10th Judicial Circuit, Marshall County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-15-0267
	)	Circuit No. 15-CF-1
ROBERT L. STANFORD,	)	Honorable
Defendant-Appellant.	)	Michael P. McCuskey, Judge, Presiding.

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JUSTICE LYTTON delivered the judgment of the court.  
Presiding Justice Holdridge and Justice Wright concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The matter is remanded for further proceedings under Illinois Supreme Court Rule 604(d) (eff. Dec. 11, 2014) because the document defendant filed titled “Notice of Appeal” was, in substance, a postplea motion that sufficiently complied with Rule 604(d).

¶ 2 Defendant argues that this matter should be remanded for further proceedings under Illinois Supreme Court Rule 604(d) (eff. Dec. 11, 2014) because the “Notice of Appeal” that he filed following his guilty plea indicated that he wanted to withdraw his guilty plea and challenge his sentence. We remand for further proceedings.

FACTS

¶ 3

¶ 4 Defendant was charged with aggravated domestic battery (720 ILCS 5/12-3.3(a-5) (West 2014)). Defendant entered a blind plea and was sentenced to four years' imprisonment.

¶ 5 At the sentencing hearing, the trial court admonished defendant that he had the right to appeal. The court explained:

“You can do that by first filing a written motion within the next 30 days to the Court, and in that written motion you must state, within 30 days in a written motion, why the judgment should be vacated, ask for leave to withdraw your plea of guilty, set forth the grounds for vacating the judgment and withdrawing the plea of guilty.”

¶ 6 Defendant filed a document entitled “Notice of Appeal.” The “Notice of Appeal” was a form document. Where the form directed defendant to write the name of the court “to which appeal is taken,” defendant wrote “Marshall County.” Where the form instructed defendant to write the name and address of the appellant, defendant wrote “Third District” and gave the address of this court. The form directed defendant to write the “nature of order appealed from” if the “appeal is not from a conviction.” Defendant wrote: “Motion to withdraw the plea of guilty and vacate judgment.” In the margin next to that statement, defendant wrote: “Motion to Appeal the Sentence I Recieved [*sic*].” Defendant signed the “Notice of Appeal.”

¶ 7 On the top of the next page, which contained the proof of service, defendant did not fill in the caption. Instead, defendant wrote: “I took a blind plea because I thought I was going to get probation. I pleaded guilty to a crime I did not commit my states attorney told me that would be best for me. I just wanted to get out. Please help me if you can.” Defendant left the proof of

service blank in the space where the form instructed defendant to write the name and address of who was being served.

¶ 8 On the back of the certificate of service, defendant wrote:

“If I made any mistakes on the paper I’m sorry I did not know how to feel [sic] them out correctly. Please let me be able to appeal my case. I don’t know my case number. Please give me a chance. I pleaded guilty to something I should have not had [sic] done and its [sic] costing me 4 years of my life.”

¶ 9 ANALYSIS

¶ 10 Defendant argues that the trial court should have treated his “Notice of Appeal” as a postplea motion and conducted proceedings under Illinois Supreme Court Rule 604(d) (eff. Dec. 11, 2014).

¶ 11 Rule 604(d) provides, in relevant part:

“No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment. \*\*\* The motion shall be in writing and shall state the grounds therefor.” *Id.*

¶ 12 We find that the “Notice of Appeal” filed by defendant was, in substance, a motion to withdraw guilty plea and reconsider sentence which sufficiently complied with Rule 604(d). While the document was titled “Notice of Appeal,” it was a form document. It was apparent that defendant did not fully understand the meaning of the “Notice of Appeal” document. Defendant indicated on the “Notice of Appeal” that the “Third District” was the appellant, suggesting that

he did not understand the meaning of the word “appellant.” Additionally, defendant stated that the court he was appealing to was “Marshall County” rather than this court. He stated that he did not know his case number. He wrote both the date that he was sentenced and the date that he pled guilty where the form stated “[d]ate of judgment or order.” Later on the form, however, he wrote that the nature of the order appealed from was a “motion to withdraw the plea of guilty and vacate judgment” and a “Motion to Appeal the Sentence I Received.” Defendant wrote on the back of the certificate of service that he was sorry if he made any mistakes on the forms, but he did not know “how to feel [*sic*] them out correctly.”

¶ 13 Furthermore, defendant’s extraneous handwritten comments on the form indicated that he wanted to appeal on the basis that he did not commit the offense but pled guilty anyway on the advice of counsel. The handwritten comments also indicated that defendant wished to challenge his sentence. These handwritten notes were similar in content to *pro se* filings that have been held to be sufficient under Rule 604(d). For example, in *People v. Gibson*, 96 Ill. 2d 544 (1983), the supreme court held, in exercising its supervisory authority, that the *pro se* defendant sufficiently complied with Rule 604(d) where the defendant sent the following letter to the trial court:

“ ‘I wish to appeal my case, on the grounds of inadequate defence [*sic*] by my attorney. I was psychologically [*sic*] coerced [*sic*] into pleading guilty. I would also like to have the court appoint me another attorney. Thank you.’ ” *Id.*

¶ 14 Similarly, in *People v. Smallwood*, 189 Ill. 2d 675 (2000), the supreme court held, in exercising its supervisory authority, that the following letter filed by the *pro se* defendant sufficiently complied with Rule 604(d):

“To Whom It May Concern: I Sylvester Smallwood (38143) Would Like to Petition The State of Illinois For an Appeal of the Decision in My Case: Agg. Sex. Asslt. 98-CF-1018

I Would Appreciate The Forwarding of Any legal Forms or Documents That Are Necessary For Me To Properly Appeal My Case. I Am Submitting This Now So I Will Fall Within The Legal Boundaries As Far As Time Is Allowed. The Reason For My Appeal Is I Feel My Witnesses And Other Important Matters Were Not Brought Forth Before The Court Properly.

Looking Forward To Your Reply As Soon As Possible.” *Id.* at 676.

¶ 15 In the same manner, the appellate court in *People v. Gonzalez*, 375 Ill. App. 3d 377, 378-79 (2007) held that a *pro se* letter filed by the defendant after pleading guilty sufficiently complied with Rule 604(d) and remanded the matter for further proceedings. The *Gonzalez* defendant argued that her *pro se* letter should have been treated as a motion to withdraw her guilty plea. *Id.* at 378. The letter stated:

“ ‘I Elizabeth Gonzalez would like to appeal an injustice on 1-31/06 [*sic*]. Your honor I was threatend [*sic*] with my freedom when I dissuscused [*sic*] whith [*sic*] my Public Defender, that I did not want to plead guilty. From the start I was treated with unjustifiable disrespect and your [*sic*] I you would here [*sic*] me out the punishment [*sic*] did not fit the crime, and I can prove it[.] Thank you your honor for your time.’ ” *Id.* at 377.

¶ 16 The *pro se* letters filed in the above three cases did not expressly ask the court to reconsider the defendants sentences or allow the defendants to withdraw their guilty pleas. Rather, the letters asked that the defendants be permitted to appeal their cases for various

reasons, including problems the defendants had with their attorneys. See *id.*; *Gibson*, 96 Ill. 2d at 544; *Smallwood*, 189 Ill. 2d at 675-76. Similarly, in the instant case, defendant’s handwritten notes on the “Notice of Appeal” asked that he be permitted to appeal his case on the basis that his attorney advised him to plead guilty to an offense he did not commit in order to receive probation. Thus, we find that the trial court erred in failing to treat the “Notice of Appeal” as a motion to withdraw guilty plea and reconsider sentence.

¶ 17

#### CONCLUSION

¶ 18

This cause is remanded to the trial court for further proceedings consistent with Rule 604(d).

¶ 19

Remanded.