2025 IL App (4th) 241348-U

NO. 4-24-1348

FILED
September 30, 2025
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Livingston County
ANDRE PATTERSON,	)	No. 15CF14
Defendant-Appellant.	)	
	)	Honorable
	)	Jennifer H. Bauknecht,
	)	Judge Presiding.

JUSTICE GRISCHOW delivered the judgment of the court.
Justices Vancil and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court determined it lacked jurisdiction to consider defendant's claim for sentencing credit and granted appellate counsel's motion to withdraw.

¶ 2 In January 2015, defendant, Andre Patterson, was charged by information with one count of aggravated battery, a Class 2 felony (720 ILCS 5/12-3.05(d)(4)(i), (h) (West 2014)). Defendant entered into a fully negotiated plea, and the trial court sentenced her to six years in the Illinois Department of Correction (IDOC), to be served consecutively with the sentences she was already serving for unrelated crimes. In July 2024, she filed a "Motion to Amend Mittimus." The trial court dismissed it for a lack of jurisdiction.

¶ 3 Defendant filed a notice of appeal, and the Office of the State Appellate Defender (OSAD) was appointed to represent her. OSAD moves to withdraw as counsel pursuant to *Anders v. California*, 386 U.S. 738 (1967), arguing defendant's appeal presents no potentially

meritorious issues for review. We dismiss defendant's appeal for a lack of jurisdiction and grant appellate counsel's motion to withdraw.

¶ 4 I. BACKGROUND

¶ 5 As a preliminary matter, we note that defendant was diagnosed with "gender identity disorder," as well as "multiple personality disorder" (referenced more accurately according to the DSM-5 as dissociative identity disorder and gender dysphoria). In initial hearings in this case, defendant was referred to as "he/him." In subsequent hearings, defendant was referred to as "she/her." In defendant's brief and other documents regarding this appeal, defendant was referred to as "she/her." Therefore, we will also refer to defendant as "she/her." We also note that in certain hearings, defendant was referred to as "Ms. Jazzy," one of defendant's personality fragments. We make no distinction between when defendant presented as one of her personality fragments because it was not found to have an effect on her ability to knowingly and voluntarily plead guilty to the charges in this case, nor did it affect any other aspect of her appeal.

¶ 6 A. The Charges and Plea Agreement

¶ 7 In January 2015, defendant was charged by information with one count of aggravated battery, a Class 2 felony (720 ILCS 5/12-3.05(d)(4)(i), (h) (West 2014)), after she allegedly threw an unknown liquid onto a correctional officer who was delivering food to her in IDOC. Due to defendant's past criminal history, the State alleged she was subject to Class X sentencing under section 5-4.5-95 of the Unified Code of Corrections (730 ILCS 5/5-4.5-95(b) (West 2014)). The trial court appointed the public defender to represent defendant.

¶ 8 In March 2017, the trial court ordered the psychiatric evaluation of defendant by an expert, at defendant's request, to determine if a *bona fide* doubt existed as to her fitness. The

expert determined defendant had dissociative identity disorder, as well as some related personality disorders and gender dysphoria, but was fit to stand trial. Following the finding, the State and defendant came to an agreement regarding a fully negotiated plea.

¶ 9 In December 2017, defendant entered into the fully negotiated plea, wherein she agreed to serve a six-year prison sentence, at 50% for the aggravated battery charge, consecutively with sentences she was already serving for unrelated convictions. Defendant indicated to the trial court that she did not understand why she was being sentenced for a Class X felony when she agreed to plead guilty to the Class 2 felony. The court explained the charge would remain a Class 2 felony, but because of her prior criminal history, the sentencing range would be that of a Class X felony. Defendant indicated she understood, and the court then followed up by reviewing the rights defendant was waiving by pleading guilty and asked if she had any questions. Defendant indicated she had no questions. After further admonishments and questions from the court, defendant indicated no one forced her to plead guilty, she had a full opportunity to discuss the matter with defense counsel, and she was not promised anything in exchange for her plea. After hearing the State's factual basis for the offense and determining defendant made the plea knowingly and voluntarily, the court accepted defendant's plea. The trial court entered a conviction on the aggravated battery charge, sentenced defendant according to the agreement, indicated the sentence would be followed by three years of mandatory supervised release, and imposed various court costs and fees. The court then informed defendant of her appeal rights. When asked if she had any questions regarding her appeal rights, defendant indicated she did not.

¶ 10 The trial court signed a written judgment sentencing defendant to six years in prison, to be served consecutively with her 10 other prison sentences. On the written judgment,

the court marked a check next to a line that stated:

> "The Court further finds that the defendant is entitled to receive credit for time actually served in custody (of _____ days as of the date of this order) from (specify dates) _____. The defendant is also entitled to receive credit for the additional time served in custody from the date of this order until defendant is received at [IDOC]."

The court also placed a check mark next to a line that indicated defendant remained in continuous custody from the date of the order. The court never indicated, verbally or on the judgment form, the number of days defendant was entitled to receive credit or the days she had been in custody for the charge.

¶ 11 B. Defendant's Motion to Amend the Mittimus

¶ 12 In July 2024, defendant filed a motion to amend the mittimus, requesting the trial court correct the mittimus by awarding sentencing credit from the date of her indictment, June 29, 2014, through her sentencing on December 21, 2017. The credit she sought totaled approximately 3 years, 5 months, and 22 days. Defendant claimed she was in custody for the aggravated battery charge on those dates, sentencing credit provided by statute was mandatory, sentencing credit could not be negotiated away by a plea agreement, any sentence lacking statutory applicable sentencing credit was subject to a challenge at any time, and she was entitled to sentencing credit for every day in custody on a charge, even if it would violate the Illinois Supreme Court's decision in *People v. Latona*, 184 Ill. 2d 260 (1998). The trial court dismissed defendant's motion on July 23, 2024. It noted it no longer retained jurisdiction because more than 30 days had lapsed since entry of the final judgment order and defendant was not seeking to

correct a clerical error. The trial court clerk placed a copy of the court's dismissal entry in the mail on August 23, 2024. Defendant received a copy of the order in September and filed a notice of appeal on October 7, 2024. The next day, OSAD was appointed to represent defendant. On October 23, 2024, defendant filed a motion to reconsider the dismissal of her motion to amend the mittimus. The motion to reconsider was stricken by the trial court for untimeliness. On December 10, 2024, this court granted defendant's motion for leave to file a late notice of appeal.

¶ 13 II. ANALYSIS

¶ 14 On appeal, defendant argues the trial court erred when it dismissed her motion to amend the mittimus for a lack of jurisdiction. She contends the motion requested the correction of a clerical error, specifically, an error in her sentencing credit, where a claim of such "error cannot be waived" and a "corrected mittimus may be issued at any time." OSAD moves to withdraw. Counsel for OSAD asserts he read the record on appeal, reviewed the facts and applicable law, and discussed the case with another attorney. He contends there are no meritorious issues for review.

¶ 15 A. Timely Notice of Appeal

¶ 16 Preliminary to our consideration of the above issues, we note we have an independent duty to consider issues of jurisdiction regardless of whether they have been raised by a party. *People v. Scheurich*, 2019 IL App (4th) 160441, ¶ 17. According to Illinois Supreme Court Rule 606(b) (eff. Apr. 15, 2024), a "notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from or if a motion directed against the judgment is timely filed, within 30 days after the entry of the order disposing of the motion." In cases involving a judgment entered upon a plea of guilty, no appeal may be

taken unless

> "the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment." Ill. S. Ct. R. 604(d) (eff. July 1, 2017).

As a reviewing court, our jurisdiction is dependent on these rules. See Ill. S. Ct. R. 606(b) (eff. Apr. 15, 2024). Consequently, identifying the final judgment is necessary in determining whether subject-matter jurisdiction exists. *People v. Coleman*, 2017 IL App (4th) 160770, ¶ 16. In criminal cases, the issuance of a sentence is a final judgment. *People v. Vara*, 2018 IL 121823, ¶ 14.

¶ 17 Here, the trial court entered its final judgment on December 21, 2017, when it sentenced defendant. Defendant did not file her motion to amend the mittimus until July 19, 2024, seven years after the trial court's final judgment. The trial court dismissed that motion on July 23, 2024, for a lack of jurisdiction. However, the trial court clerk did not place the dismissal order in the mail until August 23, 2024. Defendant received the order in September, and on October 7, 2024, she filed a notice of appeal. Given these circumstances, this court granted defendant leave to file a late notice of appeal in December 2024.

¶ 18 Thereafter, the record submitted to this court revealed defendant did not file a motion to reconsider until October 23, 2024. Because this is a case involving a judgment entered upon a plea of guilty, defendant was obligated to file a motion to reconsider or a motion to withdraw the plea of guilty and vacate the judgment within 30 days of the date upon which the sentence was imposed. See Ill. S. Ct. R. 604(d) (eff. July 1, 2017). Instead, defendant's posttrial

motion was filed seven years after the final judgment in this case and after she filed her notice of appeal. Thus, this court lacks jurisdiction to consider the merits of defendant's appeal.

¶ 19 B. Jurisdiction to Amend a Mittimus at Any Time

¶ 20 As a secondary matter, we note that "trial courts retain jurisdiction to correct nonsubstantial matters of inadvertence or mistake" at any time. *People v. Nelson*, 2016 IL App (4th) 140168, ¶ 39. "[A]n appellate court will correct the mittimus when the requisite correction is clearly reflected by the record." *People v. Centeno*, 394 Ill. App. 3d 710, 714 (2009). Cases concluding a mittimus can be amended at any time presume the "existence of (1) a sentencing judgment, which is part of the record, and (2) a separate and distinct mittimus, or warrant of commitment, which is not part of the record and which conflicts with the sentencing judgment." *Coleman*, 2017 IL App (4th) 160770, ¶ 19. An appellate court "is authorized to order correction of a mittimus only where it is inconsistent with the judgment entered" by the trial court. *People v. Young*, 2018 IL 122598, ¶ 29.

¶ 21 Here, defendant points to the judgment order, not a distinct and separate mittimus that conflicts with the sentencing judgment. She then requests sentencing credit that was never agreed upon anywhere in the record. The relief defendant seeks is not an amendment of the mittimus; rather, she seeks an amendment of the sentencing judgment to reflect an amount of days of presentencing credit to which she believes she is entitled. "[T]he reason why, traditionally, a mittimus could be amended at any time was that it was not the underlying sentencing order but was instead merely a warrant of commitment, external to the record." (Emphasis omitted.) *Coleman*, 2017 IL App (4th) 160770, ¶ 20. "And in those cases where the language of the separately issued mittimus varied with the judgment, it was held that 'the latter prevails' and 'correct *mittimi* may be issued *at any time*.' " (Emphasis in original.) *Scheurich*,

2019 IL App (4th) 160441, ¶ 23 (quoting *People v. Ander*son, 407 Ill. 503, 505 (1950)). Although defendant titled her motion as an attempt to "amend" the mittimus, there was, in fact, no separate mittimus that existed in this case; as such, the law that a mittimus may be amended "at any time" does not apply. *Id.* Instead, defendant sought to amend the sentencing judgment, which cannot be done unilaterally. See *People v. Evans*, 174 Ill. 2d 320, 327 (1996).

¶ 22 Therefore, we again find we are without jurisdiction to consider defendant's claim for sentencing credit. Accordingly, we grant appellate counsel's motion to withdraw and dismiss the appeal for a lack of jurisdiction.

¶ 23 III. CONCLUSION

¶ 24 For the reasons stated, we grant OSAD's motion to withdraw and dismiss the appeal.

¶ 25 Appeal dismissed.