

NOTICE

Decision filed 09/16/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 241322-U

NO. 5-24-1322

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

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|--------------------------------------|---|--------------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the          |
|                                      | ) | Circuit Court of         |
| Plaintiff-Appellee,                  | ) | Jackson County.          |
|                                      | ) |                          |
| v.                                   | ) | No. 23-CF-420            |
|                                      | ) |                          |
| WILLIAM J. JOHNSTON,                 | ) | Honorable                |
|                                      | ) | Ralph R. Bloodworth III, |
| Defendant-Appellant.                 | ) | Judge, presiding.        |

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JUSTICE BOLLINGER delivered the judgment of the court.  
Justices Sholar and Hackett concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm defendant's convictions on all three counts of unlawful delivery or possession with intent to deliver a substance containing methamphetamine, where the evidence presented at trial positively rebutted defendant's version of events. However, because the court did not, in response to defendant's *pro se* posttrial claims of ineffective assistance of counsel, conduct an inquiry into such allegations we remand with directions for the court to conduct further proceedings.

¶ 2 Defendant-appellant, William J. Johnston, was found guilty following a bench trial in the trial court of three counts of unlawful delivery or possession with intent to deliver a substance containing methamphetamine with a weight more than 15 grams but less than 100 grams. 720 ILCS 646/55(a)(1) (West 2022). He was thereafter sentenced to 12 years in the Illinois Department of Corrections, with 3 years of mandatory supervised release. Defendant now appeals his convictions, asserting that the affirmative defense of entrapment that he argued at trial was not

rebutted, and that he therefore should not have been convicted. Defendant also asserts that a *Krankel*<sup>1</sup> hearing was invoked, but that the trial court did not conduct such a hearing, and that his trial attorney provided him ineffective assistance. For the following reasons, we remand with directions for the trial court to conduct a *Krankel* hearing, but affirm, based on the evidence presented at trial, that defendant's entrapment defense was properly rebutted. We refrain from addressing the ineffective assistance claim, where the *Krankel* hearing will provide a more complete record on the issue and, depending on the result of the hearing, may moot the issue.

¶ 3

### I. BACKGROUND

¶ 4 Defendant was charged by information with three counts of unlawful delivery or possession with the intent to deliver a substance containing methamphetamine weighing more than 15 grams but less than 100 grams, stemming from three incidences occurring on May 8, 2023, June 6, 2023, and June 13, 2023, respectively. It was alleged that on May 8, 2023, defendant, in a controlled purchase of drugs with a confidential source, exchanged 27.2 grams of a substance containing methamphetamine for \$200 in the parking lot of the old Carbondale Fire Department. It was alleged that on June 6, 2023, defendant, in a controlled purchase with the same confidential source, exchanged 25.7 grams of a substance containing methamphetamine for \$400 in the parking lot of the Hardee's in Murphysboro. Finally, it was alleged that on June 13, 2023, defendant, once more in a controlled purchase with the same confidential source, exchanged 56 grams of a substance containing methamphetamine for \$700 in the parking lot of the Fazoli's in Carbondale.

¶ 5 Prior to trial, defendant filed a notice for the affirmative defense of entrapment. Defendant also waived his right to a jury trial, opting for a bench trial.

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<sup>1</sup>*People v. Krankel*, 102 Ill. 2d 181 (1984).

¶ 6 At trial, Kenneth Sneed, who was an inspector for the Southern Illinois Enforcement Group at the time of the three incidents, testified. Sneed was involved in all three controlled purchases of drugs. Sneed became involved after a confidential source informed him that defendant was dealing methamphetamine. Sneed testified that a cell phone was used to record the video and audio of all three controlled purchases. He stated that the confidential source was searched before and after the controlled purchases to make sure the confidential source had no other contraband on his person. He stated that the same vehicle was used in each crime, and that the vehicle was registered to defendant. Sneed testified that after the third controlled purchase, he picked up defendant and conducted an interview. Sneed testified that, in the interview, defendant told him that “he had sold meth[ ] on a couple occasions,” only for defendant to later state that “he actually traded somebody something for meth.” Sneed said, “When we asked where he was getting his meth[ ] from he stated that [the confidential source] was his go-to person who would take him to St. Louis to make the purchase of crystal meth.” He stated that defendant told him the most methamphetamine defendant had ever sold was seven grams, and that he had been to St. Louis to buy methamphetamine approximately six times, with his last trip having happened within 10 days of the interview.

¶ 7 Detective Gabriel Ridings of the Herrin Police Department and the Southern Illinois Enforcement Group was in the vehicle as defendant was being interviewed by Sneed and was involved with the last two controlled purchases. Detective Ridings’ testimony regarding what defendant told them during the interview was largely the same as Sneed’s.

¶ 8 Agent Jeremy Kranawetter of the Illinois State Police and the Southern Illinois Enforcement Group was involved in the first controlled purchase. Agent Kranawetter also provided testimony regarding the more than 80 jail calls that were admitted into evidence. Amongst the calls, defendant can be heard stating that he would never put himself in this position

again, that he moved out of Phoenix, Arizona “because of this,” and that he does not “do anything like that *here*.” (Emphasis added.) Defendant also said that he looked at the video and it was “garbage” and “it doesn’t show my face whatsoever and it doesn’t show any kind of transaction or anything like that.” Defendant went on in the same jail call to say that the video only showed his “truck briefly.”

¶ 9 Defendant also asked his paramour how she was “doing on [her] medicine,” in another jail call. Defendant’s question was met with confusion, and his paramour asked him what he was “talking about,” only for defendant to repeat the question and say that he could “get [her] more medicine” and that he would be “safe” about getting her more “medicine.” He then told her that if she “runs low on refills, let [him] know.” In another call with his paramour, he said he could not “talk about it a lot over the phone” but “financially” they would be okay. In another call, defendant asked his paramour if she was “still good on” her “medicine,” to which she said yes, and then repeatedly asked him to stop. He then asked her “how” she was still good on her “medicine,” and if she “had gotten more” since he left, or if it was “still the same” as before he left, sounding impressed when she confirmed that it was the same as the “medicine” before he left.

¶ 10 The confidential source also testified at trial. He admitted to having used and sold drugs in the past. He confirmed that defendant was the driver of the vehicle used in the crime, as officers had also testified to. The source stated that these three controlled purchases were not the first instances defendant had sold drugs. Defendant also made clear those were not the first times he sold drugs when he told officers he had sold methamphetamine “a couple times.” He also told officers that the most he sold was seven grams, yet the three quantities he sold in the controlled purchases were vastly more than seven grams. The source stated that he and defendant had “hung out” multiple times, and the purpose of the “hang outs” was to “[u]se drugs, go pick up drugs.”

The source stated that defendant bought the drugs when they were in St. Louis, and that defendant had told the source he was getting his methamphetamine from Arizona, but “that he needed somewhere [else] to get [it] \*\*\* because he got ripped off from the people in Arizona.” The source testified that he selected defendant for the controlled purchases because he had previously purchased drugs from him multiple times; he has seen defendant use, sell, and possess meth in the past; and defendant was a well-known dealer.

¶ 11 On cross-examination, defendant’s trial attorney asked a number of questions regarding texts that were not admitted into evidence, but rather read into the transcripts. The suggestion from the questions was that the confidential source orchestrated a conspiracy wherein the source would simultaneously steal funds from law enforcement, and the source—an admitted user of methamphetamine—would entrust defendant—another admitted user of methamphetamine—to transport real methamphetamine under the guise that it was fake methamphetamine to frame defendant as a drug dealer. The source denied any such suggestion that was rooted in a text exchange. The trial defense attorney also asked, and the source agreed that the source had, at one point, planned to sell fake methamphetamine to another person who owed him money. The source apparently asked defendant to “mix up” something “chunky” so that they could take the person’s money, and they planned to split the proceeds from the sale of the fake drugs.

¶ 12 Defendant also testified. In his testimony he stated that he was simply helping the confidential source with rides, and he would receive money for gas in return. Defendant stated that he purchased methamphetamine from the source on May 7, 2023, and found the methamphetamine to be poor quality. Defendant contends that the purported controlled purchase on May 8, 2023, was actually defendant returning the poor quality methamphetamine to the source to get his \$200 back. In his testimony, defendant agreed that he told the source, “this is no good”; though the video

for the controlled buy has audio, those words—or anything close to those words—are not audible in the recording.

¶ 13 Regarding the controlled purchase on June 6, 2023, defendant stated that the source “asked [him] if [he] could help him with a situation where he was in need of some money and he knew somebody that owed him money.” Defendant also stated that the source “was wanting to rip him off and in that he came up with this plan to make \*\*\* some type of fake methamphetamine and he explained that \*\*\* he wanted to sell that to him for it was \$400. I don’t know the exact amount it was.” He stated that he retrieved the “fake meth” from the confidential source’s paramour, and claimed, in essence, to be the middleman. He stated that he then brought the fake drugs to the source and retrieved \$400 from the source to bring back to the source’s paramour. Defendant stated that he then brought the money back to the source’s paramour, where the source was apparently waiting for him with his paramour. Defendant contended that the source then pocketed the money and gave defendant money for gas.

¶ 14 Regarding the last controlled purchase on June 13, 2023, defendant’s contention was largely similar to his contention regarding the second controlled purchase. Defendant contended that the confidential source asked defendant to bring him more fake methamphetamine that the source had made because “he knew somebody that was going to sell it to somebody.” Defendant contended that he picked up the “fake” drugs from the source’s paramour, brought the “fake” drugs to the source, received \$700 from the source “to take back to” the source’s paramour, and received gas money. Defendant stated that he did not believe the methamphetamine he was “giving [the source] or selling [the source] was[ ] pure methamphetamine,” agreeing later that he believed it was “cut.” Defendant then categorically denied any admission of selling methamphetamine to officers in the interview, stating first that the officers lied, then that they misunderstood, then

returning to the contention that they lied. Defendant conceded that he has “been involved with methamphetamine off and on throughout [his] life.”

¶ 15 Defendant was found guilty on all three counts and was found not to have been entrapped into committing the crimes. Defendant was sentenced on July 24, 2024. During sentencing, defendant stated,

“I’d like to mention as for my representation that the Court’s appointed me that when he informed me about the six-year plea offer that the State offered me before trial he did not have all the evidence for my case from the State that the motion of discovery provides, which was not obtained until the morning of trial. I feel if I had proper representation and more information on the evidence the State had, I would have accepted the plea offer of possession with a cap of six-year sentence that the State offered me.”

Defendant was sentenced to 12 years on each count, to run concurrent, with 3 years’ mandatory supervised release. A late notice of appeal was filed with leave of this court on December 16, 2024.

¶ 16 II. ANALYSIS

¶ 17 Defendant argues three issues on appeal: (1) that the State failed to prove beyond a reasonable doubt that defendant was not entrapped into delivering methamphetamine, (2) that the trial court failed to conduct a *Krankel* hearing after one had been invoked, and (3) that trial counsel provided ineffective assistance. In response, the State concedes the *Krankel* issue but maintains that trial counsel did not provide ineffective assistance and that the State proved beyond a reasonable doubt that defendant was not entrapped. Based on the evidence presented at trial, we affirm defendant’s conviction. We also, however, remand this case with directions for the trial court to conduct a *Krankel* hearing, and choose to refrain from addressing the ineffective assistance

claim, where the *Krankel* hearing will provide a more complete record on the issue and may moot the issue.

¶ 18 A. Entrapment Standard of Review

¶ 19 Before addressing the substantive portion of the entrapment issue, we note that the standard of review cited by the State on appeal, and later agreed upon by defendant in his reply brief, is incorrect. Defendant initially provided the appropriate standard, in that the reviewing court must review the issue of whether defendant was entrapped by viewing “the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found the elements essential to the criminal conviction beyond a reasonable doubt.” *People v. Salazar*, 284 Ill. App. 3d 794, 800 (1996). The State provided a different standard of review, which was later co-opted by defendant, that “[i]n appellate review of the entrapment defense, the court is to determine all testimony of the defendant in the light most favorable to him.” *People v. Husted*, 97 Ill. App. 3d 160, 171 (1981). The clear difference between these two standards being whether we view the evidence in the light most favorable to the prosecution or the defendant. The State’s asserted standard of review, agreed upon by defendant, is incorrect.

¶ 20 The Second District Appellate Court of Illinois, who authored the *Husted* opinion, later authored *People v. Chism*, 248 Ill. App. 3d 804, 812 (1993), which provided,

“Before turning to the evidence in this case we must address an issue related to the standard of review applicable to the defense of entrapment. Citing *People v. Connor* (1988), 176 Ill. App. 3d 900, defendant contends that a reviewing court is to consider all of the defendant’s testimony regarding an entrapment defense in a light most favorable to him. We recently rejected this standard of review in *People v. Colano* (1992), 231 Ill. App. 3d 345, and *People v. Lambrecht* (1992), 231 Ill. App. 3d 426. The proposition in *Connor*

which defendant relies upon apparently originated in *People v. Husted* (1981), 97 Ill. App. 3d 160, which in turn purported to rely upon *People v. Carpentier* (1974), 20 Ill. App. 3d 1024. However, as we observed in *Colano* and *Lambrecht*, *Carpentier* dealt with the limited issue of whether the defendant was entitled to a jury instruction on the defense of entrapment and held that in this context the evidence was to be viewed in the light most favorable to the defendant. We decline to apply this standard to appellate review of whether the State has sustained its burden of proof on the issue of entrapment. (*Colano*, 231 Ill. App. 3d at 349; *Lambrecht*, 231 Ill. App. 3d at 434.) Instead, ‘the relevant inquiry is whether, upon viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the elements essential to the criminal conviction beyond a reasonable doubt.’ *Lambrecht*, 231 Ill. App. 3d at 434.” *Chism*, 248 Ill. App. 3d at 812.

¶ 21 It is clear where there was no jury and thus no need for jury instructions, the limited circumstance for which *Carpentier*, and resultingly *Husted*, could apply, is not present in the case at bar. As such, we must determine whether, upon viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the criminal conviction beyond a reasonable doubt.

¶ 22 B. Entrapment

¶ 23 At trial defendant asserted that he was entrapped into committing the offense of methamphetamine delivery in that he was not aware that the substance in his possession was genuine methamphetamine and that the confidential source arbitrarily targeted defendant as a way for the confidential source to avoid prosecution for his own crimes. A person commits the crime of methamphetamine delivery when they unlawfully and knowingly deliver, or possess with the

intent to deliver, a substance containing methamphetamine. 720 ILCS 646/55(a)(1) (West 2022). For the affirmative defense of entrapment, “A person is not guilty of an offense if his or her conduct is incited by a public officer \*\*\* or agent \*\*\* for the purpose of obtaining evidence for the prosecution of that person. However, this Section is inapplicable if the person was pre-disposed to commit the offense and the public officer \*\*\* or agent \*\*\* merely affords to that person the opportunity or facility for committing an offense.” 720 ILCS 5/7-12 (West 2022).

¶ 24 “A defendant who raises entrapment as an affirmative defense to a criminal charge necessarily admits to committing the crime, albeit because of improper governmental inducement.” *People v. Rivas*, 302 Ill. App. 3d 421, 432 (1998) (citing *People v. White*, 249 Ill. App. 3d 57 (1993)). “ ‘Once a defendant presents some evidence, however slight, to support an entrapment defense, the State bears the burden to rebut the entrapment defense beyond a reasonable doubt.’ ” *People v. Bonner*, 385 Ill. App. 3d 141, 145 (2008) (quoting *Rivas*, 302 Ill. App. 3d at 432-33). “ ‘The question of entrapment is usually one to be resolved by the trier of fact, and it will not be disturbed on review unless the reviewing court finds that a defendant was entrapped as a matter of law.’ ” *Id.* (quoting *Rivas*, 302 Ill. App. 3d at 433).

¶ 25 “ ‘Entrapment requires that a defendant show both that the State improperly induced him or her to commit a crime and that he or she was not otherwise predisposed to commit the offense.’ ” *Id.* (quoting *People v. Glenn*, 363 Ill. App. 3d 170, 173 (2006)). “It is not an instigation to perpetrate a crime if an officer, having reason to believe another is committing a crime, furnishes an opportunity for the commission of the offense, when the purpose is, in good faith to secure evidence against a guilty person and not to induce an innocent person to violate the law.” *People v. Outten*, 13 Ill. 2d 21, 23 (1958) (citing *People v. Clark*, 7 Ill. 2d 163 (1955)). “[T]he inducement prong is met when the course of criminal conduct for which the defendant was convicted originated

in the mind of a government agent who arbitrarily engaged in a relationship with the defendant and purposely encouraged its growth.” *Bonner*, 385 Ill. App. 3d at 145. “[E]ntrapment constitutes a valid defense if the officers inspire, incite, persuade or lure the defendant to commit a crime which he otherwise had no intention of perpetrating.” *Outten*, 13 Ill. 2d at 24 (referencing *Clark*, 7 Ill. 2d 163).

¶ 26 Courts consider a number of factors when determining a defendant’s predisposition to commit a drug offense, including (1) his initial reluctance or readiness to commit the offense; (2) his familiarity with drugs; (3) his willingness to accommodate the drug user’s needs and to make profit from the illegal conduct; (4) whether he has a ready source to supply the drugs; (5) his own prior or current use of illegal drugs; (6) his participation in testing or cutting drugs; (7) whether he was involved in a course of conduct involving similar offenses; and (8) though not dispositive, a lack of a prior criminal history. *Lambrecht*, 231 Ill. App. 3d at 435. “A reviewing court may not substitute its judgment for that of the trier of fact with respect to the weight of evidence or the credibility of the witnesses.” *Rivas*, 302 Ill. App. 3d at 433 (citing *People v. Campbell*, 146 Ill. 2d 363 (1992)).

¶ 27 At trial, though defendant asserted the affirmative defense of entrapment which “admits to committing the crime,” he also denied an element of the offense: that he had actual knowledge of the substance being genuine methamphetamine. Though this would normally necessitate a sufficiency of the evidence analysis, his own testimony positively rebuts the challenge to the knowledge element, where he testified that the methamphetamine was not *pure* and that it was *cut* with something else. Lowering the potency of the drug does not, of course, make it no longer an illicit substance, nor does the contention that it was not 100% pure methamphetamine. With either

phrase, defendant concedes the knowledge of there being some methamphetamine in the substance he termed “fake meth.”

¶ 28 Defendant testified at trial that he was essentially a middleman utilized in the confidential source’s scheme to take the law enforcement funds, and to avoid criminal liability for the confidential source’s own crimes. As defendant presented evidence, the burden shifted to the State to rebut the entrapment defense beyond a reasonable doubt. However, the evidence when considered in a light most favorable to the prosecution supports the trial court’s finding that the essential elements of the crime were proven beyond a reasonable doubt.

¶ 29 The evidence at trial supports a finding that defendant was predisposed to commit the crimes where every *Lambrecht* factor weighs in favor of him being predisposed to commit them. First, the evidence shows a readiness to commit the offenses. The videos of the three controlled purchases do not show even a short conversation before the quick illegal transactions were made. No text logs evidence any of the reluctance defendant asserted he exhibited prior to the transactions. Further, the credibility of the two officers and one confidential source against defendant’s credibility was already weighed by the trial court. Second, defendant conceded familiarity with drugs when he agreed that he had “been involved with methamphetamine off and on throughout [his] life.”

¶ 30 Third, three witnesses testified that they either had firsthand knowledge of defendant having sold methamphetamine in the past, or outright heard his confession to having done so. Defendant also stated on jail calls that he would never put himself in this position again, that he moved out of Phoenix, Arizona “because of this,” and that he does not “do anything like that *here*.” (Emphasis added.) This suggests that defendant was saying that he does not deliver methamphetamine in Illinois and, by contrast, that he *did* deliver methamphetamine in Arizona.

¶ 31 Fourth, three witnesses testified that they either had firsthand knowledge of defendant going to St. Louis, Missouri, to purchase methamphetamine, or outright heard his confession to having done so. Regarding the third and fourth *Lambrecht* factors, in jail calls with his paramour, defendant asks repeatedly if she has enough “medicine,” that he could get her more “medicine,” that he would be “safe” in acquiring her “medicine,” if she was running low on “medicine,” and seemed impressed when she still had not finished the “medicine” she had when he left. Many questions point to the conclusion that this was actually a thinly veiled code for illicit substances: (1) how would he be able to help her acquire a prescription when he was incarcerated and had no income to contribute to their household; (2) why would he need to exercise caution in helping her acquire a prescription; (3) why would he sound so impressed when finding out she was not taking prescribed medication at the recommended rate; and (4) why did she seem so reluctant to discuss the topic and shift so quickly away from the topic? It was reasonable for the trial court to conclude that defendant’s reference to “medicine” was code for methamphetamine. As such, this evidence further weighs factors three and four in favor of his predisposition toward committing the charged offenses.

¶ 32 Fifth, defendant admitted to prior use of methamphetamine, and received another methamphetamine charge while this case was pending. Sixth, the confidential source testified on cross that he asked defendant to make fake drugs and defendant stated the methamphetamine the confidential source had was “cut” and not “pure.” Seventh, defendant did not have any delivery convictions prior to the three at bar, but he did have a number of possession and paraphernalia convictions. Eighth, defendant’s criminal history was relatively extensive.

¶ 33 Not only does every *Lambrecht* factor weigh in favor of defendant being predisposed to commit these crimes, there was also testimony from a past and a present officer, each stating that

defendant admitted to having dealt methamphetamine in the past. All of which lends itself to the conclusion that defendant was indeed predisposed to deliver methamphetamine, meaning that the defendant's assertion that he was entrapped was effectively rebutted by the State, and the evidence was sufficient to establish that the elements of the crimes were proven beyond a reasonable doubt.

¶ 34

*C. Krankel*

¶ 35 Defendant asserts that the trial court failed to conduct a *Krankel* hearing after he orally raised concerns about the effectiveness of the assistance trial counsel provided him. Defendant is correct and remand is necessary here.

¶ 36 “The issue of whether the circuit court properly conducted a preliminary *Krankel* inquiry presents a legal question that we review *de novo*.” *People v. Jolly*, 2014 IL 117142, ¶ 28. “Similarly, we review *de novo* the legal question of whether harmless error applies to errors committed during a *Krankel* proceeding.” *Id.* However, “it is simply not possible to conclude that the trial court’s failure to conduct an inquiry into [allegations of ineffective assistance of counsel] was harmless beyond a reasonable doubt.” *People v. Moore*, 207 Ill. 2d 68, 81 (2003). “ ‘In the absence of a ruling by the trial court on the defendant’s *pro se* post-trial motion, we decline to consider its merits \*\*\*.’ ” *Id.* (quoting *People v. Jackson*, 158 Ill. App. 3d 394, 401 (1987)).

“[W]hen 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. 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.” *Id.* at 77-78.

It is well-settled that “[a] defendant need only bring his claim [of ineffective assistance of counsel] to the court’s attention, posttrial, whether orally or in writing.” *People v. Ayres*, 2017 IL 120071, ¶ 24.

¶ 37 Both parties agree that the lack of a *Krankel* hearing here necessitates remand. We agree, defendant’s statements posttrial regarding the fact that he felt he did not receive “proper representation” were enough to invoke a claim of ineffective assistance of counsel, such that a *Krankel* hearing was warranted. Due to our remand for the trial court to conduct a *Krankel* hearing, we find it imprudent to determine whether trial counsel provided ineffective assistance to the defendant, where the *Krankel* hearing will shed further light on this issue and potentially make this claim moot.

¶ 38 III. CONCLUSION

¶ 39 Therefore, we affirm defendant’s convictions where the trial court appropriately determined he had not been entrapped; however, we remand this case for the trial court to conduct a *Krankel* hearing to review defendant’s ineffective assistance claims.

¶ 40 Affirmed in part and remanded in part.