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2020 IL App (3d) 180553-U

Order filed November 25, 2020

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2020

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 21st Judicial Circuit, Kankakee County, Illinois.
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-18-0553
JODIE L. BONDS,	)	Circuit No. 16-CM-1008
Defendant-Appellant.	)	Honorable Kathy S. Bradshaw-Elliott, Judge, Presiding.

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JUSTICE SCHMIDT delivered the judgment of the court.  
Justices Holdridge and Wright concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Defendant knowingly and voluntarily waived her right to a jury trial.
- ¶ 2 Defendant, Jodie L. Bonds, appeals her conviction for criminal damage to property. Defendant contends that the Kankakee County circuit court failed to properly admonish her before she waived her right to a jury trial. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant with criminal damage to property (720 ILCS 5/21-1(a)(1) (West 2016)). During a court appearance, with defendant present, defense counsel requested that the court set the matter for a bench trial. The court stated “[o]kay. October—oh, set for—” and defense counsel responded “[b]ench, [Y]our Honor.” The court then addressed defendant, stating “[o]kay. Tell me the difference—because I’m recording up here, and I have to make sure you know the difference between a jury and a bench.” Defendant responded that “[t]he bench is where you are deciding after the hearing.” On that same day, defendant filed a written jury waiver which states, “I hereby waive a jury trial in the above entitled cause and consent to trial before the court.”

¶ 5 The court ultimately held a bench trial and found defendant guilty. The court sentenced defendant to 12 months’ conditional discharge. Defendant appeals.

¶ 6 II. ANALYSIS

¶ 7 Defendant argues that the circuit court failed to adequately admonish her before she waived her right to a jury trial. Defendant contends the court did not inform her that she had the right to a jury trial and failed to determine that she knew the difference between a jury and bench trial. We find the court did not err as the record establishes that defendant knowingly and voluntarily waived her right to a jury trial.

¶ 8 As an initial matter, we note that defendant forfeited her right to challenge her jury waiver because she failed to raise the issue in the circuit court. *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). Defendant acknowledges this forfeiture but asks that we review the issue under the second prong of the plain error doctrine. Under that prong, a reviewing court may remedy a “clear or obvious” error when “that error is so serious that it affected the fairness of the defendant’s trial and challenged the integrity of the judicial process.” *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). The first step in applying the plain error doctrine is to determine if an error occurred. *Id.*

¶ 9 To be valid, a jury waiver must be knowingly and understandingly made. *People v. Bracey*, 213 Ill. 2d 265, 269 (2004). “[W]hile the circuit court must insure that a defendant’s jury waiver is understandingly made, no set admonition or advice is required before an effective waiver of that right may be made.” *People v. Tooles*, 177 Ill. 2d 462, 469 (1997). Whether a jury waiver is valid depends on the particular facts and circumstances of each case. *Id.* “[J]ury waivers are valid when made in open court by defense counsel ‘in defendant’s presence where defendant gave no indication of any objection.’ ” *People v. Turner*, 375 Ill. App. 3d 1101, 1108 (2007) (quoting *People v. Frey*, 103 Ill. 2d 327, 332 (1984)). “[T]he existence of a written waiver supports a finding of a knowing waiver when accompanied by defense counsel’s request for a bench trial made in open court and in the defendant’s presence.” *Id.*

¶ 10 Here, defendant was present when defense counsel requested a bench trial, and she did not voice any objection to the request. Further, at that point, the court explicitly asked her if she knew the difference between a bench and jury trial and her response indicated that she knew a bench trial meant the judge would decide the outcome. Additionally, on the same day her counsel requested the bench trial in her presence, she filed a written jury waiver, which further supports that she knowingly waived her right to a jury trial. See *id.* at 1109. Taking these facts together, we conclude that defendant knowingly and voluntarily waived her right to a jury trial. Therefore, we find no error, and as a result, no plain error.

¶ 11 III. CONCLUSION

¶ 12 For the foregoing reasons, we affirm the judgment of the circuit court of Kankakee County.

¶ 13 Affirmed.