

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 (3d) 250040-U

Order filed September 10, 2026

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2026

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 21st Judicial Circuit,
	)	Kankakee County, Illinois,
Plaintiff-Appellee,	)	
	)	Appeal No. 3-25-0040
v.	)	Circuit No. 21-CF-277
	)	
BRYCE K. HUBBELL,	)	Honorable
	)	William S. Dickenson,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE DAVENPORT delivered the judgment of the court.
Presiding Justice Hettel and Justice Anderson concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defense counsel’s failure to investigate a known witness showed possible neglect, warranting appointment of new counsel for further posttrial proceedings. Remanded for further proceedings.
- ¶ 2 A jury found defendant, Bryce K. Hubbell, guilty of aggravated domestic battery and domestic battery. The trial court sentenced defendant to concurrent 10- and 3-year terms, respectively. Defendant appealed. We rejected defendant’s argument that his sentence was excessive but remanded, per *People v. Krankel*, 102 Ill. 2d 181 (1984), for the trial court to conduct

“a more complete *** inquiry” into defendant’s *pro se* posttrial ineffective-assistance-of-counsel claim. *People v. Hubbell*, 2024 IL App (3d) 220439-U, ¶ 26.

¶ 3 On remand, the court inquired further and, ultimately, determined defendant’s ineffective-assistance claim did not warrant the appointment of new counsel. Defendant appeals again. He contends the trial court failed to conduct a “more complete” *Krankel* inquiry as required by our mandate. Alternatively, he contends the trial court should have found his allegations showed possible neglect, warranting the appointment of new counsel.

¶ 4 We conclude counsel’s failure to investigate a potential witness who was known to him constituted possible neglect. Accordingly, we remand this matter for the trial court to appoint new counsel and to conduct further proceedings on defendant’s claim.

¶ 5 I. BACKGROUND

¶ 6 A. Trial Proceedings

¶ 7 A grand jury indicted defendant on five charges, including one count each of aggravated domestic battery (720 ILCS 5/12-3.3(a-5) (West 2020)) and domestic battery (*id.* § 12-3.2(a)(1)). The charges related to events involving defendant’s girlfriend, Hannah Soper, in the evening and early morning hours of April 1 and 2, 2021. At defendant’s first appearance, the State told the trial court that Soper’s mother, Melissa Helgeson, had been charged with unlawful restraint in relation to some of the events that took place on the night in question. During the hearing, the State used a police report to inform the court of the nature of the allegations against defendant.

¶ 8 The case proceeded to a jury trial. We previously recited the trial evidence (*Hubbell*, 2024 IL App (3d) 220439-U, ¶¶ 5-9) but reiterate the following to place defendant’s current contentions in context. Defendant’s theory at trial was that Soper was too intoxicated to recall that Helgeson battered her, not defendant. The evidence to support defendant’s theory that Helgeson battered

Soper included (1) defendant's voluntary statement to police during which he said as much and (2) testimony from defendant's cousin, a felon, who observed an uninjured Soper at his house with defendant, before defendant and Soper returned to Helgeson's trailer.

¶ 9 The jury found defendant guilty of aggravated domestic battery and domestic battery. The court sentenced defendant to concurrent 10- and 3-year terms for the two convictions, respectively.

¶ 10 B. Posttrial Proceedings

¶ 11 On May 16, 2022, defendant *pro se* filed a "Motion for ineffective [*sic*] Assistance of counsel." Defendant contended his counsel "failed to use due diligence" to secure the testimony of his stepfather, Eric Quaintance, which "could or would have changed the verdict." The court set the matter for a *Krankel* hearing.

¶ 12 The *Krankel* hearing took place on November 3, 2022. Defendant told the court that Quaintance's name was in the police report, but Quaintance was never contacted by counsel. Defendant presented an affidavit from Quaintance. Quaintance averred that he was present during the events in question. Quaintance observed a verbal altercation between defendant and Soper but never observed defendant "put his hands on [Soper]." Quaintance observed a physical altercation between Soper and Helgeson, during which Helgeson choked Soper and then grabbed Soper by the hair and punched her. Finally, Quaintance averred he was willing to testify but was never contacted by defense counsel.

¶ 13 In response, counsel stated that Quaintance was "news to [him]," that he did not "believe [Quaintance was] mentioned anywhere in the police reports," and that he did not "recall discussing [Quaintance]" with defendant. Counsel told the court that he and defendant had discussed potential witnesses for trial, and they "focused on *** Helgeson" who "at the time [had] criminal charges pending of her own." When a subpoena to Helgeson was returned unserved, counsel and defendant

“made a calculated decision” to no longer pursue her testimony, believing she would likely exercise her fifth amendment right against self-incrimination. Counsel also told the court he would have “tracked *** down” Quaintance had he known that Quaintance was present and observed what had occurred.

¶ 14 The court found there was “no reason to appoint outside counsel into this case” and denied defendant’s *pro se* motion. Defendant appealed.

¶ 15 C. Defendant’s First Appeal

¶ 16 On appeal, defendant contended the trial court erred by failing to conduct a proper inquiry, under *People v. Krankel*, 102 Ill. 2d 181 (1984), into his *pro se* ineffective-assistance claim. We agreed, finding counsel could potentially have been ineffective if Quaintance’s name was in the police report and counsel did not investigate. *Hubbell*, 2024 IL App (3d) 220439-U, ¶ 25. Because counsel had equivocated after defendant definitively stated Quaintance’s name was in the police report, we found the record was insufficient to allow the trial court to assess counsel’s potential ineffectiveness. *Id.* Accordingly, we remanded the matter with directions to conduct “a more complete *Krankel* inquiry as it relates to Quaintance.” *Id.* ¶ 26.

¶ 17 D. Proceedings on Remand

¶ 18 While the mandate was pending, defendant sent the circuit clerk a letter requesting discovery. He also filed a motion seeking “All police reports, video evidence, witness statements, victim statements, and any other evidence pertaining to Eric Quaintence [*sic*] presence the night of the alleged incident.” Our mandate issued on October 1, 2024.

¶ 19 On December 3, 2024, defendant appeared in court. Defense counsel was unable to appear due to other professional obligations. The court acknowledged defendant’s discovery motion and told defendant it had to first complete the *Krankel* hearing before considering the motion.

Defendant said he needed the requested discovery “to be able to represent [him]self effectively at that *Krankel* hearing.” The court continued the matter so that trial counsel could appear.

¶ 20 On January 23, 2025, the court held a *Krankel* hearing pursuant to our mandate. During the hearing, defendant noted he had requested discovery. The court explained to defendant that he was not entitled to his own copy of the discovery materials unless his attorney filed a motion under Rule 415(c). See Ill. S. Ct. R. 415(c) (eff. Oct. 23, 2020) (discovery must remain in an attorney’s “exclusive custody” unless the attorney files a motion requesting permission to tender discovery to a defendant; the motion should be granted unless there exists good cause to deny the request).

¶ 21 Defendant then stated he told defense counsel, in one of their initial meetings at the county jail, about Quaintance’s presence during the events in question. Defendant also noted that Soper testified at trial about Quaintance’s presence on the day in question and, if counsel had spoken with Soper, he would have learned about Quaintance’s presence.

¶ 22 Defense counsel first addressed whether Quaintance was mentioned in the police report: “Eric Quaintance was not listed in the discovery. For the benefit of the Appellate Court, let’s make that clear. He’s not mentioned anywhere in the discovery materials.” Counsel then addressed defendant’s statement that he told counsel of Quaintance’s presence during one of their initial meetings: “I’m not going to challenge that point. Maybe [defendant] did tell me that.” Counsel further explained that, if defendant had mentioned Quaintance, he did not “think it was significant enough to subpoena him.” In addition, counsel noted that he and defendant met as trial approached and discussed which witnesses would be called. At no time during those meetings, according to counsel, did defendant suggest counsel should subpoena Quaintance or state Quaintance would testify that Helgeson, not defendant, had battered Soper. Counsel concluded,

“So that’s the reason why I didn’t subpoena Eric Quaintance for the trial. I had no idea of the contents of his—or the substance of his testimony until [defendant] filed his *pro se* motion for a new trial and attached the affidavit, I didn’t know about him.

And if he came up at the trial in *** Soper’s testimony and that shows that he was present, fine. It doesn’t mean that I knew about him to subpoena him, and it doesn’t mean that [defendant] directed me to subpoena him.”

¶ 23

The court ruled as follows:

“[W]ith regards to Mr. Quaintance, *** first, there was the issue of the discovery. [Trial counsel] stated affirmatively today that Mr. Quaintance was in fact not listed in the discovery. [Defendant] indicates that while he’s unsure of which meeting he described it, he initially said during the first meeting he advised [trial counsel] of Mr. Quaintance and then rolled that back a little bit.

*** But [defendant] did indicate that he spoke to [trial counsel] about Mr. Quaintance during a meeting.

[Trial counsel] acknowledged that that may have—that there may have been a mention of Mr. Quaintance at some point during a meeting with [defendant]. He simply doesn’t recall it. But [trial counsel] was specific and did have specific recall about meetings and the run of trial, discussing about who to subpoena and not subpoena and things of that nature. And [trial counsel] was quite firm that in those meetings, those later meetings, that the defendant never suggested that Mr. Quaintance was an eyewitness or that there was a need to subpoena him. So I am finding at this time that there is no need to appoint outside counsel in this matter. And I am finding that there are no further proceedings warranted by this trial court.”

¶ 24 This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 Defendant challenges the adequacy of the remanded *Krankel* hearing and, alternatively, the trial court’s ultimate conclusion that the appointment of new counsel was not warranted. We begin with some basic principles regarding *pro se* posttrial ineffective-assistance claims.

¶ 27 A. The *Krankel* Procedure

¶ 28 When a defendant makes a *pro se* posttrial claim of ineffective assistance of counsel, the trial court is required to follow the procedure developed under *Krankel* and its progeny. *People v. Ayres*, 2017 IL 120071, ¶ 1. The trial court need not necessarily appoint new counsel when the defendant raises such a claim. *People v. Moore*, 207 Ill. 2d 68, 77 (2003). Rather, the court must first examine the claim’s factual basis. *Id.* at 77-78. Next, the court must determine what further action, if any, is required on the claim. *Id.* at 78. More specifically,

“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. However, if the allegations show *possible neglect* of the case, new counsel should be appointed. [Citations.] The new counsel would then represent the defendant at the hearing on the defendant’s *pro se* claim of ineffective assistance.” (Emphasis added.) *Id.* at 78.

When making this assessment, the court may discuss the allegations with the defendant and inquire with defense counsel about the facts and circumstances surrounding the allegations. *People v. Jolly*, 2014 IL 117142, ¶ 30. The court may also “base its evaluation of the defendant’s *pro se* allegations *** on its knowledge of defense counsel’s performance at trial.” *Id.*

¶ 29 B. The *Krankel* Hearing Was Adequate on Remand

¶ 30 Defendant first contends the trial court did not conduct a “more complete *Krankel* inquiry into the police report as it relates to Quaintance,” as was required by our mandate. See *Hubbell*, 2024 IL App (3d) 220439-U, ¶ 26. Specifically, defendant asserts the court should have inquired as to the basis of counsel’s statement that Quaintance was not listed anywhere in the discovery materials tendered by the State. As a result of this failure, defendant continues, the trial court failed to conduct an adequate inquiry under *Krankel*. We disagree.

¶ 31 Defendant couches his argument as a claim that the trial court failed to comply with our mandate. In essence, however, he is contending the trial court’s inquiry on remand was inadequate. Regardless of how defendant’s argument is framed, our review is *de novo*. See *People v. Roddis*, 2020 IL 124352, ¶ 33 (*de novo* review applies to whether *Krankel* inquiry was adequate); *People v. Payne*, 2018 IL App (3d) 160105, ¶ 9 (*de novo* review applies to whether trial court complied with a reviewing court’s mandate).

¶ 32 When a reviewing court remands a case to the trial court for further proceedings, the trial court must obey clear and unambiguous directions in the mandate. *McDonald v. Lipov*, 2014 IL App (2d) 130401, ¶ 44. In our prior order, we noted counsel could potentially have been ineffective if Quaintance’s name was in the police report and counsel did not investigate. *Hubbell*, 2024 IL App (3d) 220439-U, ¶ 25. We found the record was insufficient for the trial court to assess counsel’s assistance because counsel had equivocated after defendant definitively stated Quaintance’s name was in the police report. *Id.* Accordingly, we directed the trial court to conduct “a more complete *Krankel* inquiry as it relates to Quaintance.” *Id.* ¶ 26.

¶ 33 Counsel’s statements at the *Krankel* hearing on remand made clear that Quaintance was not mentioned in the police report. Counsel told the court Quaintance was not mentioned anywhere in the discovery materials tendered by the State. Defendant does not dispute, as the State contends,

that the discovery tendered by the State necessarily would have included the police report. Thus, counsel's statement that Quaintance was not mentioned in the discovery materials definitively answered the question left unanswered by the first *Krankel* inquiry.

¶ 34 Defendant nevertheless argues the court failed to conduct “a more complete *Krankel* inquiry” because the court did not inquire whether counsel based his statement regarding the discovery on his memory or a recent review of the discovery. According to defendant, the court's failure to inquire in this regard left open the possibility “that counsel either missed the reference to Quaintance or was misremembering the content of the police reports.”

¶ 35 We decline to engage in the speculation that would be required to accept defendant's argument in view of counsel's firm and unequivocal statement that Quaintance's name was mentioned nowhere in the discovery materials. Moreover, we note defendant, on remand, asserted an additional factual basis for his claim. Defendant asserted that he told counsel that Quaintance was present during the events in question, which counsel did not dispute. By adding this factual allegation, defendant provided an alternative factual basis that, as we will discuss below, was sufficient to allow the trial court to assess counsel's potential ineffectiveness.

¶ 36 Finally, to the extent defendant contends the trial court erred by refusing defendant access to the police report, we reject his contention because he has not cited any authority to support it.¹ As such, it is forfeited. *People v. Macias*, 2015 IL App (1st) 132039, ¶ 88.

¶ 37 C. Defendant's Allegations Demonstrated Possible Neglect

¹In his request for relief, defendant does not ask us to direct the trial court to order the police report be tendered to him.

¶ 38 Defendant next contends the trial court erred when it declined to appoint independent counsel to argue his ineffective-assistance claim. He contends his claim did not pertain solely to a matter of trial strategy and was neither conclusory, legally immaterial, nor misleading. We agree.

¶ 39 As noted above, after the court ascertains the factual basis of a defendant's ineffective-assistance claim, the court must determine whether to appoint independent counsel to proceed further on the defendant's claim. *Moore*, 207 Ill. 2d at 78. Independent counsel need not be appointed if the defendant's claim lacks merit or pertains only to matters of trial strategy. *Id.* If the facts demonstrate "possible neglect," then independent counsel must be appointed to argue the defendant's claim. *Id.* We review for manifest error the trial court's determination that a defendant's allegations do not demonstrate possible neglect. *People v. Jackson*, 2020 IL 124112, ¶ 98. "Manifest error is error that is clearly evident, plain, and indisputable." *Id.*

¶ 40 Defendant's ineffective-assistance claim is premised on counsel's failure to investigate an eyewitness, Quaintance, whom defendant told counsel was present during the events in question. Defendant supported his claim with an affidavit from Quaintance, who would have testified that he saw Helgeson, not defendant, choking and striking Soper. In response, defense counsel told the court that defendant may have told him about Quaintance's presence during the events in question and that he would not challenge that assertion. If defendant did tell him about Quaintance, counsel explained, he did not believe "it was significant enough to subpoena him." Counsel further asserted that he met with defendant to prepare for trial yet defendant never suggested that counsel should subpoena Quaintance and never told counsel what Quaintance's testimony might be.

¶ 41 In ruling, the trial court did not state that defendant's claim pertained solely to a matter of trial strategy or that it lacked merit. See *Moore*, 207 Ill. 2d at 78. Moreover, on remand, defense counsel did not attempt to justify his failure to investigate Quaintance as a matter of trial strategy.

As such, the record contained no basis on which the court could conclude defense counsel's failure to investigate Quaintance was a matter of trial strategy.

¶ 42 Accordingly, we consider only whether defendant's claim lacked merit such that the appointment of independent counsel was not warranted. In the present context, an ineffective-assistance claim "lacks merit if it is conclusory, misleading, or legally immaterial or does not bring to the trial court's attention a colorable claim of ineffective assistance." *People v. McLaurin*, 2012 IL App (1st) 102943, ¶ 40.

¶ 43 We conclude defendant's allegations set forth a colorable claim of ineffective assistance. Ineffective-assistance claims are governed by the familiar standard set forth in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Under this standard, a defendant establishes ineffective assistance when counsel's performance was deficient and the deficient performance prejudiced the defendant. *Id.* More precisely, the defendant must establish (1) "counsel's performance was objectively unreasonable under prevailing professional norms" and (2) "there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different." (Internal quotation marks omitted.) *People v. Domagala*, 2013 IL 113688, ¶ 36.

¶ 44 Defense counsel acknowledged defendant may have informed him during one of their initial meetings that Quaintance was present during the events in question. This left the factual premise of defendant's claim un rebutted. "Defense counsel has an obligation to investigate witnesses identified or disclosed by the client, and the failure to do so can constitute objectively unreasonable conduct for purposes of ineffective assistance of counsel." *People v. Hill*, 2025 IL App (1st) 230604, ¶ 63. Indeed, "[a]ttorneys have an obligation to explore all readily available sources of evidence that might benefit their clients." *People v. Bass*, 2022 IL App (1st) 210249, ¶ 30. As noted, defendant's theory at trial was to establish that Helgeson, not defendant, battered

Soper. In light of defendant's theory, we find defendant's allegation that counsel failed to investigate an eyewitness to the events in question *could* satisfy *Strickland*'s deficiency prong.

¶ 45 Similarly, we find defendant's allegation *could* also satisfy *Strickland*'s prejudice prong. The State does not argue the evidence against defendant was overwhelming. Moreover, there was some evidence to support defendant's theory of the case. However, that evidence consisted of defendant's unsworn statement to police and testimony from a convicted felon who was not an eyewitness to the battery. According to Quaintance's affidavit, Quaintance would have testified that he observed Helgeson, not defendant, striking and strangling Soper at Helgeson's trailer. Quaintance's testimony would have bolstered defendant's trial theory.

¶ 46 The State nevertheless argues the appointment of independent counsel was not warranted. The State points to defense counsel's statement that defendant did not tell him that Quaintance was a material witness in meetings as defense counsel prepared for trial. It is well-settled that counsel has a duty to investigate potential witnesses. See *Strickland*, 466 U.S. at 691 (noting one of defense counsel's core duties is to "make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary"). At this stage of the proceedings, we find the State's argument improperly places that burden upon defendant.

¶ 47 In summary, defendant's allegations could have satisfied both prongs of *Strickland*, demonstrating possible neglect. See *Moore*, 207 Ill. 2d at 78. The trial court therefore should have appointed independent counsel. Accordingly, we remand this matter for the trial court to appoint independent counsel and hold further proceedings on defendant's claim. In doing so, we offer no opinion on the merits of defendant's claim.

¶ 48 III. CONCLUSION

¶ 49 For the reasons stated, we remand this case for the appointment of counsel and further proceedings on defendant's ineffective-assistance claim.

¶ 50 Remanded.