

No. 1-13-1970

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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. 11 C66 0262           |
|                                      | ) |                           |
| GLEN BROWN,                          | ) | Honorable                 |
|                                      | ) | John D. Turner & Frank G. |
|                                      | ) | Zelezinski,               |
| Defendant-Appellant.                 | ) | Judges Presiding.         |

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JUSTICE CUNNINGHAM delivered the judgment of the court.  
Justice Harris concurred in the judgment.  
Justice Connors dissented.

**ORDER**

¶ 1 *Held:* The trial court erred in failing to conduct an inquiry into defendant's *pro se* ineffective assistance of counsel claim; cause remanded to the trial court for the limited purpose of allowing the trial court to conduct the required preliminary inquiry under *People v. Krankel*, 102 Ill. 2d 181 (1994).

¶ 2 Following a jury trial in the circuit court of Cook County, defendant Glen Brown was convicted of the felony offense of disorderly conduct (720 ILCS 5/26-1(a)(3) (West 2010)), and sentenced to 50 months of imprisonment. On direct appeal, the defendant argues that: (1) the

evidence was insufficient to convict him of felony disorderly conduct; (2) his due process rights were violated where he was convicted and sentenced despite being unfit to stand trial or be sentenced; (3) the trial court erred in failing to make a factual inquiry into his *pro se* claim of ineffective assistance of counsel under *People v. Krankel* (102 Ill. 2d 181 (1994)) and its progeny; and (4) his conviction for felony disorderly conduct violated the First Amendment of the United States Constitution. For the following reasons, we remand the cause to the circuit court of Cook County for a hearing pursuant to *Krankel*.

¶ 3 BACKGROUND

¶ 4 On April 5, 2011, the defendant was charged with two counts of felony disorderly conduct for making a false bomb threat (count 1) during a March 3, 2011 incident at a post office, and for making a false report of a crime (count 2). The State elected to proceed against the defendant at trial on count 1.

¶ 5 On April 14, 2011, during an arraignment hearing, defense counsel<sup>1</sup> requested the court to order a behavioral clinical examination (BCX) on the defendant's sanity and fitness to stand trial, which the court granted. In a letter to the court dated April 27, 2011, the Director of Forensic Clinical Services, Dr. Matthew Markos (Dr. Markos), reported that the BCX could not be completed because the defendant refused to cooperate. On July 6, 2011, defense counsel asked the court for a second BCX for fitness and sanity, which the court granted. In a written report to the court dated July 29, 2011, psychiatrist Nishad Nadkarni (Dr. Nadkarni) opined that the defendant was unfit to stand trial; that the defendant was "actively manic and highly psychotic, disorganized in his thinking and expressing a variety of paranoid and grandiose

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<sup>1</sup> The defendant was represented by both male and female assistant Public Defenders; thus, pronouns "he" and "she" are used to describe defense counsel throughout different stages of the case.

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delusions"; that he was unable to verbalize a meaningful understanding of the nature of his charges, courtroom proceedings, or the roles of courtroom personnel; and that his psychosis precluded him from "rationally assisting counsel in his defense and maintaining appropriate courtroom demeanor." Dr. Nadkarni further opined that the defendant should receive inpatient treatment and that "there [was] a substantial probability that [he] [would] be restored to fitness within the statutory period of one year." However, due to the defendant's psychosis, Dr. Nadkarni was unable to render an opinion regarding his sanity at the time of the alleged offense.

¶ 6 On August 2, 2011, defense counsel asked the court for a reevaluation of the defendant (a third BCX), by a different doctor for a "second opinion." Defense counsel noted that when he reviewed with the defendant some of the same questions that were asked by Dr. Nadkarni in the second BCX, the defendant gave "much different" answers to defense counsel. The trial court granted defense counsel's request and ordered a third BCX for fitness and sanity by a doctor other than Dr. Nadkarni. In a letter to the court dated September 23, 2011, Forensic Clinical Services psychologist, Dr. Susan Messina (Dr. Messina), opined that the defendant was unfit to stand trial. Dr. Messina stated that although the defendant correctly identified the roles of court personnel during the BCX, he failed to demonstrate a rational understanding of the charge against him. However, due to the defendant's mental state, Dr. Messina was unable to offer an opinion as to the issue of sanity.

¶ 7 On October 4, 2011, a fitness hearing was held during which Dr. Messina testified to her September 23, 2011 evaluation of the defendant. Dr. Messina testified that during the evaluation, the defendant was "alert and oriented" and understood the purpose of the evaluation. Dr. Messina stated that the defendant was responsive to her questions, but that his responses were not always logical and were consistent with someone who was exhibiting psychotic

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symptoms and "illogical thought process[es] and loose associations." Dr. Messina testified that while the defendant demonstrated an ability to have factual knowledge of the roles of court personnel, he failed to have a rational understanding or meaningful appreciation for the charge against him. Dr. Messina opined that the defendant would be unable to assist his lawyer in his own defense because of his psychotic symptoms, and that he could not focus on the "factual information" regarding the incident. She opined that the defendant was unfit to stand trial, but there was "substantial likelihood" that the defendant could be restored to fitness within the statutory period.

¶ 8 The defendant also testified at the fitness hearing. When asked his name, he stated that he was "Dr. Brown, Skyway Canine. Brown is a common color, B-r-o-w-n." He testified that he was a veterinarian, and answered questions regarding the roles of court personnel.

¶ 9 The trial court found the defendant unfit to stand trial, noting that there was no evidence presented to rebut Dr. Messina's testimony, and found that there was a probability that the defendant would become fit to stand trial within one year. The trial court then remanded the defendant to the Department of Human Services (DHS) for inpatient treatment.

¶ 10 On November 2, 2011, DHS filed a treatment plan for the defendant, which included psychotropic medications and counseling, and estimated a goal for his treatment to be completed by February 1, 2012. In a letter dated January 5, 2012, Dr. Nadkarni informed the court that, based on his evaluation of the defendant (the fourth BCX), it was his opinion to a reasonable degree of medical and psychiatric certainty that the defendant was "restored to fitness to stand trial, with medications."

¶ 11 On January 24, 2012, the trial court conducted a restoration hearing during which Dr. Nadkarni testified to his evaluations of the defendant. Dr. Nadkarni testified that, in July 2011,

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he had found the defendant unfit to stand trial due to his "active psychotic symptoms of schizoaffective disorder" and his need of inpatient treatment. Dr. Nadkarni testified that the defendant then received treatment at the DHS Elgin Mental Health Center. Dr. Nadkarni stated that the defendant initially refused medication, but eventually complied with taking antipsychotic and mood-stabilizing medication, which "led to a substantial remission of his psychotic symptoms" and "much clearer thinking." Dr. Nadkarni testified to a reasonable degree of medical and psychiatric certainty that, based on his January 5, 2012 evaluation of the defendant, he was restored to fitness to stand trial with medications. Dr. Nadkarni stated that the defendant was not actively psychotic and his illness was in remission, that he needed medications to maintain that status, but that he did not know whether the defendant was in compliance with taking his medication while at the Cook County jail. Following Dr. Nadkarni's testimony, defense counsel did not present the testimony of any witnesses and elected not to make any arguments. The trial court then found the defendant fit to stand trial with medications, and remanded the defendant to the custody of the Cook County sheriff.

¶ 12 On May 3, 2012, during a status hearing when defense counsel filed an answer to discovery, the defendant stated, "[w]ell, we have a motion on the table, too, your Honor, before you retire, too, your Honor." In response, the trial court asked defense counsel what the defendant was referring to, to which defense counsel said she did not know. The trial court then stated, "if I hear outbreaks like that, I am going to have to order another BCX to find out what his current status is." The trial court then ordered a fifth BCX for fitness to stand trial, but not for the issue of sanity, and noted, "[w]hen people act like that in front of me after they have been found unfit where restored, it only indicates to me that he is not fit again."

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¶ 13 In a letter dated June 26, 2012, Dr. Nadkarni reported to the court that, after conducting a June 15, 2012 BCX of the defendant, it was his opinion to a reasonable degree of medical and psychiatric certainty that the defendant was fit to stand trial with medications. The letter stated that the defendant "demonstrates an understanding of the charge against him, comprehends the nature of courtroom proceedings, correctly identifies the roles of various courtroom personnel, displays the capacity to assist counsel in his defense." Dr. Nadkarni also opined in the letter that the defendant "continue compliance with psychotropic treatment in order to maintain his fitness status."

¶ 14 On October 29, 2012, a day the case was set for bench trial, the defendant informed the court that he intended to ask his attorney to "withdraw herself from this case because \*\*\* she is always trying to pick the trial that I'm going to have and that's not the defense's job; that's my job to say if it's going to be by jury or bench." When questioned by the trial court, the defendant expressed the desire to have a jury trial and the court granted his request. The defendant then mentioned "a motion or something pending," at which point the court interrupted him and allowed defense counsel to explain the following: "On the last court date, [the defendant] was asked would he like a jury or a bench. I advised him that I could get a bench on a shorter date than I could get a jury and he said give me the bench if I could have it quicker. And so that's why this matter is set for bench today." Defense counsel also stated that the motion that the defendant wished to file was a speedy trial motion, but that the motion was inappropriate and defense counsel was not asking that the motion be heard because "there have been BCXs done here." The trial court then passed the case to allow defense counsel time to speak with the defendant. When the case was recalled, the defendant asked the court for a "sidebar," which the trial court denied on the basis that it would be inappropriate ex-parte communications. When

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questioned, the defendant told the court that he was ready for the jury trial. The case was then passed and later recalled again for the purpose of commencing a jury trial. Once the case was recalled, however, defense counsel asked for a continuance on the bases that there had never been a finding "on the issue of his sanity at the time of the offense" and that, although the defendant asserts that "he's constantly on his medicine," defense counsel "would also like to follow up on whether or not that's in fact true based on some observations I have made of him today." During defense counsel's request for a continuance, the defendant interrupted by raising several objections. The trial court instructed the defendant that he could not object to his own attorney and overruled those objections. The State concurred that the issue of sanity at the time of the offense had not been addressed in any of the reports filed with the court by evaluating doctors at Forensic Clinical Services. The trial court then found that "the issues [*sic*] of sanity at the time of the offense was never evaluated though requested from the date of arraignment, so [defense counsel's] request is well-taken here," and the court ordered a sixth BCX of the defendant for the issues of fitness and sanity.

¶ 15 In a written report dated November 20, 2012, Dr. Nadkarni informed the court that, based on his evaluation of the defendant, the defendant is fit to stand trial with medications. Dr. Nadkarni further opined to a reasonable degree of medical and psychiatric certainty that the defendant "would have been legally sane at the time of the alleged offense" and that the defendant "was not suffering from any mental disease or defect that would have substantially impaired his capacity to appreciate the criminality of the alleged act."

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¶ 16 On February 26, 2013, prior to jury selection,<sup>2</sup> the parties engaged in discussion with the court regarding pretrial matters. The defendant interjected on at least three occasions by attempting to make requests to the court, by objecting to the State's comments, and by telling the court about a "motion for daily transcripts." Defense counsel responded by saying "I'm going to ask that my client not be asking anything right now. He is represented by counsel. I will be asking." The trial court agreed and informed the defendant that "[y]ou are represented by counsel, Sir. So therefore you should let them decide as to what should be discussed or not discussed at this time. If you have any concerns, you can always in [*sic*] conference with your attorney, speak on your behalf." Defense counsel also noted for the record that the Public Defender's Officer at which she worked had been in contact with "the jail this morning" and that she was given a verbal confirmation that medication had been dispensed to the defendant. When the defendant attempted to raise a "motion for daily transcripts," defense counsel stated, "I have no motions other than the ones that I've spoken about that I had filed. Mr. Brown has filed *pro se* motions. I do not adopt those motions and so we are ready to proceed." The trial court then asked the attorneys whether there were other pending matters that needed to be addressed, at which point the defendant stated, "[t]he compulsory services need certain dates to pull documents up of dates and times that the Harvey Police has did [*sic*] certain things." Defense counsel then told the court there was "[n]othing further." The trial court then asked counsel for both parties to approach the bench, at which time the court stated that the defendant "is going to prejudice himself substantially if he keeps making these outbursts." Defense counsel agreed, stating that "[t]hat's what I'm talking about. That's why I'm saying I can't say what he is going to

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<sup>2</sup> Most of the pretrial proceedings were presided over by J. Zelezinki, J. Murphy, J. Groebel, and J. Porter (10/4/11 fitness hearing and 1/24/12 restoration hearing), while J. Turner presided over jury selection, the trial, and sentencing.

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say if he testifies," and that "[t]hey say he is fit. I just can't let him keep on talking--." The trial court then questioned the attorneys whether they had tried to resolve this case in lieu of trial, to which counsel for both parties said "yes" and defense counsel informed the court that the defendant wanted to have a trial. Thereafter, the trial court conducted *voir dire*.

¶ 17 On February 27, 2013, a jury trial commenced and the State presented the testimony of several witnesses. Candida Brewer (Brewer) testified that she was a supervisor at a post office in Harvey, Illinois. On March 3, 2011, at about noon, Brewer was working at the post office when the customer service doorbell rang and she answered the "dutch door" to see the defendant standing on the other side of it. The defendant was wearing blue camouflage pants and a dark-colored jacket. Brewer had spoken with the defendant on several prior occasions when he had asked that his mail be delivered to a boarded-up vacant home, and Brewer had explained to him that the mail carrier was not able to do so due to "postal policy" and had provided the defendant with other alternative options for receiving his mail. On March 3, 2011, the defendant again asked if his mail was being returned, to which Brewer said "yes." In response, the defendant used profanity and "began to get louder and was screaming and pacing back and forth up and down the hall." As the defendant walked down the hallway and then walked back towards Brewer, he screamed "I am going to blow this building up if you don't give me my mail" and "kill everyone in here if you don't give me my mail." As he screamed, Brewer saw the defendant grab "some bulges on his jacket." At that point, Brewer stepped back away from the door and asked "anyone in the building" to call 9-1-1. The defendant again threatened to blow up the building and kill the occupants. Brewer followed defendant out of the post office to see which way he went. Brewer stated that there were ten other employees and several customers in the post office at the time of the incident. When the police arrived, Brewer gave them a description

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of the defendant. About 5 to 10 minutes later, the police returned and asked Brewer to go outside, where she saw the defendant in the back of the police car and identified him as the perpetrator. On cross-examination, Brewer stated that the defendant never stated that he had a gun, a bomb, or any sort of explosive device. The defendant never told Brewer that he had hidden anything, nor did she see him hide anything. She testified that the entire incident lasted about 3 to 4 minutes and that she never evacuated the post office.

¶ 18 Christy Thomas (Thomas) testified for the State that she was an employee of the post office who witnessed the encounter between defendant and Brewer. Thomas' testimony was substantially similar to Brewer's.

¶ 19 Officer Kelley testified that on March 3, 2011, he was dispatched to investigate a threat at the post office at 155th Street and Center Avenue in Harvey, Illinois. En route, Officer Kelley was advised by Officer Banks of the suspect's description—a black male wearing a black jacket and blue camouflage pants. Officer Kelley later observed an individual, whom he identified in court as the defendant, matching that description walking west of 154th Street and Center Avenue near the post office. Officers Kelley and Banks then placed the defendant in custody and performed a pat-down search. The police recovered a flashlight from the breast area of the defendant's coat. The defendant was hostile and "almost incoherent."

¶ 20 Following Officer Kelley's testimony, the State rested its case and the trial court denied defense counsel's motion for a directed finding.

¶ 21 The defendant elected to testify in his own defense. When asked to introduce himself at the start of his testimony, the defendant answered, "[y]ou have reached Dr. Brown & Rawls & Associates, Skyway Canine Dog Training Academy," and "[m]y friends and family call me Glen Brown. Brown is a common color spelled B-r-o-w-n." He denied being at the post office in

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Harvey on March 3, 2011. He stated at some point he was "picked up by the Harvey Police Department." On cross-examination, defense counsel asked him to reintroduce himself for the record, and the defendant repeated that "[y]ou have reached Dr. Brown & Rawls & Associates, Skyway Canine Dog Training Academy." He testified that he was both a veterinarian and a trainer, "which is security and crime prevention." He testified that on March 3, 2011, he was at the Fifth Third Bank "trying to locate a banker who is going to do business accounts for me because I had to do taxes also." He denied going to the post office. He admitted that he wore a black "canine uniform" and blue camouflage pants, and that he carried a flashlight on the date in question. He admitted that he had met Brewer before March 3, 2011, but denied that he spoke to her on that day. He testified that he never had any issues with the post office in Harvey because "they would hand me my mail through the door."

¶ 22 On February 28, 2013, the jury found the defendant guilty of the offense of disorderly conduct.

¶ 23 On April 2, 2013, defense counsel requested a seventh BCX to determine the defendant's fitness for sentencing. During defense counsel's request, the defendant remarked, "I object to that, your Honor, and I would ask for another counsel to take on where [current counsel] has fallen short in her duties." In response, the trial court stated, "[s]o noted." Over the defendant's continuing objection, the trial court granted a seventh BCX to determine his fitness for sentencing. On April 3, 2013, the Cook County clerk's office received the defendant's written *pro se* "motion for appointment of counselor other than Public Defender" (motion for new counsel), alleging ineffective assistance of counsel. The *pro se* motion for new counsel bears a "received" stamp by the clerk's office dated April 3, 2013, but was stamped as "filed" on April

15, 2013, along with a "notes" section to his motion for new counsel that was also filed on the same day.

¶ 24 On May 31, 2013, at a hearing on posttrial motions and sentencing, defense counsel presented a May 29, 2013 written report by Dr. Nadkarni, which stated that the defendant had been reevaluated and was fit for sentencing with medications. Defense counsel then argued for a new trial by standing on the arguments made in a previously filed written motion for a new trial, while the State made oral arguments against it. During the State's arguments, the defendant raised an "objection," to which the court stated, "Mr. Brown, we can do this without you." Thereafter, the trial court denied defense counsel's motion for a new trial and proceeded to the sentencing phase. During the sentencing hearing, the defendant made another outburst and the court warned him to be silent or be removed from the courtroom. The trial court then sentenced him to 50 months of imprisonment, denied defense counsel's motion to reconsider the sentence, but did not address the defendant's *pro se* motion for new counsel alleging ineffective assistance of counsel.

¶ 25 On May 31, 2013, defense counsel filed a timely notice of appeal.

¶ 26 ANALYSIS

¶ 27 We determine the following issues on appeal: (1) whether the evidence was sufficient to convict the defendant of felony disorderly conduct; (2) whether the defendant was convicted and sentenced in violation of his due process rights without regard to his fitness to stand trial or to be sentenced; (3) whether the trial court failed to make a factual inquiry into the defendant's *pro se* ineffective assistance of counsel claim under *Krankel*; and (4) whether the defendant's conviction for felony disorderly conduct violated the First Amendment of the United States Constitution.

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¶ 28 We choose to first determine whether the trial court failed to make a factual inquiry into the defendant's *pro se* ineffective assistance of counsel claim under *Krankel* (102 Ill. 2d 181 (1994)).

¶ 29 The defendant argues that the trial court failed to make a requisite factual inquiry into his posttrial *pro se* ineffective assistance of counsel claim, in violation of *Krankel* and its progeny. He requests this court to remand the case for the limited purpose of allowing the trial court to conduct the required preliminary inquiry into his allegations.

¶ 30 The State counters that the trial court was not required to conduct an inquiry into the factual basis of the defendant's purported claim of ineffective assistance of counsel, where the defendant's oral claim was simply "an outburst" made out of frustration with defense counsel's request for a seventh BCX, and that it is unclear whether the trial court even knew that his written motion for new counsel existed.

¶ 31 In the case at bar, following trial, the defendant made both an oral and a written claim of ineffective assistance of counsel. During posttrial proceedings, on April 2, 2013, defense counsel requested a seventh BCX to determine the defendant's fitness for sentencing. The defendant remarked, "I object to that, your Honor, and I would ask for another counsel to take on where [current counsel] has fallen short in her duties." The trial court stated, "[s]o noted." On April 3, 2013, the clerk's office received the defendant's written *pro se* motion for new counsel, alleging ineffective assistance of counsel. The *pro se* motion for new counsel bears a "received" stamp by the clerk's office dated April 3, 2013, but was stamped as "filed" on April 15, 2013, along with a "notes" section to his motion for new counsel that was also filed on the same day. In the *pro se* motion for new counsel, the defendant specifically alleged that there had been no line of meaningful communication with his counsel; that there had been no "conferences or

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visits" with his counsel concerning his case despite his request for her to do so; that counsel "precluded" his efforts to file several pretrial motions; that counsel told him to take a plea bargain without trying to fight the case; and that counsel told him that representing him posed a "conflict of interest."

¶ 32 Our Illinois Supreme Court, through *Krankel* and its progeny, has provided trial courts with a clear blueprint for the handling of posttrial *pro se* claims of ineffective assistance of counsel. *Krankel*, 102 Ill. 2d 181; see *People v. Moore*, 207 Ill. 2d 68, 77-82 (2003) (discussing *Krankel* and its progeny). A trial court is not automatically required to appoint new counsel anytime a defendant presents a *pro se* posttrial claim of ineffective assistance of counsel. *Moore*, 207 Ill. 2d at 77. Rather, the trial court *must first conduct an inquiry* to examine the factual basis underlying a defendant's claim. *Id.* at 77-78. The inquiry that the trial court conducts has evolved into what is now known as a "*Krankel* inquiry." *People v. Vargas*, 409 Ill. App. 3d 790, 801 (2011). If the trial court determines that the claim lacks merit or pertains only to matters of trial strategy, then the court need not appoint new counsel and may deny the *pro se* motion. *Moore*, 207 Ill. 2d at 78. However, if the allegations show possible neglect of the case, new counsel should be appointed. *Id.* Where the trial court has made no determination on the merits, our standard of review is *de novo*. *Id.* at 75.

¶ 33 In this case, it is quite clear from the record that the trial court conducted *no inquiry of any sort* into the defendant's allegations of ineffective assistance of counsel. The State characterizes the defendant's oral request for a new attorney on April 2, 2013 as nothing more than an "outburst" objecting to the seventh BCX that did not constitute a proper ineffective assistance of counsel claim. While the defendant's behavior throughout the proceedings lends some credence to the State's argument, the *Krankel* hearing requirement is not excused because

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of the defendant's behavior. The record reveals that the defendant specifically noted that his counsel had "fallen short in her duties," to which the trial court only said "[s]o noted" without any further inquiry into the matter. The record is clear that the trial court also did not consider the defendant's subsequent April 15, 2013 *written and filed pro se* motion for new counsel at all. The State argues that the trial court was excused from ruling on the written *pro se* motion for new counsel because the court may have been unaware of its existence, supposedly because it never appeared on the court's half sheet. The State further argues that the defendant had effectively "abandoned" his ineffective assistance of counsel claim by failing to bring it to the attention of the court at the following hearings in May 2013. While we acknowledge the familiar refrain quoted by the State that a litigant "has the responsibility to obtain a ruling from the court on his motion to avoid waiver on appeal" (*People v. Redd*, 173 Ill. 2d 1, 35 (1996)), we note the equally well-settled rule that a *pro se* defendant is not required to do any more than bring his claim to the trial court's attention, which the defendant did in this case both orally and in writing. See *Moore*, 207 Ill. 2d at 79. To require a defendant to bring his *pro se* ineffective assistance of counsel claim to the court's attention for a third time at a subsequent hearing, would impose an extra burden on the accused who, in this case, has a history of mental illness and could not always be expected to understand every nuanced legal procedure. The history of this case was such that the defendant made such a nuisance of himself during the court proceedings that the court may have eventually become exasperated with the defendant's interruptions and, prior to sentencing, warned him to be silent or be removed from the courtroom. It is reasonable to infer that the trial court's warnings had a chilling effect on the defendant that prevented him from verbally reminding the court to rule on his written *pro se* ineffective assistance of counsel claim. Notwithstanding the seemingly endless outbursts and bizarre statements from defendant

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throughout his courtroom appearances, the law requires the trial court to conduct a preliminary inquiry into the factual basis underlying the defendant's *pro se* ineffective assistance of assistance claim. No such inquiry occurred in this case. Thus, we must remand the cause to the trial court for the limited purpose of allowing the trial court to conduct the required preliminary inquiry under *Krankel*. If the court determines that the claim of ineffective assistance of counsel lacks merit, the court may deny the motion and leave standing the defendant's conviction and sentence. See *id.* at 81. If the trial court denies the motion, the defendant may later raise his assertion of ineffective assistance of counsel along with other legitimate issues on appeal. See *id.* at 81-82. Accordingly, because this issue is dispositive, we need not address the remaining three issues.

¶ 34 For the foregoing reasons, we remand the matter to the circuit court of Cook County for the limited purpose of conducting a *Krankel* inquiry consistent with this order.

¶ 35 Remanded with directions.

¶ 36 JUSTICE CONNORS, dissenting.

¶ 37 I respectfully dissent. Defendant was charged with two counts of felony disorderly conduct on April 4, 2011. Before the case was tried, the trial court, at various times, ordered six BCX evaluations for defendant. In response to the sixth BCX, Dr. Nadkarni opined that defendant was "fit to stand trial, with medications" and found defendant "legally sane at the time of the alleged offense." In late February 2013, the case proceeded to trial on one count only. Several witnesses testified at trial for the prosecution; defendant testified as well. On February 28, 2013, the jury verdict was guilty of the offense charged.

¶ 38 It is argued by defendant that he twice made claims of ineffective assistance of counsel that would trigger the court to inquire into the factual basis of these claims per *Krankel*. First, on

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April 2, 2013, upon conclusion of the trial, a seventh BCX was requested by counsel to determine defendant's fitness to participate in sentencing. Defendant offered his objection to this newly requested BCX in stating, "I object to that, your Honor and I would ask for another counsel to take on where [current] counsel has fallen short in her duties." The response of the trial court was "[S]o noted." The comment made by defendant was made in connection with his objection to a seventh BCX exam. The statements of defendant before and after his comments all relate to the BCX order. The defendant again objected to the seventh BCX exam and the court responded "[P]lease be quiet." In his brief, defendant fails to cite any case law that would suggest that this objection offered by him would satisfy the court's need to inquire under a *Krankel* analysis. Moreover, at oral argument, appellate counsel for the appellee appeared to agree that this "scenario" of April 2nd may not be sufficient to trigger a *Krankel* inquiry. Defendant did mention later in the April 2, 2013 court proceeding that he was "filing a motion" without providing any explanation or basis for the motion.

¶ 39 Defendant's second allegation is that the written ineffective assistance of counsel motion he filed triggered a *Krankel* inquiry. The motion does appear in the appellate record and is stamped as "Received" by the Clerk of the Circuit Court Criminal Division on April 3, 2013. The motion is also stamped "Filed" by the Clerk of the Circuit Court Sixth District on April 15, 2013. The record does not contain any evidence of a notice of filing or notice of motion. There is also no indication that this written motion was in the court file on either May 7, 2013 or May 31, 2013 which were the next two dates the case was on the court's docket. Clear, though from the record, is that defendant was in court on both May 7 and May 31 and no mention was made by the defendant of the written motion.

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¶ 40 Citing *People v. Redd*, 173 Ill. 2d 1035 (1996) the Illinois Supreme Court reiterated that "a movant has the responsibility to obtain a ruling on his motion if he is to avoid forfeiture on appeal." *People v. Urdiales*, 225 Ill. 2d 354, 425 (2007). Further, a "motion is an application made to the court and the mere filing of it in the office of the clerk is not such an application. It must be brought to the attention of the court and the court asked to rule on it." *People v. Hornaday*, 400 Ill. 361, 364-65 (1948). This rule is no different if the motion is filed *pro se*. *People v. Newman*, 211 Ill. App. 3d 1087, 1098 (1991).

¶ 41 As a result, since defendant failed to even mention this motion or any reference to a claim of ineffective assistance of counsel on the trial court dates of May 7 and May 31, 2013, defendant abandoned his written motion by not bringing it to the attention of the Court despite opportunity to do so. There is nothing here to suggest that the trial court was aware of the motion. As a result, the case should not be remanded for the purpose of conducting a *Krankel* hearing.