

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).

2026 IL App (4th) 250331-U

NO. 4-25-0331

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

August 25, 2026

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Peoria County
DOMINCUE D. LINWOOD,	)	No. 22CF1075
Defendant-Appellant.	)	
	)	Honorable
	)	Paul E. Bauer,
	)	Judge Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Justices Grischow and Cavanagh concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court remanded the cause for a preliminary inquiry into defendant's unaddressed *pro se* posttrial claims of ineffective assistance of counsel.
- ¶ 2 In December 2022, defendant, Domincue D. Linwood, was charged with first degree murder (720 ILCS 5/9-1(a)(2) (West 2022)). Following a trial, the jury found defendant guilty and also found that defendant's personal discharge of a firearm during the commission of that offense proximately caused the death of another. The trial court sentenced defendant to a total of 85 years in prison. On appeal, defendant argues that (1) the court failed to conduct a preliminary inquiry into his claims of ineffective assistance pursuant to *People v. Krankel*, 102 Ill. 2d 181 (1984) and (2) cumulative errors during the trial rose to the level of plain error, requiring a new trial. For the reasons that follow, we reach only the first issue and remand for a preliminary *Krankel* inquiry.

¶ 3

I. BACKGROUND

¶ 4

In December 2022, defendant was charged with first degree murder (720 ILCS 5/9-1(a)(2) (West 2022)). The case proceeded to a jury trial. The jury found defendant guilty of first degree murder and also found that defendant personally discharged a firearm during the commission of that offense that proximately caused a death. Defendant filed a motion for judgment of acquittal notwithstanding the verdict or for a new trial. The trial court denied the motion.

¶ 5

On March 25, 2025, the matter proceeded to a sentencing hearing, where the State presented evidence in aggravation and defendant's attorney presented no evidence in mitigation. After victim impact statements were read aloud, defendant made the following statement in allocution:

"I want to thank my family and friends for being supportive for being incarcerated for something I didn't do.

And I want to put it on record that my lawyer wasn't doing everything I told him to do. Like, he didn't—like, I had paid for a private investigator that I never seen. I was telling him to do certain stuff in trial he wasn't doing. And I just want to say that for the record for my appellate rights."

¶ 6

The trial court responded, "Okay. Thank you." After hearing arguments, the court sentenced defendant to 60 years in prison for first degree murder, plus an additional sentence of 25 years for personally discharging the weapon that caused a death (730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2022)), for a total of 85 years in prison. After defendant's sentence was announced, defense counsel stated: "One last thing. [Defendant], while the Court was giving the sentence, also indicated that he just wanted to make sure for the record that he is making the claim of ineffective assistance of counsel to be added to the motion for a new trial." The court responded, "Okay."

¶ 7 Defendant filed a motion to reconsider his sentence. The trial court held a hearing on that motion on April 3, 2025. At the conclusion of the hearing, defendant asked, “Can I say something?” The court responded, “Only if your attorney—Mr. Burch, your client wishes to speak.” Defense counsel then stated:

“Without having the opportunity to speak to [defendant]—

[Defendant], remember that your case is set for appeal at this point. Anything that you say can be used against you. All of the issues that were previously discussed in the filings as well as on the last court date, the arguments for ineffective assistance of counsel have been preserved for your appellate counsel[.]”

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 “Under *Krankel* and its progeny, when a defendant raises a *pro se* posttrial claim of ineffective assistance of counsel, the trial court must conduct an inquiry into the factual basis of the defendant’s claim to determine whether new counsel should be appointed to assist the defendant.” *People v. Bell*, 2018 IL App (4th) 151016, ¶ 35.

“In conducting its inquiry, the court may (1) ask defense counsel to ‘answer questions and explain the facts and circumstances’ relating to the claim, (2) briefly discuss the claim with the defendant, or (3) evaluate the claim based on ‘its knowledge of defense counsel’s performance at trial’ as well as ‘the insufficiency of the defendant’s allegations on their face.’ ” *Bell*, 2018 IL App (4th) 151016, ¶ 35 (quoting *People v. Moore*, 207 Ill. 2d 68, 78-79 (2003)).

If the inquiry discloses “possible neglect of the case,” the court should appoint new counsel to

independently investigate and represent the defendant at a separate hearing on the claim. *Moore*, 207 Ill. 2d at 78. If, however, the court determines 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. “[T]he primary purpose of the preliminary inquiry is to give the defendant an opportunity to flesh out his claim of ineffective assistance so the court can determine whether appointment of new counsel is necessary.” *People v. Ayres*, 2017 IL 120071, ¶ 20.

¶ 11 We review *de novo* whether a defendant’s *pro se* ineffective assistance of counsel allegations triggered a duty to conduct a preliminary *Krankel* inquiry. *Bell*, 2018 IL App (4th) 151016, ¶ 36. Where the trial court fails to conduct a required inquiry into a defendant’s claims of ineffective assistance of counsel, the matter must be remanded. *Bell*, 2018 IL App (4th) 151016, ¶ 36.

¶ 12 “[W]hen a defendant brings a clear claim asserting ineffective assistance of counsel, either orally or in writing, this is sufficient to trigger the trial court’s duty to conduct a *Krankel* inquiry.” *Ayres*, 2017 IL 120071, ¶ 18. To trigger a preliminary inquiry under *Krankel*, “a *pro se* defendant is not required to do any more than bring his or her claim to the trial court’s attention.” *Moore*, 207 Ill. 2d at 79. It must be clear that the defendant is claiming ineffective assistance of counsel; however, “a claim need not be supported by facts or specific examples.” *Ayres*, 2017 IL 120071, ¶ 19. “If that were not the case, this court would not require the circuit court to conduct an inquiry into the underlying factual basis for the claim.” *Ayres*, 2017 IL 120071, ¶ 19.

¶ 13 When a defendant makes an express claim of “ineffective assistance of counsel,” a preliminary *Krankel* inquiry is required. See *Ayres*, 2017 IL 120071, ¶¶ 6, 24, 26; *People v. Volberding*, 2022 IL App (2d) 200346-U, ¶ 43. However, to be entitled to a preliminary *Krankel*

inquiry, the defendant is not required to use the phrase “ineffective assistance of counsel.” See *People v. Lobdell*, 2017 IL App (3d) 150074, ¶ 37; *People v. Demus*, 2016 IL App (1st) 140420, ¶ 24. Requiring a defendant to use those precise words “would be elevating form over substance.” *Lobdell*, 2017 IL App (3d) 150074, ¶ 37. Instead, to trigger a *Krankel* inquiry, (1) the defendant must clearly raise a complaint about the trial proceedings and (2) the complaint must involve something his attorney did or failed to do. *People v. Schnoor*, 2019 IL App (4th) 170571, ¶ 69; see *People v. Scott*, 2025 IL App (4th) 241438-U, ¶¶ 8, 14 (finding that the defendant “asserted a clear claim of ineffective assistance of counsel, sufficient to trigger the trial court’s duty to conduct a preliminary *Krankel* inquiry,” where he stated that his defense counsel “ ‘put in no witness list for me or nothing on my behalf’ ” and “ ‘never had my discovery’ ”); *People v. Bell*, 2024 IL App (4th) 240194-U, ¶ 15 (finding the court was required to conduct a preliminary *Krankel* inquiry even though the defendant did not use the phrase “ineffective assistance” because the defendant’s “statement clearly convey[ed] complaints about his trial counsel’s performance” where the defendant stated, “ ‘I feel like my attorney didn’t really question the witness or attach the evidence I was a swap!’ ”). “[F]or a defendant to make a ‘clear claim’ of ineffective assistance of counsel, the defendant must at least mention his attorney.” *People v. Thomas*, 2017 IL App (4th) 150815, ¶ 31.

¶ 14 There is no fixed procedure for a defendant to present his ineffective-assistance claim to the trial court. It may be in written format or merely oral. *Ayres*, 2017 IL 120071, ¶ 11. Additionally, counsel can raise the issue of his own ineffectiveness on behalf of the defendant at the defendant’s direction. *People v. Bates*, 2019 IL 124143, ¶ 33.

¶ 15 Here, defendant’s statements to the trial court during his allocution triggered the duty to conduct a preliminary *Krankel* inquiry because defendant raised complaints about his

attorney and things he failed to do. See *Schnoor*, 2019 IL App (4th) 170571, ¶ 69. Specifically, defendant claimed that his attorney “wasn’t doing everything I told him to do. Like, he didn’t—like, I had paid for a private investigator that I never seen. I was telling him to do certain stuff in trial he wasn’t doing.” Additionally, immediately thereafter, defendant said that he was making such claims “for the record for [his] appeal rights.” Even though defendant expressly complained about the representation he received, the court did not inquire about the factual bases for defendant’s grievances, but just said, “Okay. Thank you.” After the court announced defendant’s sentence, defense counsel asserted: “[Defendant], while the Court was giving the sentence, also indicated that he just wanted to make sure for the record that he is *making the claim of ineffective assistance of counsel* to be added to the motion for a new trial.” (Emphasis added.) Thus, on defendant’s behalf, defense counsel specifically asserted a claim of ineffective assistance of counsel sufficient to trigger a preliminary *Krankel* inquiry. See *Volberding*, 2022 IL App (2d) 200346-U, ¶ 43 (stating that “the mere words ‘ineffective assistance of counsel’ are sufficient to trigger *Krankel*”); *Bates*, 2019 IL 124143, ¶ 33 (stating counsel can raise an ineffective-assistance claim on behalf of the defendant at the defendant’s direction). Finally, at the hearing on the motion for a new sentence, defense counsel again made reference to defendant’s claim of “ineffective assistance of counsel.” Thus, three separate events triggered the need for a preliminary *Krankel* inquiry in this case.

¶ 16 The State contends that a preliminary *Krankel* inquiry was unnecessary because defendant’s complaints dealt with trial tactics and strategy, which are “generally immune from claims of ineffective assistance.” However, “[t]his court has rejected the suggestion that a court need not inquire into matters which ordinarily relate to trial strategy.” *People v. Woods*, 2026 IL App (4th) 241142-U, ¶ 70 (citing *People v. Jackson*, 2025 IL App (4th) 241372-U, ¶ 37). This court

explained:

“To begin, a matter which ordinarily is decided as a matter of trial strategy may, in fact, be the product of inadvertent oversight rather than intentional decision-making. Furthermore, even if there is an intentional decision, a defendant may overcome the strong presumption that the decision was made as a matter of sound trial strategy. [Citation.] Therefore, the fact a *pro se* claim of ineffective assistance is based upon a matter which ordinarily relates to trial strategy does not permit a court to reject that claim without further inquiry.” *Jackson*, 2025 IL App (4th) 241372-U, ¶ 37.

Further inquiry will typically involve “ ‘some interchange between the trial court and trial counsel regarding the facts and circumstances surrounding the allegedly ineffective representation.’ ” *People v. Jolly*, 2014 IL 117142, ¶ 30 (quoting *Moore*, 207 Ill. 2d at 78). “The court may also briefly discuss the allegations with [the] defendant.” *Jolly*, 2014 IL 117142, ¶ 30. Thus, even if claims appear to be related solely to matters of trial strategy, that does not make a preliminary *Krankel* hearing unnecessary. Therefore, this contention fails.

¶ 17 Similarly, the State contends that the trial court could have relied on its own observations of counsel’s performance to determine that a preliminary *Krankel* inquiry was unnecessary. However, before a court can do so, it must know what the defendant’s specific claims of ineffective assistance of counsel are. Our supreme court has explained that “when a defendant presents a *pro se* posttrial claim of ineffective assistance of counsel, the trial court should first examine the factual basis of the defendant’s claim.” *Moore*, 207 Ill. 2d at 77-78. It is only after examining the factual basis of the defendant’s claim that the court can determine whether to appoint new counsel for the defendant or dismiss the claim. See *Moore*, 207 Ill. 2d at 78. A court

may not appoint new counsel or dismiss a claim without such an inquiry. See *Moore*, 207 Ill. 2d at 79 (“The law requires the trial court to conduct some kind of inquiry into the underlying factual basis, if any, of a defendant’s *pro se* posttrial claim of ineffective assistance of counsel.”). In this case, the court never attempted to determine the factual bases of defendant’s claims but, instead, ignored defendant’s allegations of ineffective assistance of counsel and counsel’s references to defendant’s claims of “ineffective assistance of counsel.” This was improper. See *Scott*, 2025 IL App (4th) 241438-U, ¶ 14 (stating that where the defendant’s claims were outside the court’s knowledge, the court was required to conduct an inquiry into the factual bases for the claims).

¶ 18 The trial court’s decision to disregard defendant’s ineffective-assistance claims is contrary to the purpose of *Krankel*, which is “intended to address fully a defendant’s *pro se* posttrial claims of ineffective assistance of counsel and thus potentially limit issues on appeal.” *Jolly*, 2014 IL 117142, ¶ 38. “By initially evaluating the defendant’s claims in a preliminary *Krankel* inquiry, the circuit court will create the necessary record for any claims raised on appeal.” *Jolly*, 2014 IL 117142, ¶ 38.

¶ 19 In this case, there is no dispute that the trial court did not conduct a preliminary *Krankel* inquiry. Thus, we remand the matter with directions for the court to do so. In conducting a preliminary *Krankel* inquiry, the court should ask defendant specifically what he is claiming his attorney did or did not do that he believes violated his right to the effective assistance of counsel. Once defendant does so, the court should question defense counsel about his actions or inactions. See *Bell*, 2018 IL App (4th) 151016, ¶ 35. If the inquiry discloses “possible neglect of the case,” the court should appoint new counsel to independently investigate and represent the defendant at a separate hearing on the claim. *Moore*, 207 Ill. 2d at 78. If, however, the court determines 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.

¶ 20 “As the matter must be remanded to allow the trial court to conduct a preliminary *Krankel* inquiry, we decline to address defendant’s other claims on appeal.” *Bell*, 2018 IL App (4th) 151016, ¶ 37. “Depending on the result of the preliminary *Krankel* inquiry, defendant’s other claims may become moot.” *Bell*, 2018 IL App (4th) 151016, ¶ 37. Nevertheless, we retain jurisdiction over defendant’s remaining claims, meaning he may appeal again if he is dissatisfied with the proceedings on remand and raise the claims that were not addressed in this order. See *People v. Wilson*, 2019 IL App (4th) 180214, ¶ 26.

¶ 21 III. CONCLUSION

¶ 22 For the reasons stated, we remand for the trial court to conduct an inquiry into defendant’s *pro se* posttrial claims of ineffective assistance of counsel.

¶ 23 Remanded with directions.