

NOTICE

Decision filed 11/10/25. 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.

2025 IL App (5th) 231076-U

NO. 5-23-1076

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).

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Christian County.
)	
v.)	No. 21-CF-129
)	
ROBERT M. HODSON,)	Honorable
)	Bradley T. Paisley,
Defendant-Appellant.)	Judge, presiding.

JUSTICE VAUGHAN delivered the judgment of the court.
Justices Cates and Sholar concurred in the judgment.

ORDER

¶ 1 *Held:* Defense counsel's failure to strictly comply with Illinois Supreme Court Rule 604(d) requires (1) reversal of the trial court's order denying defendant's motion to withdraw his guilty plea and reduce sentence, (2) vacation of the trial court's November 16, 2023, order allowing for supplementation of the record with defense counsel's Rule 604(d) certificate due to a lack of subject matter jurisdiction, and (3) remand for a proper hearing that strictly complies with Rule 604(d).

¶ 2 Defendant, Robert M. Hodson, appeals from the trial court's denial of his motion to withdraw his guilty plea and judgment. On appeal he contends that his trial counsel failed to timely file a Rule 604(d) certificate and therefore the case must be remanded. We agree.

¶ 3 I. BACKGROUND

¶ 4 On April 9, 2021, defendant was charged, by information, with aggravated driving under the influence of alcohol in violation of section 11-501(a)(1) and (d)(1)(F) of the Illinois Vehicle

Code (625 ILCS 5/11-501(a)(1), (d)(1)(F) (West 2020)). The information alleged that on April 8, 2021, defendant was operating a 2018 Jeep while intoxicated and was involved in a motor vehicle accident resulting in the deaths of Haley Shoot and Zaydin Dudra.

¶ 5 On May 23, 2023, the court was advised of a plea with a partially negotiated cap. Pursuant to the plea agreement, defendant would plead guilty to the charge and the State agreed to cap its recommendation of any potential sentence at 20 years' incarceration. The court noted the sentencing range for the Class 2 felony charge was 6 to 28 years' incarceration to be served at 85% followed by one-year mandatory supervised release (MSR). After admonishing defendant of his waiver of rights and capacity to enter into the plea agreement, the court found that defendant knowingly and voluntarily pled guilty. The State proffered a factual basis for the plea based on the expected testimony from the one surviving person in the victims' vehicle, a crash reconstructionist, the autopsy prosector, a witness in the bar where defendant was drinking prior to the accident, along with testimony related to blood tests revealing a blood alcohol content (BAC) of .353 blood alcohol approximately two hours after the accident. Defense counsel stated it had "no objection to what the State recited" for the factual basis. The trial court found a sufficient factual basis and inquired a third time if defendant still wished to plead guilty. Defendant replied, "Yes, sir." The court found defendant guilty of aggravated driving under the influence. Following a sentencing hearing on August 21, 2023, the trial court sentenced defendant to 18 years' incarceration to be served at 85% and 18 months' MSR. A judgment was issued the same day setting forth the same sentence as stated at the hearing.

¶ 6 On August 29, 2023, defendant filed a motion to withdraw his plea and vacate the judgment and sentence. In support, defendant cited numerous facts that were raised at the sentencing hearing including the level of cannabis found in the driver of the victims' vehicle, the lack of operating

headlights on the victims' vehicle, and the speeds of the vehicles at the time of impact. In support of the motion to withdraw his plea, defendant argued that "he was unable at the time of plea to have contemplated the factors referenced herein would have occurred." Defendant also requested a reduced sentence, arguing the court did not give proper weight to his (1) lack of criminal history, (2) prior 18-year history as a law enforcement officer, (3) concerns for his personal safety inside the Illinois Department of Corrections, and (4) remorse. The State filed a response requesting the court deny defendant's motion to withdraw his plea and reduce his sentence. Following a hearing on October 27, 2023, the trial court denied defendant's motion.

¶ 7 Defendant filed his notice of appeal on October 27, 2023, and on November 6, 2023, the appellate court acknowledged the appeal. On November 9, 2023, in the trial court, defense counsel and the State filed an agreed motion to supplement the record with defense counsel's Rule 604(d) certificate. A copy of the Rule 604(d) certificate was attached to the motion. On November 16, 2023, the trial court issued an order granting the motion.

¶ 8 II. ANALYSIS

¶ 9 Defendant argues that his trial counsel failed to comply with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024) by failing to timely file his Rule 604(d) certificate. He contends that the trial court lacked jurisdiction to issue the order supplementing the record with the Rule 604(d) certificate because the agreed motion was filed after defendant's notice of appeal and therefore the case must be remanded to the trial court. In response, the State contends that defendant's argument is precluded by the invited error doctrine, the trial court retained jurisdiction to supplement the record with the Rule 604(d) certificate, and said certificate was facially valid and unrebutted by the record.

¶ 10 “Subject matter jurisdiction refers to a tribunal’s power to hear and determine cases of the general class to which the proceeding in question belongs.” *Zahn v. North American Power & Gas, LLC*, 2016 IL 120526, ¶ 13. “The Illinois Constitution vests the circuit courts with original jurisdiction of all ‘justiciable matters’ except” those vested with the Illinois Supreme Court. *Id.* (citing Ill. Const. 1970, art. VI, § 9). There is no dispute that defendant’s criminal proceeding was a “justiciable matter” which the circuit court was vested with jurisdiction to hear. However, a trial court’s subject matter jurisdiction is not indefinite. *People v. Orahim*, 2019 IL App (2d) 170257, ¶ 9. The question of whether a trial court had jurisdiction is one of law and therefore we consider the issue *de novo*. *People v. Arriaga*, 2023 IL App (5th) 220076, ¶ 12.

¶ 11 A “[l]ack of subject matter jurisdiction is not subject to waiver [citation] and cannot be cured through consent of the parties [citation].” *People v. Flowers*, 208 Ill. 2d 291, 303 (2003). Generally, “a trial court loses jurisdiction to hear a cause at the end of the 30-day window following the entry of a final judgment.” *People v. Bailey*, 2014 IL 115459, ¶ 8. A trial court will also lose jurisdiction once a notice of appeal has been filed. *People v. Patrick*, 2011 IL 111666, ¶ 39. Despite these general rules, there are instances where the trial court may be revested with jurisdiction. See *Bailey*, 2014 IL 115459, ¶ 8.

¶ 12 The revestment doctrine is a narrow exception. *People v. Kaeding*, 98 Ill. 2d 237, 240 (1983). For the revestment doctrine to apply, “the parties must actively participate without objection in proceedings which are inconsistent with the merits of the prior judgment.” *Id.* at 241. “If any one of those requirements remains unmet, the doctrine does not revest the court with jurisdiction.” *Bailey*, 2014 IL 115459, ¶ 25.

¶ 13 Here, defense counsel and the State actively participated by submitting an agreed motion to the court. However, the basis of the motion requested supplementation of the record with a Rule

604(d) certificate. The request neither altered the prior judgment nor addressed the merits of the prior judgment. Accordingly, the revestment doctrine is inapplicable and the trial court was divested of jurisdiction upon the filing of the notice of appeal.

¶ 14 Once jurisdiction is lost, the “only continuing power the circuit court possessed over the case was limited to enforcement of the judgment or correction of clerical errors or matters of form so that record conformed to the judgment actually rendered.” *Flowers*, 208 Ill. 2d at 306-07. Here, the motion was neither. The motion did not address enforcement and defense counsel’s failure to file the Rule 604(d) certificate before filing the notice of appeal is not correction of a clerical error to ensure the record conformed to the judgment rendered by the court. As such, we cannot find that the court’s action was consistent with the narrow limitation of a trial court’s continuing power and hold that the trial court’s order was issued without subject matter jurisdiction.

¶ 15 “[A] judgment, order or decree entered by a court which lacks jurisdiction of the parties or of the subject matter, or which lacks the inherent power to make or enter the particular order involved, is void ***.” *Sarkissian v. Chicago Board of Education*, 201 Ill. 2d 95, 103 (2002) (quoting *Barnard v. Michael*, 392 Ill. 130, 135 (1945)). “A void judgment is one which, from its inception, is a complete nullity and without legal effect.” *In re Marriage of Parks*, 258 Ill. App. 3d 479, 483 (1994). Here, defendant’s notice of appeal was on file for nearly two weeks when the agreed motion was filed in the trial court. The notice of appeal was on file for nearly three weeks when the trial court issued its order on the motion. Since the reinvestment doctrine is inapplicable, and the trial court’s limited jurisdiction for enforcement or clerical error was not triggered, the trial court’s order allowing for supplementation of the record was void.

¶ 16 The State contends that defendant’s jurisdictional argument was precluded by the doctrine of invited error. In support, the State argues that defense counsel induced the court to issue the

order of supplementation by filing the motion to supplement the record with the Rule 604(d) certificate.

¶ 17 “Under 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.” *People v. Carter*, 208 Ill. 2d 309, 319 (2003). The invited error doctrine precludes a party from complaining of “error which that party induced the court to make or to which that party consented.” *In re Detention of Swope*, 213 Ill. 2d 210, 217 (2004). While we endorse the legal concepts underpinning the invited error doctrine, we are unaware of, and the State has failed to provide any citation to, authority where the invited error doctrine was applicable to actions taken when the trial court lacked subject matter jurisdiction. Instead, based on our independent review of the issue, a contrary conclusion was met. See *People v. Wilber*, 2020 IL App (2d) 180024, ¶¶ 17-18 (declining to apply the invited error doctrine to actions taken before the trial court when subject matter jurisdiction was lacking). Here, as in *Wilber*, the trial court’s order was void rendering defendant’s actions irrelevant. The voidness of the trial court’s order also renders the State’s argument regarding the facial validity of defense counsel’s Rule 604(d) certificate moot.

¶ 18 Finally, we address defendant’s request to remand the case to the trial court due to the fact that no Rule 604(d) certificate was filed. The purpose of Rule 604(d), as expressed in *People v. Wilk*, 124 Ill. 2d 93, 104 (1988), was

“to ensure that before a criminal appeal can be taken from a guilty plea, the trial judge who accepted the plea and imposed sentence be given the opportunity to hear the allegations of improprieties that took place outside the official proceedings and *dehors* the record, but nevertheless were unwittingly given sanction in the courtroom.”

¶ 19 Our supreme court has also stated that,

“The filing of a Rule 604(d) certificate ‘enables the trial court to insure that counsel has reviewed the defendant’s claim and considered all relevant bases for the motion to withdraw the guilty plea or to reconsider the sentence. The attorney certificate therefore encourages the preservation of a clear record, both in the trial court and on appeal, of the reasons why a defendant is moving to withdraw his plea or to reduce sentence.’ ” *In re H.L.*, 2015 IL 118529, ¶ 10 (quoting *People v. Shirley*, 181 Ill. 2d 359, 361 (1998)).

¶ 20 While *Shirley* suggested that the certificate filing “should precede or be simultaneous with the hearing in the trial court” (see *Shirley*, 181 Ill. 2d at 371), the supreme court clarified in *H.L.*, 2015 IL 118529, ¶ 25, that strict compliance with Rule 604(d) did not require filing the certificate prior to or at the hearing. Instead, strict compliance required “counsel to prepare a certificate that meets the content requirements of the rule and to file the certificate with the trial court, *i.e.*, prior to the filing of any notice of appeal.” *Id.* When strict compliance with Rule 604(d) is not met, “the remedy is a remand to afford defendant another opportunity to be heard on his Rule 604(d) motion.” *Shirley*, 181 Ill. 2d at 371. “[O]nce this remedy is granted, there is no further requirement under Rule 604(d) that successive remands and rehearings will be ordered.” *Id.*

¶ 21 Here, the record is devoid of any previous remand for Rule 604(d) compliance. Further, our jurisdictional findings require us to find that no Rule 604(d) certificate was filed. Accordingly, we remand the case to afford defendant the opportunity to file a new motion to withdraw his guilty plea and reduce sentence, if so desired, with the requisite Rule 604(d) certification, and a new hearing on the motion in compliance with Rule 604(d). See *People v. Janes*, 158 Ill. 2d 27, 35-36 (1994).

¶ 22

III. CONCLUSION

¶ 23 For the above-stated reasons, we reverse the trial court's October 27, 2023, order denying defendant's motion to withdraw his guilty plea and reduce sentence, vacate the trial court's November 16, 2023, order allowing for supplementation of the record with a Rule 604(d) certificate, and remand the case for compliance with Rule 604(d) and to allow defendant to file another motion to withdraw his guilty plea and reduce sentence.

¶ 24 Reversed and remanded.