2019 IL App (4th) 180409-U

NO. 4-18-0409

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Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. JESSIE VOHN DORRIS, Defendant-Appellant.	) Appeal from the) Circuit Court of) Pike County) No. 17CF125)) Honorable) John Frank McCartney,) Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justice Knecht concurred in the judgment.
Justice Cavanagh dissented.

ORDER

¶ 1 *Held*: When a defendant who has not yet filed a postplea motion files *pro se* a letter mentioning an appeal, the circuit clerk errs by treating the letter as a request for a notice of appeal.

¶ 2 Pursuant to a plea agreement, defendant, Jessie Vohn Dorris, pleaded guilty to one count of unlawful possession of a stolen vehicle with an agreed sentencing cap of six years' imprisonment. At a May 2018 sentencing hearing, the Pike County circuit court sentenced defendant to six years' imprisonment. At the conclusion of the sentencing hearing, the court admonished defendant of his appeal rights in accordance with Illinois Supreme Court Rule 605(c) (eff. Oct. 1, 2001), which applies to negotiated guilty pleas. Two days after the sentencing hearing, defendant filed a *pro se* letter stating he was "now appealing [his] sentence

for (1) court error (2) abuse of [discretion]." The circuit clerk filed a notice of appeal on defendant's behalf.

¶ 3 Defendant appeals, asserting the circuit clerk erred by filing a notice of appeal on his behalf instead of forwarding his letter to the trial judge. We reverse and remand with directions.

¶ 4 I. BACKGROUND

¶ 5 In August 2017, the State charged defendant with aggravated fleeing or attempting to elude a peace officer (625 ILCS 5/11-204.1(a)(1) (West 2016)), aggravated assault (720 ILCS 5/12-2(c)(7) (West 2016)), driving while license suspended (625 ILCS 5/6-303(a) (West 2016)), and reckless driving (625 ILCS 5/11-503(a)(1) (West 2016)). In December 2017, the State further charged defendant with unlawful possession of a stolen vehicle (625 ILCS 5/4-103(a)(1) (West 2016)).

¶ 6 At an April 3, 2018, hearing, defense counsel announced defendant had reached an agreement with the State. Under the plea agreement, defendant would plead guilty to unlawful possession of a stolen motor vehicle with a sentencing cap of six years' imprisonment to run concurrently with whatever sentence defendant received in a case pending in Calhoun County, Illinois. The parties agreed to a fine of $500 plus court costs and restitution totaling $5,108.28. The State would request dismissal of the other four charges, not object to defendant being evaluated for possible participation in Treatment Alternatives for Safe Communities (TASC), and voice no opposition if, in a case pending in Missouri, defendant requested the Missouri court to make its sentence concurrent to whatever sentence defendant received in this Illinois case. Defendant personally confirmed to the court those were the agreed-upon terms. The circuit court admonished defendant pursuant to Illinois Supreme Court Rule 402(a) (eff. July

1, 2012) and heard a factual basis. After following all of those procedures, the court found defendant's guilty plea to be knowingly and voluntarily made and set the case for a sentencing hearing.

¶ 7 On May 29, 2018, the circuit court held a sentencing hearing. After hearing the evidence in mitigation and aggravation, the court found that, given the circumstances of the offense and defendant's criminal history, TASC probation was not appropriate. The court sentenced defendant to six years' imprisonment to run concurrently with his sentence in Calhoun County case No. 17-CF-14. Additionally, the court admonished defendant on his right to appeal:

> "So you have the right to appeal. Prior to taking an appeal to the Appellate Court, since this was a cap sentence, you must file in the trial court within 30 days of today a written motion asking the trial court to vacate the sentence and for leave to withdraw your plea of guilty. In your motion, you must set forth the grounds as to why your relief requested should be granted. If your motion is allowed, the plea of guilty and sentence would be vacated and a trial date would be set on the charge to which the plea of guilty was made. Upon request of the State, any charge that may have been dismissed as part of the plea could be reinstated and also set for trial. If you're indigent, a copy of the transcript of the proceedings at the time of your plea of guilty and sentence will be provided without cost to you and counsel would be appointed to assist you in the preparation of the motions. If your motion is denied and you still desire to appeal, you must file your Notice of Appeal within 30 days of the date the motion was denied. In any appeal taken from the judgment on the plea of guilty, any issue or claim of error not raised in the motion to vacate the sentence and to

> withdraw the plea of guilty shall be deemed waived. Those are your appeal rights."

The court asked defendant if he understood those rights, and defendant replied in the affirmative.

¶ 8 Two days after his sentencing hearing, defendant filed a *pro se* letter, which, above his signature, read in its entirety as follows: "I am now appealing my sentence for (1) court error (2) abuse of [discretion]." On June 13, 2018, the circuit clerk filed a notice of appeal on defendant's behalf, specifying the judgment of May 29, 2018, as what was being appealed.

¶ 9 On appeal, the parties filed an agreed motion to remand for postplea proceedings due to a premature notice of appeal. Defendant later filed a motion to withdraw the agreed motion, and this court granted defendant's motion to withdraw.

¶ 10 II. ANALYSIS

¶ 11 Here, defendant appeals from his judgment and sentence after a negotiated guilty plea. He contends the circuit clerk should have forwarded his *pro se* letter to the trial judge and thus his case should be remanded to the circuit court for it to appoint counsel to assist defendant in preparing a postplea motion and perfecting his right to appeal. While the State initially agreed with defendant, it now argues in its brief defendant's letter was a notice of appeal and not a postplea motion.

¶ 12 Illinois Supreme Court Rule 604(d) (eff. July 1, 2017) specifically applies to an appeal by a defendant from a judgment entered upon a guilty plea. The rule provides, in pertinent part, as follows:

> "No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of

sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

The motion shall be in writing and shall state the grounds therefor. *** The motion shall be presented promptly to the trial judge by whom the defendant was sentenced, and if that judge is then not sitting in the court in which the judgment was entered, then to the chief judge of the circuit, or to such other judge as the chief judge shall designate. The trial court shall then determine whether the defendant is represented by counsel, and if the defendant is indigent and desires counsel, the trial court shall appoint counsel.

If the defendant is indigent, the trial court shall order a copy of the transcript as provided in Rule 402(e) be furnished the defendant without cost. The defendant's attorney shall file with the trial court a certificate stating that the attorney has consulted with the defendant either by phone, mail, electronic means or in person to ascertain defendant's contentions of error in the sentence and the entry of the plea of guilty, has examined the trial court file and both the report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing, and has made any amendments to the motion necessary for adequate presentation of any defects in those proceedings.

The motion shall be heard promptly, and if allowed, the trial court shall modify the sentence or vacate the judgment and permit the defendant to withdraw

> the plea of guilty and plead anew. If the motion is denied, a notice of appeal from the judgment and sentence shall be filed within the time allowed in Rule 606, measured from the date of entry of the order denying the motion. Upon appeal any issue not raised by the defendant in the motion to reconsider the sentence or withdraw the plea of guilty and vacate the judgment shall be deemed waived." Ill. S. Ct. R. 604(d) (eff. July 1, 2017).

We note that, with Rule 604(d), Illinois Supreme Court Rule 606 (eff. July 1, 2017) is not invoked until the denial of a postplea motion.

¶ 13 The Illinois Supreme Court added paragraph (d) of Rule 604 in 1975 to meet a specific need. *People v. Tousignant*, 2014 IL 115329, ¶ 13, 5 N.E.3d 176. It explained,

> " 'A few years after the effective date of our 1970 Constitution, it came to the attention of this court that a large number of appeals in criminal cases were being taken from pleas of guilty. *** A review of the appeals in those cases revealed that many of the errors complained of could and undoubtedly would be easily and readily corrected, if called to the attention of the trial court. The rule was designed to eliminate needless trips to the appellate court and to give the trial court an opportunity to consider the alleged errors and to make a record for the appellate court to consider on review in cases where defendant's claim is disallowed.' " *Tousignant*, 2014 IL 115329, ¶ 13 (quoting *People v. Wilk*, 124 Ill. 2d 93, 106, 529 N.E.2d 218, 222-23 (1988)).

¶ 14 In support of his argument the circuit clerk erred and he is entitled to remand, defendant cites this court's decision in *People v. Trussel*, 397 Ill. App. 3d 913, 931 N.E.2d 266 (2010). There, the circuit clerk filed the defendant's timely *pro se* letter to the court as a notice

of appeal. *Trussel*, 397 Ill. App. 3d at 914, 931 N.E.2d at 266. The defendant's letter stated the following:

> "I Michael Trussel wish I [*sic*] appeal my case[.] I feel I did not git [*sic*] a fair trial[.] My lawyer did not git [*sic*] the video from Walmart[.] He told me a [*sic*] did not have a chanc [*sic*] and scared me into taking the plea. I am not guilty. They should have the video[.] I feel that the video is key in my defenc [*sic*]." *Trussel*, 397 Ill. App. 3d at 914, 931 N.E.2d at 266.

¶ 15 On appeal, the Office of the State Appellate Defender (OSAD) filed a motion for summary remand, and we summarized OSAD's argument as follows:

> "OSAD maintains that defendant, acting *pro se*, filed what amounts to a postplea pleading indicating his desire to appeal, alleging that he was denied the effective assistance of counsel. OSAD asserts that the *pro se* document suggests defendant needed counsel and Rule 604(d) provides that he was entitled to counsel for the purpose of filing a proper postplea motion and perfecting the appeal. OSAD contends defendant did not request that a notice of appeal be filed, although defendant requested 'an appeal.' Rather, this document contained the rudiments of an ineffective-assistance-of-counsel claim.
>
> Under these circumstances, OSAD suggests that defendant's *pro se* request was not amenable of resolution through a ministerial act by the circuit court clerk. The document should have been forwarded to a judge, who could then have appointed counsel for the purpose of assisting defendant in perfecting his right to direct appeal. *People v. Barnes*, 291 Ill. App. 3d 545, 550, 684 N.E.2d 416, 420 (1997) (Third District, holding a defendant's handwritten letter

addressed to the trial judge triggered the trial court's affirmative duty to appoint counsel to assist the defendant 'in the preparation and presentation of a motion pursuant to Rule 604(d)'). OSAD further contends even if the handwritten letter does not suffice to constitute a postplea motion, a trial judge is required to investigate whether a defendant desires counsel to assist in preparation of a postplea motion whenever a defendant 'manifests an interest in appealing.' *People v. Griffin*, 305 Ill. App. 3d 326, 331, 713 N.E.2d 662, 665 (1999) (Second District, citing *Barnes*)." *Trussel*, 397 Ill. App. 3d at 914-15, 931 N.E.2d at 267.

¶ 16 The *Trussel* court agreed with OSAD's argument and remanded the cause with directions to the circuit court to strike the notice of appeal and appoint counsel for the defendant. *Trussel*, 397 Ill. App. 3d at 915, 931 N.E.2d at 267. In doing so, this court cited our decision in *People v. Ledbetter*, 174 Ill. App. 3d 234, 237-38, 528 N.E.2d 375, 377 (1988), where we stated " 'because of the strict waiver requirements of Rule 604(d), fundamental fairness requires that a defendant be afforded a full opportunity to explain his allegations and that he have assistance of counsel in preparing the motion.' " *Trussel*, 397 Ill. App. 3d at 915, 931 N.E.2d at 267.

¶ 17 As in *Trussel*, defendant's *pro se* letter indicates his desire to appeal his sentence after a plea of guilty and contends the court abused its discretion, and the circuit clerk chose to treat it as a request to file a notice of appeal instead of forwarding the letter to the trial judge. We disagree *Trussel* is distinguishable because the defendant there sought to challenge the circuit court's judgment finding him guilty instead of his sentence.

¶ 18 Moreover, we find the case cited by the State, *People v. Merriweather*, 2013 IL App (1st) 113789, 998 N.E.2d 596, is distinguishable. There, the defendant's *pro se* document was titled " 'notice of appeal' "and stated the defendant " 'gives notice that an appeal is taken

from the order of judgment.' " *Merriweather*, 2013 IL App (1st) 113789, ¶ 21. It also contained a heading for the " 'Appellate Court of Illinois' " and provided the background of the defendant's case, including the circuit court's rulings. *Merriweather*, 2013 IL App (1st) 113789, ¶ 21. The *Merriweather* court found no indication in the document the defendant desired to withdraw his guilty plea but inadvertently mislabeled the document as a notice of appeal. *Merriweather*, 2013 IL App (1st) 113789, ¶ 21. Here, defendant's letter does not contain the notice of appeal language like the document filed in *Merriweather*. Furthermore, the letter does not in any way take the form of the notice of appeal provided for in the Article VI Forms Appendix (Ill. S. Ct. R. 606 (eff. July 1, 2017), Art. VI Forms Appendix). Additionally, we note the Third District's decision in *People v. Kellerman*, 342 Ill. App. 3d 1019, 1022, 804 N.E.2d 1067, 1070 (2003), which is cited by the dissent, is distinguishable from this case because it addressed an appeal from the dismissal of a postconviction petition, which does not involve Rule 604(d).

¶ 19 We continue to find the reasoning for our decision in *Trussel* is consistent with the language of Rule 604(d) and the basis for our supreme court's enactment of the rule. As noted, Rule 604(d) which specifically applies to appeals by a defendant from judgments and sentences entered upon a guilty plea does not invoke Rule 606 until the denial of a postplea motion. Thus, when the circuit court has not yet ruled on a postplea motion, a defendant's vague letter mentioning an appeal and raising a contention of error does not trigger the language of Illinois Supreme Court Rule 606(a) (eff. July 1, 2017) requiring the circuit clerk to prepare a notice appeal for the defendant. Instead, following the plain and clear language of Rule 604(d), the circuit clerk should have forwarded the letter to the proper trial judge for the judge to determine whether counsel needed to be appointed.

¶ 20 III. CONCLUSION

¶ 21 For the foregoing reasons, we remand the cause to the Pike County circuit court with directions to strike the notice of appeal, appoint counsel to represent defendant, and proceed in accordance with Rule 604(d).

¶ 22 Remanded with directions.

¶ 23 CAVANAGH, J., dissenting:

¶ 24 I respectfully dissent because I do not see how the circuit clerk can reasonably be faulted for implementing defendant's express desire to appeal. Defendant wrote, "I am now appealing my sentence ***," thereby communicating a desire to appeal the judgment against him. If a defendant expresses to the circuit court a desire to appeal, it is "the duty of the trial court clerk," under Illinois Supreme Court Rule 606(a) (eff. July 1, 2017), "to prepare and file the proper notice of appeal." *People v. Sanders*, 40 Ill. 2d 458, 462 (1968).

¶ 25 To be sure, it was a bad idea to appeal before filing and litigating a motion to withdraw the guilty plea, as the circuit court had warned defendant in the guilty plea hearing; but it was defendant's idea to forge ahead with an appeal notwithstanding that warning, and surely the doctrine of invited error now bars him from complaining. "[U]nder the doctrine of invited error, an accused may not request to proceed in one manner and then later contend on appeal that the course of action was in error." (Internal quotation marks omitted.) *People v. Harvey*, 211 Ill. 2d 368, 385 (2004). Defendant is estopped from "us[ing] the exact ruling or action [he] procured in the trial court as a vehicle for reversal on appeal." *Id.*

¶ 26 Defendant procured an action in the trial court by expressing a desire to appeal; his letter triggered the circuit clerk's nondiscretionary ministerial duty under Rule 606(a) (Ill. S. Ct. R. 606(a) (eff. July 1, 2017)) to prepare and file a notice of appeal on defendant's behalf. The rule provides as follows:

> "(a) How Perfected. Appeals shall be perfected by filing a notice of appeal with the clerk of the trial court. The notice may be signed by the appellant or his attorney. If the defendant so requests in open court at the time he is advised of his right to appeal or subsequently in writing, the clerk of the trial court shall prepare,

> sign, and file forthwith a notice of appeal for the defendant. No step in the perfection of the appeal other than the filing of the notice of appeal is jurisdictional." *Id.*

Thus, if, after receiving the appeal admonitions, the defendant requests, in writing, that a notice of appeal be filed, "the clerk of the trial court shall prepare, sign, and file forthwith a notice of appeal." *Id.* The clear, unequivocal language of the rule admits of no other interpretation.

¶ 27 We are supposed to interpret supreme court rules the same way we would interpret statutes. *People v. Salem*, 2016 IL 118693, ¶ 11. "With rules, as with statutes, our goal is to ascertain and give effect to the drafters' intention. [Citation.] The most reliable indicator of intent is the language used, which must be given its plain and ordinary meaning." *Id*. (Internal quotation marks omitted.) If, understood in its plain and ordinary sense, the language of the rule lacks a limitation, exception, or condition, we should refrain from effectively amending the rule by reading into it the limitation, exception, or condition. See *People v. Dupree*, 2018 IL 122307, ¶ 31. By the same token, we should refrain from effectively amending the rule by disregarding words it does contain. See *People v. Richardson*, 196 Ill. 2d 225, 228 (2001). "[A] statute"—and, therefore, a rule—"should be construed so that no word or phrase is rendered superfluous or meaningless." *Id*.

¶ 28 Every word in Rule 606(a) is indispensable, and one of those indispensable words to which I would like to draw particular attention is the adverb "forthwith:" "If the defendant so requests in open court at the time he is advised of his right to appeal or subsequently in writing, the clerk of the trial court shall prepare, sign, and file *forthwith* a notice of appeal for the defendant." (Emphasis added.) Ill. S. Ct. R. 606(a) (eff. July 1, 2017). The plain and ordinary meaning of "forthwith" is "IMMEDIATELY" (The Merriam-Webster Dictionary 286 (2004)),

and "[t]he word 'shall' ordinarily connotes a command" (*McReynolds v. Civil Service Comm'n*, 18 Ill. App. 3d 1062, 1066 (1974)).

¶ 29 This duty to immediately file a notice of appeal is triggered if the defendant "so requests," and, grammatically, the phrase "so requests" corresponds to "prepar[ing], sign[ing], and fil[ing] forthwith a notice of appeal." Ill. S. Ct. R. 606(a) (eff. July 1, 2017). A question might be raised: Does a mere request to appeal—as opposed to a request to prepare, sign, and file a notice of appeal—trigger the circuit clerk's duty under Rule 606(a)? In *Trussel*, this court appeared to accept appellate defense counsel's distinction between those two kinds of requests. See *Trussel*, 397 Ill. App. 3d at 914 ("[Appellate defense counsel] contends [that the] defendant did not request that a notice of appeal be filed, although [the] defendant requested 'an appeal.' "). The distinction between requesting an appeal and requesting the filing of a notice of appeal strikes me as empty and formalistic. Apparently, the supreme court would agree, for it stated in *Sanders*: "Under [Rule 606(a)], *** we think it clear that once a defendant in a criminal matter *requests an appeal*[,] the duty of filing the notice of appeal is upon the clerk of the trial court." (Emphasis added.) *Sanders*, 40 Ill. 2d at 461; see also *People v. Parrott*, 2017 IL App (3d) 150545, ¶ 20 (so quoting *Sanders*).

¶ 30 The defendant in *Trussel* made such a request: " 'I Michael Trussel wish I [*sic*] apeal [*sic*] my case[.]' " *Trussel*, 397 Ill. App. 3d at 914. Therefore, it seems to me that, contrary to our conclusion in *Trussel*, "the duty of filing the notice of appeal [was] upon the clerk of the trial court" and that by filing a notice of appeal on the defendant's behalf, the circuit clerk did precisely what Rule 606(a) required. *Sanders*, 40 Ill. 2d at 461.

¶ 31 Granted, the *pro se* letter in *Trussel* included additional language, which could have been interpreted as reasons for challenging the guilty plea. See *Trussel*, 397 Ill. App. 3d at

914. Assuming, then, for the sake of argument, that "I wish to appeal" is insufficient to trigger the circuit clerk's duty under Rule 606(a) to prepare and file a notice of appeal, *Trussel*, I would maintain, is distinguishable in that the *pro se* letter in the present case lacks any language that could be understood as impliedly challenging the validity of the guilty pleas. Rather, the *pro se* letter reads simply: "I am now appealing my sentence for (1) court error (2) abuse of [discretion]."

¶ 32 That *pro se* letter, I further would maintain, not only was a request to appeal but was, in itself, a notice of appeal, which immediately transferred jurisdiction from the circuit court to the appellate court (see *Enbridge Pipeline (Illinois), LLC v. Hoke*, 2019 IL App (4th) 150544-B, ¶ 28), making the notice of appeal the circuit clerk subsequently filed merely a protective notice of appeal. Granted, as the majority points out, defendant's *pro se* letter is not in the form of the notice of appeal set forth in the Article VI Forms Appendix (Ill. S. Ct. R. 606 (eff. July 1, 2017)). Even so, "[w]here a deficiency is one of form rather than substance, an appellate court has jurisdiction if (1) the notice fairly and accurately advises the appellee of the nature of the appeal; and (2) the appellee is not prejudiced by the deficiency in form." *People v. Kellerman*, 342 Ill. App. 3d 1019, 1024 (2003). The notice "should be considered as a whole and will be deemed sufficient to confer jurisdiction on an appellate court when it fairly and adequately sets out the judgment complained of and the relief sought, thus advising the successful litigant of the nature of the appeal." (Internal quotation marks omitted.) *People v. Smith*, 228 Ill. 2d 95, 105 (2008). Defendant's *pro se* letter set out the judgment complained of, *i.e.*, the sentence (see *People v. Caballero*, 102 Ill. 2d 23, 51 (1984) ("The final judgment in a criminal case is the sentence ***.")), and although the letter did not specify the relief sought (see *Smith*, 228 Ill. 2d at 105), it was readily inferable that defendant did not want his sentence to

remain the same or to be increased. The deficiency of form, in that respect, could not have prejudiced the State. See *Kellerman*, 342 Ill. App. 3d at 1024.

¶ 33 Defendant's *pro se* notice of appeal, for all its deficiencies of form, is essentially indistinguishable from the *pro se* notice of appeal the appellate court found to be sufficient in *Kellerman*. See *id*. (a *pro se* document reading, " 'The Defendant wishes to file an Appeal of the Circuit courts [sic] Order of Dismissal August 2,2001 [sic] in which the Post-Conviction relief and cause was dismissed,' " was a sufficient notice of appeal); see also *People v. Clark*, 268 Ill. App. 3d 810, 813 (1995) (if, despite "a vagueness of the relief requested," "the State was clearly apprised of what was being appealed," the notice confers jurisdiction on the appellate court (internal quotation marks omitted)). Because the filing of defendant's *pro se* notice of appeal immediately transferred jurisdiction to the appellate court, the circuit court lacked jurisdiction to appoint postplea counsel, and forwarding the letter to a trial judge for that purpose, as the majority prescribes, would have been futile. See *Enbridge*, 2019 IL App (4th) 150544-B, ¶ 28. More than futile, the appointment would have been void. See *National Bank of Monmouth v. Multi National Industries, Inc.*, 286 Ill. App. 3d 638, 640 (1997). "Every act of a court without subject[-]matter jurisdiction is void." *Id*.

¶ 34 Even if, to transfer jurisdiction from the circuit court to the appellate court, defendant's *pro se* letter had to spell out "the relief sought" (internal quotation marks omitted) (*Smith*, 228 Ill. 2d at 105), the majority agrees that "defendant's *pro se* letter indicate[d] his desire to appeal his sentence." Nevertheless, the majority tries to neutralize the command of Rule 606(a) (Ill. S. Ct. R. 606(a) (eff. July 1, 2017)) by "not[ing] that, with Rule 604(d) [(Ill. S. Ct. R. 604(d) (eff. July 1, 2017))], Illinois Supreme Court Rule 606 (eff. July 1, 2017)) is not invoked until the denial of a postplea motion." That is true, but a postplea motion cannot be denied until it

is filed, and defendant never filed one. Had he filed a motion to withdraw the guilty plea and to vacate the judgment, the circuit court, if defendant was unrepresented, *then* would have had to determine whether he was indigent and desired counsel. See Ill. S. Ct. R. 604(d) (eff. July 1, 2017) ("The trial court shall *then*"—*i.e.*, upon presentation of the "motion to withdraw the plea of guilty and vacate the judgment"—"determine whether the defendant is represented by counsel, and if the defendant is indigent and desires counsel, the trial court shall appoint counsel." (Emphasis added.)) Instead of filing a motion to withdraw the guilty plea, defendant filed a request to appeal (if his letter was not a notice of appeal in and of itself), triggering the circuit clerk's duty under Rule 606(a) (Ill. S. Ct. R. 606(a) (eff. July 1, 2017)) instead of the circuit court's duty under Rule 604(d) (eff. July 1, 2017)).