

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2021 IL App (3d) 180689-U

Order filed February 22, 2021

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2021

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 13th Judicial Circuit,
Plaintiff-Appellee,)	La Salle County, Illinois,
)	
v.)	Appeal No. 3-18-0689
)	Circuit No. 17-CF-498
)	
DEZZAN D. PHILLIPS,)	Honorable
)	Howard C. Ryan Jr.,
Defendant-Appellant.)	Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Presiding Justice McDade and Justice Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The circuit court did not conduct an inquiry into defendant's *pro se* claims of ineffective assistance of counsel. (2) The court did not violate the one-act, one-crime doctrine.

¶ 2 Defendant, Dezzan D. Phillips, appeals his convictions for involuntary manslaughter and aggravated battery. Defendant raises two issues on appeal: (1) the La Salle County circuit court failed to conduct an inquiry into his posttrial claims of ineffective assistance of counsel, and

(2) his convictions violate the one-act, one-crime doctrine. We affirm in part and remand with directions.

¶ 3

I. BACKGROUND

¶ 4

The State charged defendant by indictment with involuntary manslaughter (720 ILCS 5/9-3(a) (West 2016)) and aggravated battery (*id.* § 12-3.05(c)). The court appointed Assistant Public Defender Ryan Hamer to represent defendant.

¶ 5

Following a bench trial, the court found defendant guilty of both charges. Hamer filed a motion for a new trial. A few months later, and prior to sentencing, he filed an amended motion for a new trial, which alleged that defendant’s convictions violated the one-act, one-crime doctrine. The court denied defendant’s amended motion in part and found that it could only sentence defendant on the most serious charge, which it deemed to be involuntary manslaughter. The court sentenced defendant to seven years’ imprisonment for involuntary manslaughter. It did not enter a sentence on defendant’s aggravated battery conviction.

¶ 6

Defendant filed, as a self-represented litigant, a motion for “reconsideration for [*sic*] sentence” that alleged he received ineffective assistance of counsel. The State and Hamer notified the court that due to defendant’s ineffective assistance claims, Hamer’s continued representation posed a conflict of interest. Hamer suggested assigning another public defender to defendant’s case, and the court agreed. On the next court date, Assistant Public Defender Doug Kramarsic appeared to represent defendant. Kramarsic filed an amended motion for new trial. Regarding his motion, Kramarsic stated “I have labeled what’s been called an amended motion for a new trial. *** [I]t’s not an amendment from an original motion that I had filed. It’s just an amendment from an original motion that Mr. Phillips had filed *pro se.*” Kramarsic’s motion further developed defendant’s claim of ineffective assistance of counsel.

¶ 7 The court addressed Kramarsic’s motion for a new trial and stated,
“On May 28th [defendant] had a posttrial motion. It was denied and we proceeded to sentencing. You don’t get multiple bites at the trial. Mr. Phillips filed a motion and asked me to reconsider the sentence, which is proper***. How am I going to hear another motion for a new trial when I already heard it once?”

The court continued, “I’m not prone to relitigate that matter. I will reconsider the sentence if you choose to do so.”

¶ 8 After speaking with defendant, Kramarsic informed the court that defendant did not wish to raise an issue with his sentence. Instead, he intended to appeal the court’s original denial of his posttrial motion. Despite Kramarsic’s stance, the court asked for oral arguments regarding only the motion to reconsider sentence. Following arguments, the court denied defendant’s motion for “reconsideration for [*sic*] sentence” without addressing the ineffective assistance claims raised in either defendant’s motion or Kramarsic’s amended motion for a new trial. Defendant appeals.

¶ 9 II. ANALYSIS

¶ 10 Defendant argues that (1) the circuit court failed to conduct an inquiry into his claims of ineffective assistance of counsel as required by *People v. Krankel*, 102 Ill. 2d 181 (1984), and (2) his convictions for involuntary manslaughter and aggravated battery violate the one-act, one-crime doctrine. The State concedes that the court failed to conduct a *Krankel* inquiry but contends that defendant’s convictions comply with the one-act, one-crime doctrine.

¶ 11 When a defendant raises, as a self-represented litigant, a posttrial claim of ineffective assistance of counsel, the court should examine the factual basis of defendant’s claim, ascertain if the claim lacks merit or pertains only to matters of trial strategy, and then determine if new

counsel needs to be appointed. *People v. Moore*, 207 Ill. 2d 68, 77-78 (2003). Ultimately, the court must conduct “some type of inquiry” into a defendant’s claims. *Id.* at 79.

¶ 12 After reviewing the record, we find that the court conducted no inquiry into defendant’s posttrial claims of ineffective assistance. Thus, the matter must be remanded for the court to conduct a preliminary *Krankel* inquiry.

¶ 13 Turning to defendant’s argument that his convictions violate the one-act, one-crime doctrine, the State argues that defendant forfeited this claim. We note that defendant’s premature objection in his first motion for a new trial fails to preserve his claim for review where it occurred prior to sentencing. Therefore, his claim is forfeited. See *People v. Enoch*, 122 Ill. 2d 176, 186 (1988) (to preserve an issue for appeal, defendant must make a simultaneous objection and a posttrial objection). Despite defendant’s forfeiture, “[r]eviewing courts may look beyond considerations of forfeiture to maintain a sound and uniform body of precedent or where the interests of justice so require.” *People v. Jackson*, 2020 IL 124112, ¶ 118. Here, we elect to consider defendant’s claim on appeal. We review the application of the one-act, one-crime doctrine *de novo*. *People v. Coats*, 2018 IL 121926, ¶ 12.

¶ 14 Under the one-act, one-crime doctrine, “a defendant may not be convicted of multiple offenses that are based upon precisely the same single physical act.” *People v. Johnson*, 237 Ill. 2d 81, 97 (2010). The Criminal Code of 2012 defines “conviction” as “a judgment of conviction or sentence entered upon a plea of guilty or upon a verdict or finding of guilty of an offense ***.” 720 ILCS 5/2-5 (West 2018).

¶ 15 Here, defendant was convicted of one offense, involuntary manslaughter. Because the court did not enter a sentence on the aggravated battery charge, it did not enter a conviction on this offense for purposes of the one-act, one-crime doctrine. See *People v. Cruz*, 196 Ill. App. 3d

1047, 1052 (1990) (“In the absence of a judgment formerly entered or sentence imposed, there is no ‘conviction.’ ”). Therefore, the court did not violate the one-act, one-crime doctrine.

¶ 16

III. CONCLUSION

¶ 17

The judgment of the circuit court of La Salle County is affirmed in part and remanded with directions.

¶ 18

Affirmed in part and remanded with directions.