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2018 IL App (3d) 150866-U

Order filed June 15, 2018

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2018

THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of the 10th Judicial Circuit,
	)	Peoria County, Illinois.
Plaintiff-Appellee,	)	
	)	Appeal No. 3-15-0866
v.	)	Circuit No. 14-CF-918
	)	
REGINALD TAYLOR,	)	Honorable
	)	John P. Vespa,
Defendant-Appellant.	)	Judge, Presiding.
	)	

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JUSTICE O'BRIEN delivered the judgment of the court.  
Justices Lytton and Wright concurred in the judgment.

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**ORDER**

¶ 1 *Held:* Remand was required for proper admonishments because the defendant's stipulated bench trial was tantamount to a guilty plea when defendant's counsel stipulated that the facts as presented by the State were sufficient under the law to find the defendant guilty beyond a reasonable doubt of unlawful possession of a weapon by a felon.

¶ 2 The defendant, Reginald Taylor, appeals from his conviction for unlawful possession of a weapon by a felon and nine-year prison sentence.

## FACTS

¶ 3

¶ 4 The defendant was arrested on December 2, 2014, while visiting an apartment complex. The police recovered a gun and a bag of cannabis from his person. The defendant was charged by indictment with armed violence (720 ILCS 5/33A-2(a) (West 2014)), unlawful possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2014)), and unlawful possession with the intent to deliver cannabis (720 ILCS 55/5(c) (West 2014)). The defendant filed a motion to quash his arrest and suppress evidence, which was denied.

¶ 5

Following the denial of his motion, the defendant waived his right to a jury trial in open court on September 21, 2015. The defendant acknowledged that he was waiving his right to a jury trial and the only promise made to him was that the State would only proceed on the charge of unlawful possession of a weapon by a felon, which was a class 3 felony with a sentencing range of 2 to 10 years. The bench trial would be by way of stipulation. At the bench trial, the State stipulated that its evidence would show that the defendant was taken into custody at the apartment complex and, when the defendant was rolled onto his left side, an officer noted a plastic baggie of cannabis in the defendant's right front pocket. A .32 caliber revolver was found in the defendant's left pants pocket, loaded with 5 bullets. The defendant's attorney, and the defendant, responding to questions from the court, acknowledged that the State could prove beyond a reasonable doubt the facts necessary to prove the elements of the weapons offense. The trial court found the defendant guilty of unlawful possession of a weapon by a felon and not guilty of the other two charges.

¶ 6

The defendant filed a motion for a new trial, arguing that the trial court erred in denying his motion to quash arrest and suppress evidence. The motion was denied. The defendant was

sentenced to nine years in prison. The defendant's motion to reconsider sentence was denied, and the defendant appealed.

¶ 7

#### ANALYSIS

¶ 8

The defendant argues that his stipulated bench trial was tantamount to a guilty plea because defense counsel stipulated that the evidence was sufficient to convict him of unlawful possession of a weapon of a felon. Thus, the defendant contends that remand is required for compliance with the Illinois Supreme Court rules pertaining to guilty pleas, specifically Illinois Supreme Court Rules 604(d) (eff. Dec. 11, 2014) and 605(b) (eff. Oct. 1, 2001). The State contends that the defendant preserved a defense and that defense counsel stipulated to the material facts but did not admit to guilt beyond a reasonable doubt. The question of whether a defendant's stipulated bench trial was tantamount to a guilty plea is a question of law that we review *de novo*. *People v. Weaver*, 2013 IL App (3d) 130054, ¶ 17.

¶ 9

A stipulated bench trial may be tantamount to a guilty plea in two instances: (1) when the State's entire case is to be presented by stipulation and the defendant does not present or preserve a defense; or (2) the stipulation includes a statement that the evidence is sufficient to convict the defendant. *People v. Clendenin*, 238 Ill. 2d 302, 321 (2010). If a stipulated bench trial is tantamount to a guilty plea, then admonishments must be given to the defendant pursuant to Illinois Supreme Court 402 (eff. July 1, 2012). *People v. Weaver*, 2013 IL App (3d) 130054, ¶ 19. The defendant acknowledges that he was admonished pursuant to Rule 402. However, if a stipulated bench trial is tantamount to a guilty plea, the Illinois Supreme Court rules pertaining to guilty pleas must also be followed. *People v. Thompson*, 404 Ill. App. 3d 265, 270 (2010). The State concedes that, if we find that the defendant's stipulated bench trial was tantamount to a guilty plea, then remand is necessary for compliance with Rules 604(d) and 605(b).

¶ 10 The defendant filed a motion to quash and suppress prior to trial, so the defendant’s stipulated bench trial was not tantamount to a guilty plea under the first prong. The question is whether defense counsel stipulated that the evidence was sufficient to convict the defendant, making his stipulated bench trial tantamount to a guilty plea under the second prong. In this case, the trial court asked defense counsel:

“Court: So, [defense counsel], from the discovery provided to you and your own investigation, does it appear that the State could prove beyond a reasonable doubt those facts necessary to the elements of the offense?”

Defense Counsel: Yes, Your honor. With respect to the gun charge, yes.”

¶ 11 In *People v. Horton*, the Illinois Supreme Court considered whether either of the defendant’s two stipulated bench trials were tantamount to guilty pleas. *People v. Horton*, 143 Ill. 2d 11, 16 (1991). At that defendant’s first stipulated bench trial, the defense stipulated to the State’s evidence but then, in closing argument, stated that the defendant was not contesting the sufficiency of the evidence to convict. *Id.* at 17. At the second stipulated bench trial, after the stipulated testimony, defense counsel stated that the defendant acknowledged that there was sufficient evidence to convict him and further stated “[I]n terms of [the] sufficiency of the evidence, we are stipulating.” *Id.* at 18. The Supreme Court found that the first stipulated bench trial was not tantamount to a guilty plea, but the second one was. *Id.* at 21. The Court found that a stipulation was to be given its natural and ordinary meaning, and a stipulation that the facts as presented were sufficient under the law to find the defendant guilty beyond a reasonable doubt constituted a guilty plea. *Id.* at 21. In contrast, the first stipulated bench trial was not tantamount to a guilty plea because defense counsel only stipulated to the State’s evidence. Although

defense counsel commented that the evidence was sufficient to convict, that comment was made during closing arguments, and the State still had to prove the defendant guilty beyond a reasonable doubt. *Id.* at 21.

¶ 12 In *People v. Thompson*, 404 Ill. App. 3d 265 (2010), we found that a defendant's stipulated bench trial was not tantamount to a guilty plea when defense counsel stipulated that the State could present the stipulated evidence but did not stipulate that the facts were sufficient for a finding of guilty. *Thompson*, 404 Ill. App. 3d at 270.

¶ 13 The instant case is more like the second stipulated bench trial in *Horton*: defense counsel did not merely stipulate that the State could prove the facts as presented but could prove them beyond a reasonable doubt as to each element. Since defense counsel stipulated that the facts as presented were sufficient under the law to find the defendant guilty beyond a reasonable doubt, the defendant's stipulated bench trial was tantamount to a guilty plea, and the defendant should have been admonished regarding guilty pleas. Thus, we remand the matter to the trial court so that the defendant may be admonished and given the opportunity to withdraw his plea in accordance with Rules 604(d) and 605(b). Since the defendant's remaining arguments would be moot if he files a motion to withdraw his guilty plea on remand and the motion is allowed, we do not address those issues at this time.

¶ 14 CONCLUSION

¶ 15 The judgment of the circuit court of Peoria County is remanded for proper admonishments.

¶ 16 Remanded.