2019 IL App (4th) 170199-U

NO. 4-17-0199

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
July 2, 2019
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. QUINTON BEASLEY, Defendant-Appellant.	) Appeal from the) Circuit Court of) Woodford County) No. 15CF178)) Honorable) Charles M. Feeney III,) Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Presiding Justice Holder White and Justice Knecht concurred in the judgment.

ORDER

¶ 1 *Held*: Because defendant appealed in the same *pro se* document in which he complained of having received ineffective assistance from defense counsel, the trial court lacked jurisdiction to act on the allegation of ineffective assistance.

¶ 2 In a bench trial, the circuit court of Woodford County found defendant, Quinton Beasley, guilty of one count of forgery (720 ILCS 5/17-3(a)(1) (West 2014)). The court sentenced him to imprisonment for four years and six months. Defendant appeals.

¶ 3 Defendant's only argument on appeal is that, in violation of *People v. Krankel*, 102 Ill. 2d 181 (1984), and its progeny, the trial court neglected to inquire into the factual basis of a *pro se* posttrial claim by defendant that defense counsel had rendered ineffective assistance. See *People v. Ayres*, 2017 IL 120071, ¶ 11.

¶ 4 We conclude that by appealing in the same document in which he made the *pro se* claim of ineffective assistance, defendant immediately transferred jurisdiction from the trial court

to the appellate court. He thereby divested the trial court of jurisdiction to hold a *Krankel* hearing on his *pro se* claim of ineffective assistance—or to do anything further of a substantive nature in this case. Therefore, we affirm the judgment.

¶ 5 I. BACKGROUND

¶ 6 On January 13, 2017, the trial court found defendant guilty of forgery.

¶ 7 On February 15, 2017, the trial court imposed the sentence.

¶ 8 Defendant's retained attorney filed no posttrial or postsentencing motion, but on March 13, 2017, defendant filed, *pro se*, a document titled "Petition for Leave to Appeal." The document begins: "Whereas the above[-]named petitioner, Quinton Beasley, has been adjudged guilty[,] by bench trial, of the offense of forgery *** and sentenced to [four] years and [six] months [in the] Illinois Department of Corrections ***, the petitioner hereby effects his right to appeal with the following averments ***." (The charge and the sentencing order both spell defendant's first name as "Quintin," but in his *pro se* filings, he spells it as "Quinton.") Seven paragraphs then follow, some of which accuse defense counsel of having rendered ineffective assistance. The document then concludes: "Wherefore petitioner files this petition to appeal the sentence and conviction this 9th day of March 2017[,] delivered by institutional mail."

¶ 9 On March 13, 2017, the circuit clerk filed a notice of appeal on defendant's behalf.

¶ 10 II. ANALYSIS

¶ 11 The filing of a notice of appeal immediately transfers jurisdiction to the appellate court and simultaneously divests the trial court of jurisdiction to enter any further orders of substance in the case. *People v. Kolzow*, 332 Ill. App. 3d 457, 459 (2002) (citing *People v. Bounds*, 182 Ill. 2d 1, 3 (1998)).

¶ 12 "If the notice of appeal fairly and accurately sets out the order appealed and relief sought, it is sufficient to confer jurisdiction unless the appellee is prejudiced by any omissions or deficiencies." *In re Joseph M.*, 405 Ill. App. 3d 1167, 1172 (2010). Strict compliance with every requirement of Illinois Supreme Court Rule 303 (eff. July 1, 2017) is unnecessary to confer appellate jurisdiction. *Id.* In *Joseph M.*, for example, the defendant filed a notice merely stating, " 'Joe Henry M[.] will like to appeal my case November 19, 2008, State Illinois Circuit Court for the 20th Judicial Circuit Randolph County Courthouse.' " *Id.* at 1171. Because the notice clearly stated that the respondent wanted appellate review of an order the circuit court entered on November 19, 2008, and because the court entered only one order on that date, and because the State suffered no prejudice from the respondent's noncompliance with the other requirements of Rule 303, the notice conferred jurisdiction on the appellate court. *Id.* at 1172.

¶ 13 Likewise, in a criminal case, the supreme court held: "The notice is sufficient to confer jurisdiction if, considered as a whole and construed liberally, it fairly and adequately identifies the complained-of judgment." *People v. Lewis*, 234 Ill. 2d 32, 37 (2009).

¶ 14 The "Petition for Leave to Appeal" does so. It reads: "[P]etitioner files this petition to appeal the sentence and conviction this 9th day of March 2017." Defendant thereby signified that he wanted appellate review of his sentence and conviction. Therefore, the filing of the "Petition for Leave to Appeal" immediately transferred jurisdiction to the appellate court, simultaneously divesting the trial court of jurisdiction to hold a *Krankel* hearing or to enter any further order of substance in this case. See *id.*; *People v. Darr*, 2018 IL App (3d) 150562, ¶ 99; *Joseph M.*, 405 Ill. App. 3d at 1172; *Kolzow*, 332 Ill. App. 3d at 459.

¶ 15 Granted, in *People v. Bell*, 2018 IL App (4th) 151016, ¶ 39, we remanded the case for a *Krankel* hearing even though the defendant had raised his *pro se* claim of ineffective

assistance in a document titled " 'MOTION OF LEAVE APPEAL' " (*id.* ¶ 19). Despite the use of the word " 'APPEAL,' " however, that document really was not a notice of appeal, because instead of expressing a desire to appeal a particular order, the only relief that document requested was to " 'RETRACT GUILTY VERDICT.' " *Id.* Hence, *Bell* is distinguishable.

¶ 16 It might be argued that, even so, we should go ahead and remand this case to the trial court for a *Krankel* hearing, thereby revesting the trial court with jurisdiction, since, after all, the State concedes that we should remand this case for a *Krankel* hearing and a remand would be the most efficient course of action. To such an argument, our response would be twofold. First, we are not bound by a party's concession. See *People v. Horrell*, 235 Ill. 2d 235, 241 (2009). Second, the supreme court disapproves of our remanding a case in which we find no error below; the supreme court regards such a remand as effectively an exercise of supervisory authority by a court that lacks supervisory authority. *People v. Golden*, 229 Ill. 2d 277, 282 (2008). If there was no error below, there is nothing to remand. *Id.*

¶ 17 III. CONCLUSION

¶ 18 For the foregoing reasons, we affirm the trial court's judgment, and we assess $50 in costs against defendant. See 55 ILCS 5/4-2002(a) (West 2016).

¶ 19 Affirmed.