2015 IL App (3d) 120842-U

Order filed April 1, 2015
Modified order upon denial of rehearing filed May 11, 2015

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2015

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois.
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-12-0842 Circuit No. 11-CF-1282
VERNON McCORMICK,	)	
Defendant-Appellant.	)	Honorable Amy Bertani-Tomczak, Judge, Presiding.

JUSTICE SCHMIDT delivered the judgment of the court.
Presiding Justice McDade and Justice Wright concurred in the judgment.

ORDER

¶ 1 *Held*: The court did not err by admitting two videotaped interrogations and a witness's pretrial recorded statement. Counsel was not ineffective for failing to: (1) question venire members regarding gang bias; (2) object to admission of witness's prerecorded statement; and (3) request a limiting instruction for the videotaped interrogations. The court erred by failing to inquire into defendant's allegations of ineffective assistance of counsel.

¶ 2 A Will County jury found defendant, Vernon McCormick, guilty of three counts of first-degree murder with a firearm, two counts of aggravated battery with a firearm, and one count of

aggravated discharge of a firearm. The trial court sentenced defendant to 60 years for murder, two concurrent 25-year terms for aggravated battery with a firearm, and a concurrent 15-year term for aggravated discharge of a firearm.

¶ 3 Defendant appeals, arguing that the trial court erred by: (1) admitting two videotaped interrogations; (2) admitting a witness's pretrial recorded statement to the police; and (3) failing to inquire into defendant's allegations of ineffective assistance of counsel. Defendant also argues that trial counsel was ineffective when he failed to: (1) request a limiting instruction when the court admitted the videotaped interrogations; (2) object to the admission of the witness's pretrial statement; and (3) request the court to question venire members regarding gang bias. For the following reasons, we affirm in part, and reverse and remand in part.

¶ 4 BACKGROUND

¶ 5 The State charged defendant with the following criminal counts: (1) three counts of first-degree murder with a firearm of Deonte Lesley; (2) two counts of aggravated battery with a firearm of Jordan Edwards and Sheldon McDonald; and (3) one count of aggravated discharge of a firearm. The State presented the following evidence at a jury trial.

¶ 6 On January 3, 2011, at approximately 8:29 p.m., Deonte Lesley, a 13-year-old boy, died from gunshot wounds to the head. A bullet struck Deonte while he played videogames inside his home located at 419 Fairmont in Lockport, Illinois. Bullets also struck and wounded Edwards and McDonald.

¶ 7 Police responded to a report of shots fired at approximately 8:30 p.m. Deputies Jeremy Zdzinicki, Leo Hernandez, and Michael Eriks arrived at the scene. Zdzinicki photographed shell casings on the ground, bullet holes in the car parked outside, and bullet holes in house walls. The officers placed trajectory rods in the bullets holes on the outside walls; the rods indicated

that the shooter fired all of the bullets from the front of the house. Hernandez and Eriks photographed casings discovered near 419 Fairmont, bullets recovered from the scene, and Deonte Lesley's body. Hernandez testified that casings fall one to two feet to the right of where a shooter fires a gun. Gary Lind, a firearm and toolmark expert, testified that the same gun fired both the recovered casings and bullets.

¶ 8 Police spoke with Sheila Cole, an employee of the Fairmont Community Center. Cole testified that she oversaw basketball games at the center. On January 3, 2011, at about 7 p.m., 20 to 25 children played basketball at the center, including Richard Woods, Leandre Abbott, and Mychael Jackson. A few nonregulars identified as Allen Beavers, Je-Von, and Edwards arrived at the center. They broke up the game and the children left the center. Cole closed the center around 7:30 p.m., which was earlier than usual. She knew defendant from the center and identified him in court. Defendant was not at the center the night of January 3, 2011.

¶ 9 McDonald, Beavers, and Je-Von testified that they were at the center with Edwards[1] on January 3, 2011. They wanted to play basketball but the center was too crowded. The group then went to Je-Von's house located three blocks from the center at 419 Fairmont. Je-Von's aunt, his mother, and his brother Deonte were home. Je-Von washed dishes while Deonte, Edwards, Beavers, and McDonald played videogames in the bedroom. Deonte and Edwards opened a window in the bedroom. Approximately 20 to 30 minutes after McDonald, Beavers, Je-Von, and Edwards arrived at the house, a shooter fired 5 to 12 shots into the house. Bullets struck and wounded Edwards and McDonald. A bullet also struck and killed Deonte.

¶ 10 Sidney Bradley also testified that he, Jackson, and Woods played basketball at the center that night. Everyone stopped playing basketball when Edwards, Je-Von, McDonald, and

[1] Edwards did not testify at trial; he died in an unrelated incident in March of 2011.

Beavers arrived at the center. Bradley went to his grandmother's house around 7:30 p.m. Later, while walking home, he saw a person dressed in black running north through a field near 419 Fairmont. Bradley heard gunshots about 5 to 10 minutes after he saw the person; he was two blocks from 419 Fairmont. After the shooting, Bradley observed a car pull away from the side of 419 Fairmont. Ultimately, police arrested defendant.

¶ 11 On January 7, 2011, Detectives Ellingham and Dobrowski interrogated defendant about the shooting. Defendant wore a black hoodie when the officers brought him into the station. The court admitted a redacted copy of the interrogation and played it for the jury. Before the interrogation, Dobrowski read defendant his *Miranda* rights. Defendant stated he knew that the officers brought him to the station to question him about the shooting, which he denied involvement.

¶ 12 Jackson called defendant and told him that Je-Von, Beavers, and McCaffee showed up at the center "wearing gloves." Ellingham, a gang expert, testified that "wearing gloves" meant that the men were at the center to intimidate. During the interrogation, defendant identified himself as a Gangster Disciple. He also identified Je-Von, Beavers, and McCaffee as members of the Vicelords, a rival gang. Defendant did not know why the guys were at the center or why they blamed him for the shooting. Defendant was upset when he heard that Je-Von killed Yarborough, a fellow Gangster Disciple, but did not attempt to kill anyone. He had a son and was on parole at the time of the January 3, 2011, shooting.

¶ 13 Further, defendant said he stayed home with his grandmother until about 5 p.m. the evening of the shooting. At that time, Deonte Thomas drove defendant to Sylvania Shade, defendant's girlfriend's, house, where he remained the entire night. He received phone calls on his cell phone at 815-212-6067 from people saying someone started a rumor that defendant shot

at Je-Von's house. Police later discovered that defendant provided a fake cell phone number; the parties stipulated that defendant's phone number in January of 2011 was 708-536-3153.

¶ 14 Deborah Shade, Sylvania's mother, testified that in January of 2011, she lived at 523 Elmwood in Joliet. On January 3, 2011, Deborah picked up defendant at his grandmother's house and drove him to her house. Defendant stayed at Deborah's house the entire night. Deborah went to bed at 9 p.m. She did not remember anyone calling a cab or getting a cab ride.

¶ 15 Andrew Laughlin, a cabdriver, testified that according to the taxi company's log sheet, he picked up a fare at 7:38 p.m. on Elmwood and dropped off that passenger at 7:48 p.m. at 2109 Fairview. The call for pickup came from phone number 708-536-3153. Laughlin did not identify the passenger, but stated he was 5'11", medium build, and light-skinned. He did not remember what the passenger was wearing.

¶ 16 Deonte Thomas testified that on January 3, 2011, defendant called him at his girlfriend, Quinn's, house. Thomas could not remember if he received that call before or after 8 p.m. Defendant said he needed a ride from the center later that night. Thomas then called defendant and provided his cell phone number. Later, when defendant arrived at the center, he called Thomas for a ride. Defendant used a normal tone of voice during all three calls.

¶ 17 Thomas picked defendant up from the center; defendant was with Woods, who also got into the car. Thomas drove Quinn's blue Chevy Impala. Defendant wore a dark hoodie. Defendant did not say anything about the shooting while they were in the car. After dropping Woods off, defendant and Thomas stopped at defendant's grandmother's house. Then they went to Jackson's house to buy marijuana; defendant and Thomas smoked the marijuana after arriving at Quinn's house. While there, Quinn received a call about the shooting. Defendant did not say anything regarding the shooting.

¶ 18 Prior to trial, two parole agents, Dean Morelli and Jack Ellingham, interviewed Thomas. The court admitted a redacted version of Thomas's interview and played it for the jury. During his interview, Thomas told Officer Morelli that defendant admitted to the shooting. Defendant called him twice that night for a ride. During the first call, defendant used a low voice. During the second call, defendant used a normal tone of voice. Defendant wore black pants and a black hoodie the night of the shooting. While in the car, defendant said he shot up Je-Von's house; he heard that Je-Von and the guys hung out there. Defendant said he knew he made a mistake when he heard a boy died.

¶ 19 At trial, Thomas acknowledged that he told Morelli that defendant confessed to the shooting. He lied after the agents threatened to violate his parole if he did not cooperate. The parole agents testified that they never made such threats. Thomas further testified that he thought the officers would only let him leave if he blamed defendant. When the neighbors find out he talked to the police it will not be good for him. Thomas declined the police's offer to be relocated.

¶ 20 Adnan Mirza, a U.S. Cellular engineer, collected the radio frequencies and cell tower strength in the area; Mirza mapped out the cell towers. The area contained six cell towers, numbered 23, 110, 202, 63, and 28. Tower 23 was located near 419 Fairmont; tower 110 was near 523 Elmwood. A cell phone call bounces off of the closest tower.

¶ 21 George Jacobsen, a U.S. Cellular regional performance manager, testified as an expert in radio frequency engineering. Jacobsen organized a "call dump" spreadsheet from U.S. Cellular. The spreadsheet reflected all of the calls recorded to and from phone number 708-536-3153, from 4 p.m. until midnight on January 3, 2011. The spreadsheet showed that calls bounced off of: tower 23 at 6 p.m.; tower 110 at 7 p.m.; and tower 23 at 8 p.m.

¶ 22 On July 6, 2011, Dobrowski and another detective interrogated defendant for a second time. At trial, the court admitted a redacted version of the interrogation and played it for the jury. During the interrogation, Detective Dobrowski confronted defendant with evidence establishing that he was not at Sylvania's house the entire night. Dobrowski also presented defendant with evidence from the cabdriver. Defendant continued to deny his involvement in the shooting. He took a cab from Sylvania's house to Jackson's house, where he sold marijuana. Defendant admitted that he previously omitted these facts; he did not want to tell detectives about his illegal activities. Deborah did not know that defendant left her home. Thomas then picked up defendant at Jackson's house and dropped him off at Sylvania's house. Dobrowski also presented defendant with cell phone evidence showing that his phone calls bounced off the tower located near 419 Fairmont. Defendant said he was texting and talking to Sylvania later in the evening. The detectives told defendant that the jury was going to hear that defendant lied to the police about his whereabouts at the time of the shooting. The detectives planned to test defendant's hoodie for gunshot residue. Defendant doubted that it would test positive.

¶ 23 Officer Caputo testified that defendant placed the hoodie in a bag with a heat seal. In February of 2012, Robert Berk, a trace evidence analyst, conducted a gunshot residue test on the sleeves of the hoodie. The left sleeve tested positive for four particles of gunshot residue. Berk testified that a gunshot discharges millions of particles which can dissipate over time. The court admitted the hoodie over defense counsel's objection.

¶ 24 The State also called two jailhouse informants to testify at trial. Bernard Marble testified that he was in a holding cell with defendant on April 5, 2012. Although defendant did not explain the charges he faced, Marble had an idea of such charges. Defendant asked Marble to take his hoodie as that was the only evidence the police had on defendant. He told defendant he

would take the hoodie, although he did not intend to do so. Marle did not want the police to turn the "murder situation" on him. One month after his conversation with defendant, Marble told his attorney about the conversation. The State reduced Marble's Class 1 drug charges to Class 2 and released him the next day.

¶ 25 Duan Lewis testified that he met defendant in January 2011 while they were both in the Will County jail. He could not remember the exact date or time of their meeting. Defendant and Lewis were distant relatives. His conversation with defendant took place through the common wall between adjoining cells in the medical unit of the jail. He was familiar with defendant's voice because he and defendant had been out of their cells together a couple of times. Lewis identified defendant in court. Defendant told Lewis that he had shot at Je-Von's residence because Je-Von killed Yarborough. Defendant also told Lewis that he made a mistake; Je-Von's younger brother died. The State released Lewis that day and relocated Lewis and his family.

¶ 26 Defendant did not testify at trial; defense counsel did not call any witnesses. The jury found defendant guilty of first-degree murder with a firearm, two counts of aggravated battery with a firearm, and aggravated discharge of a firearm. Before sentencing, defendant filed a *pro se* motion. Defendant indicated he had not heard from his attorneys since the guilty verdict. He also stated, "There were some motions that I asked my attorneys to put in but they did not do it your honor and I feel that there would've been a different outcome of my trial." Defendant also requested transcripts of the trial to prepare a motion for a new trial. The court stated that it would consider defendant's request for transcripts and posttrial motion at the sentencing hearing. Defense counsel filed a posttrial motion, alleging the trial court erred by allowing the jury to review the tapes of defendant's second interview, which the court denied. Defendant then filed a

motion for a continuance to hire private counsel attorney Tedone, which the court ultimately denied.

¶ 27 At sentencing, the court failed to address defendant's request for transcripts or his allegations of ineffective assistance of counsel. The court denied defendant's request for a continuance; allowing defendant time to hire private counsel would cause a delay due to the fact that Tedone had yet to file an appearance. The court then addressed the issue of sentencing.

¶ 28 The State provided a victim impact statement from Deonte's mother. The State also presented testimony of six police officers detailing defendant's prior criminal offenses. Defendant apologized to Deonte's family and the court while maintaining his innocence. The court sentenced defendant to 60 years for murder, two concurrent 25-year terms for aggravated battery imposed consecutively to the murder sentence, and a concurrent 15-year term for the aggravated discharge of a firearm.

¶ 29 Defendant appeals. We affirm in part and remand in part.

¶ 30 ANALYSIS

¶ 31 I. Admission of Videotaped Interrogations

¶ 32 Defendant argues that trial court abused its discretion in admitting the videotaped interrogations. Specifically, defendant argues that the detectives' statements during the interrogations: (1) constituted hearsay; and (2) invaded the province of the jury. Defendant also argues that the court violated his constitutional rights of confrontation under the United States and Illinois constitutions by admitting the videotaped interrogations. U.S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, § 8, art. I, § 12, and art. I, § 13. Alternatively, defendant argues that he is entitled to a new trial with a jury instruction limiting the jury's consideration only to defendant's statement. The State argues that defendant waived the issues on appeal.

¶ 33 To preserve an issue on appeal, defendant must object at trial and raise the issue in a posttrial motion. *People v. Bannister*, 232 Ill. 2d 52, 64-65 (2008). Here, defendant did not object at trial to the admission of the videotaped interrogations. To the contrary, defense counsel agreed to the redactions. Also, a defendant waives his claim regarding the lack of a limiting instruction where he fails to request that the trial court read the jury a limiting instruction. *People v. Gonzalez*, 379 Ill. App. 3d 941, 956 (2008) (citing *People v. Smith*, 362 Ill. App. 3d 1062, 1082 (2005)). Here, defense counsel did not request a limiting instruction. Accordingly, we find that defendant failed to preserve the issues on appeal.

¶ 34 In his reply brief, defendant argues that the trial court committed plain error under both prongs by admitting the videotaped interrogations. Defendant's failure to include a plain-error argument in his opening brief does not preclude us from considering the plain-error argument in his reply brief. *People v. Williams*, 193 Ill. 2d 306, 347 (2000); *People v. Ramsey*, 239 Ill. 2d 342, 412 (2010).

¶ 35 A reviewing court may consider a forfeited issue under the plain-error doctrine when "(1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Sargent*, 239 Ill. 2d 166, 189 (2010) (citing *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007)).

¶ 36 We need not engage in "the meaningless endeavor of determining whether error occurred" where the alleged error would not have affected the result of the case. *People v. White*, 2011 IL 109689, ¶ 148. For the following reasons, we find that the evidence is not

closely balanced; thus, we need not determine whether the court erred in admitting the videotaped interrogations.

¶ 37 Cell phone engineers and a cabdriver's testimony established that defendant was at 419 Fairmont at the time of the shooting. Jacobsen testified that at 6 p.m. on January 3, 2011, calls from defendant's cell phone bounced off of a tower near 419 Fairmont. At 7 p.m., calls from defendant's cell phone bounced off of the tower near Elmwood; Deborah testified that defendant was at her house on Elmwood around 7 p.m. Calls from defendant's cell phone again bounced off of the tower near 419 Fairmont at 8 p.m. The cabdriver testified that he picked up a passenger on Elmwood at 7:38 p.m. and dropped the passenger off at 2109 Fairview at 7:48 p.m.[2] The call for the cab ride came from defendant's cell phone number.

¶ 38 Witnesses presented conflicting testimony regarding defendant's whereabouts on January 3, 2011. Deborah stated that defendant stayed at her house for the entire night. Thomas testified that he picked defendant up from the center and ultimately ended up at Quinn's house. Also, defendant admitted to the police that he lied during his first interrogation regarding his location the night of the shooting. He initially told the police that he stayed at Deborah's house all night. During the second interrogation, defendant told the police that he left Deborah's house in a cab and went to Jackson's house to sell marijuana. He further conceded that he provided the detectives with an incorrect cell phone number.

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[2] On petition for rehearing, defendant argues that we misstated the cabdriver's testimony. We stated that the cabdriver dropped the passenger off at 419 Fairmont where testimony established that he dropped a passenger off at 2109 Fairview. We stated "419 Fairmont" based on defendant's representation of the facts in his original brief. We have corrected the error above and it does not change the outcome.

¶ 39 Bradley testified that after he heard gunshots, he saw someone wearing black running north from 419 Fairmont. Defendant wore a black hoodie the night of the shooting and when the officers brought him to the police station on January 7, 2012. A gunshot residue test on the sleeve of the hoodie tested positive for gunshot residue.

¶ 40 When Thomas spoke with the police he told them that defendant confessed to the shooting. Further, Lewis, a jailhouse informant, testified that defendant admitted to the shooting at Je-Von's residence, but he made a mistake when he shot Deonte instead of Je-Von. Marble, another jailhouse informant, testified that defendant asked that Marble take his hoodie, as that was the only evidence police had on defendant.

¶ 41 Clearly, the evidence is not closely balanced. The court did not commit first prong plain error.

¶ 42 Defendant also argues that the court committed second prong plain error and cites *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005), to support his argument. We find that *Herron* does not support his argument. Moreover, since *Herron*, our supreme court has made it clear that second prong plain error is equated with structural error. *People v. Glasper*, 234 Ill. 2d 173, 197-198 (2009). Structural error is "a systemic error which serves to 'erode the integrity of the judicial process and undermine the fairness of the defendant's trial.' " *Id.* The Supreme Court has classified error as structural error in a limited class of cases. *Neder v. United States*, 527 U.S. 1, 8 (1999). These rare situations involve errors that infect the entire process and render the entire trial fundamentally unfair. *Id.* at 1. Structural error includes complete denial of counsel, a biased trial judge, racial discrimination in selection of a grand jury, denial of self-representation at trial, denial of public trial, and defective reasonable-doubt instruction. *Thompson*, 238 Ill. 2d at 609 (citing *Washington v. Recuenco*, 548 U.S. 212, 218 n. 2 (2006)).

¶ 43 Even assuming that the court erred in admitting the videotaped interrogations, we find that the error did not constitute plain error under the second prong. At best, the court committed an evidentiary error. To categorize the evidentiary error alleged here as structural error would swallow up the rule.

¶ 44 Accordingly, we find that the court did not commit plain error under either prong.

¶ 45 II. Admission of Thomas's Recorded Statement to Police

¶ 46 Defendant argues that the court erred by admitting Thomas's recorded pretrial interview with the police; Thomas did not have personal knowledge of the shooting. *People v. Simpson*, 2015 IL 116512 (witness's videotaped statement to the police that defendant confessed to committing a murder was not admissible as substantive evidence; witness had no personal knowledge of the shooting). Defendant waived the argument by failing to object to the admission of the statement at trial. *People v. Bannister*, 232 Ill. 2d at 64-65 (to preserve an issue for appeal, defendant must object at trial and raise the issue in a posttrial motion).

¶ 47 Alternatively, defendant argues that the court committed first and second prong plain error in admitting Thomas's pretrial recorded statement. The State concedes that the court erred in admitting Thomas's statement, but argues that the court's error did not commit plain error.

¶ 48 As noted above, we need not determine whether the court actually erred if the evidence is not closely balanced. *People v. White*, 2011 IL 109689, ¶ 148. We have already found that the evidence is not closely balanced.

¶ 49 We also find that the court's error did not constitute structural error under the second prong of plain error. Again, at best the court committed an evidentiary error. As stated above, evidentiary errors do not amount to structural error as set forth in *Thompson*, 238 Ill. 2d at 609 (citing *Washington v. Recuenco*, 548 U.S. 212, 218 n. 2 (2006)).

¶ 50 We, accordingly, find that the court did not commit plain error by admitting Thomas's recorded statement to the police.

¶ 51 III. Ineffective Assistance of Counsel

¶ 52 Defendant argues that defense counsel was ineffective by failing to: (1) request a limiting instruction when the court admitted the videotaped interrogations; (2) object to the admission of Thomas's pretrial statement; and (3) request that the court question venire members regarding gang bias.

¶ 53 The United States and Illinois constitutions afford a criminal defendant the right to receive effective assistance of counsel. U.S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, § 8. To prove a claim of ineffective assistance of counsel, defendant must establish that counsel's performance fell below an objective standard of reasonableness, and the outcome of the trial would have been different but for counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *People v. Albanese*, 104 Ill. 2d 504, 525-26 (1984).

¶ 54 We need not determine whether counsel's performance was deficient before deciding whether counsel's performance prejudiced defendant. *People v. Montgomery*, 192 Ill. 2d 642, 671 (2000). Prejudice exists where there is a reasonable probability that, but for counsel's deficient performance, the outcome of the proceeding would have been different. *Strickland*, 466 U.S. at 694. A "reasonable probability" is a probability sufficient to undermine confidence in the result of the proceeding. *Id.* For the same reason that the evidence is not closely balanced, we find counsel's performance did not prejudice defendant. *Supra* ¶¶ 37-40.

¶ 55 Cell phone engineers testified about cell phone tower locations and radio frequencies collected from defendant's cell phone to establish that defendant was near 419 Fairmont at the time of the shooting. The cabdriver also testified that he dropped a passenger off at 419

Fairmont right before the shooting occurred; the phone log showed that the call for a cab came from defendant's phone number. Witnesses presented inconsistent statements about defendant's location on January 3, 2011. Further, defendant admitted that he lied about his location and his cell phone number. Defendant cannot establish that, but for counsel's performance, the outcome would have been different. We find that counsel was not ineffective.

¶ 56 IV. Defendant's *Pro Se* Claims

¶ 57 Defendant requests that this court remand the case for a *Krankel* hearing; defendant argues that he alleged ineffective assistance of counsel, but the trial court failed to inquire into his allegations. These were apparently claims additional to those discussed above. The State argues that defendant did not claim ineffective assistance of counsel but, rather, defendant requested copies of the trial transcripts.

¶ 58 Where defendant files a posttrial motion alleging ineffective assistance of counsel, the trial court must conduct a preliminary inquiry into the factual matters of the underlying claim. *People v. Krankel*, 102 Ill. 2d 181, 189 (1984); *People v. Moore*, 207 Ill. 2d 68, 77-78 (2003). Moreover, once a defendant raises allegations of ineffective counsel, the trial court may not ignore such claims. *People v. Vargas*, 409 Ill. App. 3d 790, 801 (2011). Some interchange between the court and counsel regarding the facts and circumstances surrounding the allegedly ineffective representation is usually necessary when the court is determining if any further action is necessary. *Moore*, 207 Ill. 2d at 78-79. We will remand the case where the trial court made no inquiry into defendant's allegations and the record did not establish whether the trial court even read defendant's *pro se* posttrial motion. *Id.* at 79.

¶ 59 Here, defendant sent a letter to the court prior to defense counsel's filing a posttrial motion, requesting transcripts and setting forth complaints about defense counsel. Defendant

alleged that he requested that counsel file certain motions, which counsel declined to file. He explicitly stated that he believed the outcome of his case would have been different if counsel had filed such motions. Further, defendant stated that defense counsel had not been in touch with him since the jury found defendant guilty. The court failed to inquire into or otherwise address defendant's allegations of ineffective assistance of counsel. We remand this case for a *Krankel* hearing.

¶ 60 CONCLUSION

¶ 61 For the foregoing reasons, the judgment of the circuit court of Will County is affirmed in part and remanded in part for a *Krankel* hearing.

¶ 62 Affirmed in part and remanded in part.