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NO. 3-18-0705

IN THE

APPELLATE COURT OF THE STATE OF ILLINOIS

THIRD JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	**Appeal from the Circuit Court**
	)	**of the 12th Judicial Circuit**
Plaintiff-Appellee,	)	**Will County, Illinois**
	)	
v.	)	**Nos. 17-TR-79150, 17-TR-79151**
	)	
EDWARD HAMBRICK,	)	**Honorable**
	)	**Theodore Jarz**
Defendant-Appellant.	)	**Judge Presiding**

BRIEF AND ARGUMENT FOR PLAINTIFF-APPELLEE

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EDWARD HAMBRICK,	)	**Honorable Theodore Jarz**
Defendant-Appellant.	)	**Judge Presiding**

POINTS AND AUTHORITIES

I

III

NATURE OF THE CASE

Following a bench trial, defendant, Edward Hambrick, *in absentia*, was convicted of speeding and driving while license suspended.

An issue is raised regarding the charging instrument.

ISSUES PRESENTED FOR REVIEW

I

WHETHER THIS COURT SHOULD STRIKE DEFENDANT'S BRIEF AND DISMISS THIS APPEAL FOR FAILURE TO SUBSTANTIALLY COMPLY WITH ILLINOIS SUPREME COURT RULES 341 AND 342?

II

WHETHER THE TRIAL COURT HAD JURISDICTION OVER DEFENDANT?

III

WHETHER DEFENDANT FORFEITED REVIEW OF HIS CONVICTION; AND, ALTERNATIVELY, WHETHER THE PEOPLE PROVED DEFENDANT GUILTY BEYOND A REASONABLE DOUBT OF DRIVING WHILE LICENSE SUSPENDED?

STATEMENT OF FACTS

Following a traffic stop on November 22, 2017, defendant was cited for driving 15 to 20 miles per hour above the speed limit, and he received a traffic citation for driving while license suspended pursuant to 625 ILCS 5/6-303(A). (C. 5, 197) On December 27, 2017, defendant appeared in court on his own behalf, and he informed the court that he would represent himself in this matter. (R. 4) On that date, defendant informed the court that he did not consent to the court's authority over him or that of the State in prosecuting

the citation. (R. 5-6) Defendant questioned the trial court about its oath of office, and defendant reiterated that he did not consent to the court's authority under Article I, Section I of the Constitution of the State of Illinois. (R. 7-8) Defendant refused to enter a plea, and the trial court entered a plea of not guilty on defendant's behalf. (R. 6) The trial court ordered the State to send discovery materials to defendant, and the matter was set for trial on March 26, 2018. (R. 10)

On March 26, 2018, defendant informed the court that there would not be a trial, and the State's Attorney was in contempt of court for failing to provide defendant with discovery. (R. 22) Defendant informed the court that he filed a notice of default alleging that the State had "instantly waived" and yielded its claim against defendant and were *estopped* from further prosecution. (C. 11-12; R. 22) The prosecutor informed the court that the only discovery material was a police report of the incident that was mailed to defendant on March 13, 2018. (R. 23) The trial court informed defendant the State's failure to send the discovery to him by March 7, 2018 was "kind of a technical matter," and the trial court asked defendant if he was prejudiced by the State's failure to send the discovery. (R. 25) Defendant responded, "[a]bsolutely," because he could not prepare for the trial. (R. 25) The trial court stated that it would give defendant a new date for trial, but defendant responded that he was "not interested in that." (R. 25) The trial court stated that it would not find counsel for the State to be in contempt because there was no willful failure to comply with the discovery order. (R. 26)

After the trial court informed defendant that it would not find the State in contempt, defendant reiterated that the court did not have his consent to prosecute him. (R. 29-30) The trial court informed defendant that the State did

not need consent to present evidence against him. (R. 30) The parties and the court agreed to set the trial date for May 30, 2018. (R. 31)

After the court appearance on March 26, 2018, defendant filed a "Presentment of Affidavit for Dismissal." (C. 13-25) The motion alleged, *inter alia*, that the State was in default for failing to send the discovery within two weeks as ordered by the court and that defendant was not required to hold a valid driver's license because his traveling on the roadway was a fundamental right that cannot be altered. (C. 13-14, 17)

On May 30, 2018, defendant moved to continue his trial "because I have a lot more investigation to do reading it to prepare for this case." (R. 36) The trial court granted defendant's request for a continuance, and the matter was set for July 31, 2018 for a hearing on defendant's motions. (R. 48)

During the interim, defendant filed three sets of interrogatories which requested that the State admit or acknowledge the allegations contained therein; if the State failed to respond, the allegations would be deemed admitted or acknowledged.(C. 28-32, 35-38) On July 31, 2018, the trial court informed defendant that the Illinois Supreme Court Rules did not require the State to respond to discovery interrogatories in a criminal proceeding, and the trial court would not order the State to answer the interrogatories. (R. 54) Defendant responded that he wanted the interrogatories to be answered, but the trial court reiterated that it would not order the State to respond. (R. 55) Defendant informed the trial court that, if the State did not respond within 28 days, defendant would "take that as his admittal [sic] and the acknowledgment to the same." (R. 55) The trial court attempted to set a date for trial, but defendant stated that he did not want a trial date, and he accused the trial court of acting without defendant's consent. (R. 59-60)

Defendant told the trial court it was acting without jurisdiction when it ordered the change of venue, and the trial court asked defendant to cite where it stated in the Constitution that the trial court needed defendant's consent. (R. 63) Defendant asserted the trial court was evading his question, and the bailiff interjected and instructed defendant to be seated. (R. 63) Defendant stated, "[n]ow I am being thrown out." (R. 63) The case was passed and recalled before the trial court stated for the record that defendant left the courtroom without concluding the hearing. (R. 63-64; C. 41) The trial court issued a warrant for defendant's arrest. (R. 64; C. 39)

On September 10, 2018, defendant filed a challenge to the court's jurisdiction over him. (C. 42-43) Defendant also accused the State's Attorney of committing fraud against the court because the State did not respond to defendant's interrogatories, and defendant filed numerous documents indicating that the State's Attorney "admits and acknowledges" various statements that were included in defendant's initial set of interrogatories. (C. 44-51) Defendant requested that the matter be dismissed for "want of subject matter jurisdiction." (C. 52)

On September 11, 2018, defendant appeared in court and stated that he wished to challenge the charging instrument. (R. 66-67) Defendant also disputed that he "stormed out of the courtroom" during the previous hearing; defendant asserted that the trial court had "kicked" him out of the courtroom. (R. 67)

The trial court quashed the warrant for defendant's arrest. (R. 73) The trial court then addressed defendant's argument that the court did not have jurisdiction over him. (R. 73) The trial court informed defendant that the State would be required to prove that it had jurisdiction to prosecute the charges

against defendant as part of its case-in-chief during the trial. (R. 73) The trial court then addressed defendant's allegation of fraud upon the court. (R. 73) Defendant argued "[t]he fraud is that the misrepresentation that I agreed to waive any rights to trial by holding a driver's license. What's being omitted from the Court's view is the application for a driver's license that expired." (R. 74) Defendant stated that it was "fraud if you are trying to insinuate that I had an active driver's license, when I do not." (R. 74) Defendant also argued the court lacked jurisdiction over him because defendant did not consent to the court's jurisdiction. (R. 75) Defendant asserted the constitution stated that the court's authority was "derived from the people, derived from me." (R. 76) The trial court disagreed with defendant's interpretation, and the trial court explained that its power was derived from the people who form the duly constituted government, and the court derived its power "through the governmental process in control of the duties that I have here." (R. 76) The trial court denied defendant's motion to dismiss. (R. 76-77, 81)

The trial court informed defendant that this matter would be set for trial, and while the court inquired as to whether defendant would seek to hire an attorney for trial, defendant requested that the trial court remove the "flag of admiralty" that hung behind the bench. (R. 77) The trial court asked "[a]re you referring to the flag of the United States?" (R. 77) Defendant asserted that the flag of the United States was under admiralty jurisdiction. (R. 77) The trial court disagreed, and defendant cited a section of the Code of the United States describing the flag of the United States. (R. 78) The trial court set the trial date for October 30, 2018. (R. 82-83)

On September 13, 2018, defendant filed a petition to remove the trial judge from the case. (C. 171) The petition re-alleged defendant's prior claims of lack

of jurisdiction due to his withholding consent from the court and fraud upon the court. (C. 171) The motion also alleged that the trial court was biased against defendant. (C. 171)

On October 1, 2018, the trial court held a hearing on defendant's motion. (R. 85) At the hearing, defendant stated that he was "withdrawing any guilty pleas that were made against my will. I am withdrawing any appearances that were made when I was under duress... If anyone has a problem with that, they should speak up now." (R. 86-87) The trial court stated that it had read defendant's motion, and the trial court denied the motion. (R. 87) Defendant told the trial court "[y]ou don't really have any authority at this point, sir. We went through this...." (R. 87) The trial court warned defendant "to stop and listen to me." (R. 88) Defendant stated that he was not going to stop, and "I tried to be patient with you." (R. 88) The trial court instructed defendant to be seated in the jury box, and the court informed defendant he was in contempt of court. (R. 88) Defendant repeatedly asked if he was being held in civil contempt or criminal contempt. (R. 88) Defendant claimed there was no victim. (R. 89) Defendant asserted there is no criminal contempt where there is no victim, and defendant demanded to know what crime served as the basis of his contempt. (R. 89) Defendant told the trial court, "[y]ou are perjured yourself. You are no longer a judge." (R. 89) The bailiff ordered defendant to be seated in the jury box, but defendant continued to assert that the court had perjured itself and was acting as a prosecutor. (R. 89-90) The trial court's order from October 1, 2018, found defendant in direct criminal contempt for asserting that the trial court had no authority or jurisdiction over him, and the trial court sentenced defendant to serve one day in jail. (C. 172)

On October 2, 2018, the trial court informed defendant why he had been held in direct criminal contempt, and defendant continued to challenge the court's ability to do so for lack of jurisdiction. (R. 95) The trial court informed defendant that the trial would be held as scheduled on October 30, 2018, to which he responded, "[n]o jurisdiction." (R. 95)

On October 30, 2018, defendant failed to appear for his trial. (R. 100) The trial court stated that it had received an email with attachment from defendant that contained a notice of emancipation, a notice to the court that defendant's "nonrepresentative and nonsurety capacity in the matter" was withdrawn as well as notice withdrawing defendant's appearance. (R. 100; C. 178-84)

The trial court proceeded with a bench trial in defendant's absence. (R. 101) Officer Michael Pesantino (Pesantino) testified that on November 22, 2017, he was on duty patrolling Will County when he apprehended defendant while defendant was operating a motor vehicle. (R. 101) Defendant was driving south on Briggs Street, and Pesantino was driving north. (R. 101-02) Defendant was driving 48 m.p.h. in a 30 m.p.h. speed zone. (R. 102) Pesantino initiated the traffic stop, and defendant presented him with a State of Illinois identification card "and an additional rights form of some kind." (R. 102) Pesantino performed a LEADS inquiry, which revealed that defendant's driver's license was suspended. (R. 102) A certified copy of defendant's driver's license abstract was admitted as evidence, and the trial court noted that the abstract indicated defendant's license was suspended on the date of the offense. (R. 102-03) Pesantino testified that all of the events surrounding the traffic stop occurred inside Will County. (R. 103)

The trial court stated for the record that defendant failed to appear, and he was tried *in absentia*. (R. 103) The trial court found defendant guilty of driving

while license suspended and of speeding. (R. 103) The trial court entered a judgment for fines and costs in the amount of $500 for each conviction. (R. 104)

On November 29, 2018, defendant filed a notice of appeal. (C. 188-89)

ARGUMENT

I

THIS COURT SHOULD STRIKE DEFENDANT'S BRIEF FOR FAILURE TO COMPLY WITH ILLINOIS SUPREME COURT RULES AND DISMISS THIS APPEAL.

Prior to the filing of the Appellee brief in this matter, the undersigned counsel moved for this court to strike defendant's brief and dismiss this appeal on the basis that defendant's brief did not comply with Illinois Supreme Court Rules 341 and 342. On August 19, 2019, this court issued an order directing the Appellee to include its allegations with regard to Rules 341 and 342 in its Appellee brief. The People incorporate the arguments of its motion herein.

It is apparent defendant's brief does not comply with numerous aspects of the Illinois Supreme Court Rules addressing brief requirements. "A reviewing court such as this one deserves the benefit of cohesive legal argument and is not a dumping ground for argument and research." Rockwood Holding Co. V. Department of Revenue, 312 Ill.App.3d 1120, 1132 (1st Dist. 2000). The purpose of the Rules is, *inter alia*, to require the parties to provide the reviewing court with the facts necessary to obtain an understanding of the case, as well as clear and orderly arguments so that the court can ascertain and dispose of the issues. Hall v. Naper Gold Hospitality LLC, 2012 IL App (2d) 111151, ¶¶ 7-10. The provisions of Rule 341 and Rule 342 provide step-by-step instructions for the creation of an appellate brief. See Ill. S. Ct. R. 341 (eff. May 25, 2018) (eff. July 1, 2017). These rules are not mere suggestions, but compulsory rules, the violations of which subject an

appellant to the possibility of striking its brief and dismissing its appeal. Niewold v. Fry, 306 Ill.App.3d 735, 737 (2d Dist. 1999). "Failure to comply with the rules regarding appellate briefs is not an inconsequential matter." Hall, 2012 IL App (2d) 111151, ¶ 7. "A brief that lacks any substantial conformity to the pertinent supreme court rules may justifiably be stricken." Id.

Rule 341(h)(1) requires that the Points and Authorities statement contain a "reference to the page of the brief on which each heading and each authority appear." Ill. S. Ct. R. 341(h)(1) (eff. May 25, 2018). Defendant's brief does not contain a reference to the page of the brief in which the each heading and authority appears. (Def. Br. at 2) Moreover, defendant has improperly included references to a number of additional documents, purported exhibits, and quotations from various cases and sources in his Points and Authorities statement. (Def. Br. at 2-3) Additionally, defendant's Points and Authorities section lists only three issues, while his issues presented for review section claims four Issues for Review. (Def. Br. at 2-3, 5) Defendant's brief does not substantially comply with the Rule.

Rule 341(h)(2) requires "[a]n introductory paragraph stating (i) the nature of the action and of the judgment appealed from and whether the judgment is based upon the verdict of a jury, and (ii) whether any question is raised on the pleadings and, if so, the nature of the question." Ill. S. Ct. R. 341(h)(2) (eff. May 25, 2018). Defendant's Nature of the Case statement is defective because it does not state whether any question was raised regarding the pleadings. (Def. Br. at 4) While a technical violation, the import of the violation is heightened in this case where it is apparent that defendant does challenge the charging instrument in his Issue III where he argues the arresting officer testified falsely because another name (M. Cosentino) was pre-printed beneath the

signature line on the citations charging defendant with speeding and driving while license suspended. (Def. Br. at 24, citing C. 5, 197) As such, defendant failed to substantially comply with the Rule.

Rule 341(h)(3) requires defendant to "include a concise statement of the applicable standard of review for each issue, with citation to authority, either in the discussion of the issue in the argument or under a separate heading placed before the discussion in the argument." Ill. S. Ct. R. 341(h)(3) (eff. May 25, 2018). Defendant's brief contains a section titled "Standard of Review" (Def. Br. at 6), but that section is located in the jurisdiction statement, and it does not contain any concise statement of the applicable standard of review for any of the issues raised in defendant's brief. While the jurisdictional statement does contain a citation to City of Chicago v. Collins, 175 Ill. 445 (1898), that case does not refer to a standard of review for any of defendant's claims. Instead, defendant repeatedly cites that case throughout his brief in support of his assertion that he was not required to possess a valid driver's license to operate a motor vehicle on the roads of the State of Illinois. (Def. Br. at 17, 18, 19, 23, 24) Defendant's Issue III, arguing he was convicted using false testimony from the arresting officer, claims that argument is reviewed under the manifest error standard. (Def. Br. at 25) Assuming *arguendo,* that the testimony of the arresting officer was in some way false, as argued below in the People's Issue III, manifest error is not the correct standard of review for that claim. As such, defendant has not substantially complied with the requirements of Rule 341(h)(3).

Additionally, Rule 341(h)(4) "requires a statement of jurisdiction setting forth the supreme court rule or other law that confers jurisdiction upon the reviewing court." Hall, 2012 IL App (2d) 111151, ¶ 8, citing Ill. S. Ct. R. 341(h)(4)

(eff. May 25, 2018). "The purpose of requiring a jurisdictional statement is not merely to tell this court that it has jurisdiction, but to provoke counsel into making an independent review of the right to appeal, before writing the brief." Hall, 2012 IL App (2d) 111151, ¶ 8. "[A]n accurate jurisdictional statement is necessary to the orderly administration of justice." Id. Defendant's jurisdictional statement does not substantially comply with the Rule. Defendant asserts this court has jurisdiction over this appeal under Illinois Supreme Court Rule 306(a),(b). (Def. Br. at 6) However, setting aside that Rule 306(a) is a rule governing civil appeals, Rule 306(a) only confers this court with jurisdiction over interlocutory appeals brought under a limited list of specifically enumerated grounds contained within that Rule, none of which are applicable in the present case. Ill. S. Ct. R. 306(a) (eff. Nov. 1, 2017).

As defendant noted in his jurisdictional statement and the record established, this appeal was brought pursuant to the trial court's final judgment dated October 30, 2018, finding defendant guilty of driving while license suspended and speeding. (Def. Br. at 6); (C. 368; R. 101-04) A conviction for driving while license suspended is a Class A misdemeanor. See 625 ILCS 5/6-303(a) (eff. July 12, 2019). Appeal from a final order of a misdemeanor convictions is criminal in nature. Thus, this court is vested with jurisdiction under Rule 603. Ill. S. Ct. R. 603 (eff. Feb. 6, 2013) (noting that criminal appeals that do not involve claims related to the invalidity of a statute "shall be taken to the Appellate Court.") As such, defendant's jurisdictional statement does not substantially comply with the Rule and is defective.

Defendant's brief does not comply with Rule 342 governing the Appendix section of the brief. Rule 342 requires the appellant's brief to include, as an Appendix, a table of contents, a notice of appeal, the judgment appealed

from, any opinion, memorandum, or findings of fact filed or entered by the trial court or other materials from the record that are the basis of the appeal or pertinent to it. Ill. S. Ct. R. 342 (eff. July 1, 2017). Here, defendant's Appendix section does not contain a table of contents, the judgment appealed from, the notice of appeal, or any orders or findings of fact entered by the court or other materials from the record that form the basis of the appeal or are pertinent to it. Instead, defendant's appendix section is more accurately characterized as an end notes section containing citations to various authorities referenced in defendant's brief with quotes therefrom. As such, defendant's brief does not substantially comply with Rule 342. Passero v. All State Ins. Co., 196 Ill.App.3d 602, 611 (1st Dist. 1990) (noting the failure to include the order appealed from is a violation of the rule); Matter of Estate of Jacobs, 189 Ill.App.3d 625, 629 (1st Dist. 1989) (noting the appellant's initial appellate brief was deficient inasmuch as the appendix failed to include a copy of the trial court's judgment, notice of appeal, or table of contents for record); In re Marriage of Roberts, 84 Ill.App.3d 538, 543 (5th Dist. 1980) (dismissing appeal for, *inter alia*, failure to include an appendix).

Rule 341(h)(6) governs the statement of facts portion of the brief. Rule 341(h)(6) requires that the brief "shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Ill. S. Ct. R. 341(h)(6) (eff. May 25, 2018). Here, defendant's statement of facts, while containing citations to the record, is replete with argumentative statements, facts not established by the record, and inaccurate statements of fact. For example, defendant refers to himself as a "Nigritian-American," which, regardless of considering whether defendant's self-identified political

classification would be in any way relevant to considering the merits of his driving while license suspended charge, is not a fact supported by the record. (Def. Br. at 6) Additionally, defendant stated "neither the Court nor state denied" his "offer" that if the interrogatories defendant served on the State were not received by defendant within 28 days, defendant would consider the non-response as an admission to the statements contained therein. (Def. Br. at 10) Defendant further stated the prosecution "admitted and acknowledged facts" contained in a set of interrogatories defendant submitted under Rule 213(h),(k). (Def. Br. at 10) These are mischaracterizations of the facts. The record established that the court specifically ordered that the prosecution was not required to respond to defendant's interrogatories. (R. 54-58) Moreover, the record is void of any affirmative acknowledgment or admission by the prosecution as to any of the facts contained in the interrogatories.

Defendant stated that he "was removed from the Courtroom." (Def. Br. at 10) The record rebuts this statement where it was clear defendant was asked to step into the hallway outside the courtroom to compose himself (R. 63-64, 72), but instead "stormed out" of the courtroom without returning. (R. 67) Likewise, defendant stated that he was "placed under arrest for being kicked out of the court room previously." (Def. Br. at 11) This is not so. Defendant was held in criminal contempt because he challenged the trial court's authority and refused to comply with the court's instruction to be seated following the denial of defendant's motion to recuse the court. (C. 364; R. 86-90) Finally, defendant asserted that the court accepted testimony from a police officer who was not the arresting officer (Def. Br. at 12), though the arresting officer specifically testified that he initiated the traffic stop that served as the basis for this appeal. (R. 101-02)

As this court has noted, "our supreme court's rules are not advisory suggestions, but mandatory rules that must be followed." Prawdzik v. Board of Trustees of Homer Township Fire Protection District Pension Fund, 2019 IL App (3d) 170024, ¶ 34 (noting that the failure to comply with Rule 342 warrants dismissal of the appeal but declining to do so.)

The People note that defendant filed a response to the People's motion to strike defendant's brief, where, in a fashion similar to that in his initial brief, defendant copied and pasted blocks of text from various cases and stated in a conclusory fashion that the submissions of *pro se* defendants should not be held to the same standards as trained lawyers. (Def. Mot. at 2) However, it is well established in this state that parties choosing to proceed *pro se* must comply with the same rules and meet the same standards as licensed attorneys. People v. Richardson, 2011 IL App (4th) 100358, ¶ 12.

Moreover, defendant's Issue I (wherein he argues "the trial court breached its duty to according [sic] with the Emancipation Proclamation" and Issue II (wherein defendant argues "the trial court erred to protect the liberty of decendant [sic] of a emancipated person who is effecting his freedom" have no basis in law or fact.[1] (Def. Br. at 12-24) Moreover, these arguments consist entirely of block quotes to random authorities with conclusory statements that amount to little more than semi-coherent rambling. In United States v. Greenstreet, 912 F.Supp. 224, 228-230 (N.D. Tex. 1996), the court was faced with similar conduct from a pair of *pro se* litigants. The Greenstreet court

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[1] **The People will not address these arguments individually because "[a]rguing an issue in a conclusory fashion or failing to adequately brief or argue an issue results in the waiver of the issue." People v. Rockey, 322 Ill.App.3d 832, 839 (2d Dist. 2001). As such, the People will address defendant's jurisdiction claim as if a general challenge in a separate issue.**

noted the parties' "conduct illustrates a disregard for the legal system and should be considered reprehensible. They abused the system by filing fraudulent documents. Mr. Greenstreet compounded the abuse by subsequently flooding the Court with frivolous pleadings. Their actions were costly and inconvenient to many." Id. at 228. The Greenstreet court discussed and rejected as "frivolous" similar claims made by the *pro se* litigants regarding jurisdiction as misstatements of law. Id. at 228-30. Here, like the litigants in Greenstreet, defendant's conduct illustrates a disregard for the legal system, its principles, and the rules that govern its administration. While the People acknowledge that dismissing an appeal is a harsh sanction, here, like in Hall, dismissal is warranted where defendant's brief is so fatally defective due to its failure to substantially comply with the Supreme Court Rules governing the jurisdictional statement, standard of review, statement of facts, points and authorities, and appendix that dismissal of this appeal is warranted. Hall, 2012 IL App (2d) 111151, ¶¶ 7-11, 15.

II

THE TRIAL COURT HAD JURISDICTION OVER DEFENDANT.

STANDARD OF REVIEW

Questions of jurisdiction are reviewed *de novo*. People v. Richards, 394 Ill.App.3d 706, 708 (3d Dist. 2009).

ANALYSIS

Defendant apparently argues the People lacked jurisdiction to prosecute him in the Circuit Court of Will County, Illinois because that court did not have defendant's "consent" to do so. (Def. Br. 12-18) Defendant is incorrect; Illinois courts do not require the consent of an individual to charge them with criminal acts committed within its boundaries. The Constitution of the State of Illinois vests the circuit courts of this state with "original jurisdiction of all justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office. Circuit Courts shall have such power to review administrative action as provided by law." Ill. Const. 1970, art. VI, § 9. "Jurisdiction is most commonly understood as consisting of two elements: subject matter jurisdiction and personal jurisdiction." People v. Castleberry, 2015 IL 116916, ¶ 12. "Subject matter jurisdiction refers to the court's power 'to hear and determine cases of the general class to which the proceeding in question belongs.'" Id., quoting Belleville Toyota, Inc. V. Toyota Motor Sales, U.S.A., Inc., 199 Ill.2d 325, 334 (2002). Personal jurisdiction refers to the court's power "'to bring a person into its adjudicative process.'" Castleberry, 2016 IL 116916, ¶ 12, quoting Black's Law Dictionary 870 (8th ed. 2004). A person is subject to criminal prosecution in this state for an offense

in which he commits if the offense is "committed either wholly or partly" within the State of Illinois. 720 ILCS 5/1-5 (eff. July 29, 1999). "Criminal actions shall be tried in the county where the offense was committed, except as otherwise provided by law." 720 ILCS 5/1-6 (eff. Jan. 25, 2013). Personal jurisdiction is acquired when an individual personally appears before the court. People v. Kleiss, 90 Ill.App.3d 53, 55 (3d Dist. 1980).

Here, the trial court had personal jurisdiction over defendant because he was present on December 27, 2017, in court after a complaint was filed for his violation of the Vehicle Code. (R. 4) The trial court had subject matter jurisdiction over this case because it involved the prosecution of a justiciable matter.

In this case, Officer Michael Pesantino testified that on November 22, 2017, he was on duty patrolling in Will County when he apprehended defendant while defendant was driving a motor vehicle on Briggs Street in Will County, Illinois. (R. 101) Defendant was driving "approximately" 48 m.p.h. in a 30 m.p.h. speed zone. (R. 102) Pesantino testified that all of the events surrounding the traffic stop occurred inside Will County, Illinois. (R. 103) Defendant, who did not appear at his trial, presented no evidence to rebut Pesantino's testimony. Additionally, the citations that defendant explicitly acknowledged receiving, and which he acknowledged signing under the designation "no jurisdiction" indicate that defendant was present inside Will County when the offenses occurred. (R. 81-82; C. 5, 197) As such, Pesantino's unrebutted testimony established that defendant was subject to the jurisdiction of the courts of Illinois, with venue in the Circuit Court of Will County.

III

DEFENDANT FORFEITED REVIEW OF HIS CONVICTION WHERE HE DID NOT OBJECT TO THE ARRESTING OFFICER'S TESTIMONY AND FAILED TO FILE A POST-TRIAL MOTION FOR A NEW TRIAL. ALTERNATIVELY, DEFENDANT FAILED TO PROVE OFFICER PESANTINO TESTIFIED FALSELY, AND EVEN IF THE TESTIMONY WERE FALSE, ANY ERROR WAS HARMLESS WHERE THE PEOPLE PROVED DEFENDANT GUILTY OF SPEEDING AND DRIVING WHILE LICENSE SUSPENDED BEYOND A REASONABLE DOUBT.

STANDARD OF REVIEW

"[A] criminal conviction obtained through the knowing use of false testimony constitutes a violation of due process." People v. Brown, 169 Ill.2d 94, 103 (1995). In such cases, a "strict standard of materiality applies, and the reviewing court must overturn the conviction if there is any reasonable likelihood that the false testimony could have affected the judgment of the [trier of fact]." (Internal quotes removed) People v. Lamon, 346 Ill.App.3d 1082, 1094 (3d Dist. 2004), quoting People v. Lucas, 203 Ill.2d 410, 422 (2002)."'This standard is equivalent to the harmless error standards.'" Lamon, 346 Ill.App.3d at 1094, quoting People v. Olinger, 176 Ill.2d 326, 348 (1997).

ANALYSIS

Defendant forfeited review of this issue. It is well settled that in order to properly preserve an issue for review, a defendant is required to both object contemporaneously as well as include the alleged error in a post-trial motion. People v. Enoch, 122 Ill. 2d 176, 186-87 (1988). When a defendant has failed to properly preserve an issue for review, the issue is forfeited and may only be reviewed under plain error analysis. Under the plain error rule, a reviewing

court may consider issues which have been forfeited by an accused: (1) where the evidence is closely balanced, or (2) where the error is so fundamental and of such magnitude that the accused was denied a fair trial. People v. Rivera, 262 Ill.App.3d 16, 27 (2d Dist. 1994). The first step in a plain error analysis is to determine whether any error occurred. People v. Thompson, 238 Ill.2d 598, 613 (2010). Defendant bears the burden of establishing such error. Id.

Here, defendant has not established that any error occurred because the only evidence defendant offers in support of his claim that Pesantino's testimony was false is a reference to a pre-printed name present under the signature line of the charging citations (C. 5, 197), and an assertion that the "State also provided 'Discovery' (mailed USPS March 13 to Defendant) with case report, copies of citations and a narrative by 'Deputy Michael Cosentino #2770', and (State) was well aware of the arresting officer M. Cosentino." (Def. Br. at 24) First, the People note that, despite including hundreds of pages of extraneous materials that were never presented at trial as part of the record on appeal, defendant has not included the case report or the narrative by Deputy Michael Cosentino that he relies upon in support of his claim as part of the record on appeal. It is well established that, defendant, as appellant, bears the responsibility to provide a complete record on appeal. Foutch v. O'Bryant, 99 Ill.2d 389, 392 (1984). Where, as here, defendant has failed to provide a complete record on appeal to support his claims of error, "[a]ny doubts which may arise from the incompleteness of the record will be resolved against" defendant. Id.

Further, Officer Pesantino's unrebutted testimony was that he personally initiated the traffic stop and arrested defendant. (R. 101-03) While the pre-

printed name underneath the officer's signature line on the citation does state "Cosentino, M," that fact alone does not establish that Pesantino testified falsely where there are numerous innocent explanations for the discrepancy, including: a scrivener's error by the printer of the citation, a scrivener's error by the court reporter, Officer Pesantino might have borrowed or mistakenly taken a citation pad belonging to Officer Cosentino. There are many possible explanations for this discrepancy that do not support defendant's conclusory assertion that Pesantino was engaged in a conspiracy to convict defendant of driving while license suspended. Therefore, defendant has failed to prove that Pesantino's direct testimony was false.

Additionally, it should be noted that, because defendant did not attend his trial, did not object to this testimony, and did not file a post-trial motion raising the issue; there was no opportunity for the People to elicit testimony explaining the discrepancy and curing the alleged error. As such, forfeiture of this argument should be enforced. See generally People v. Radford, 2018 IL App (3d) 140404, ¶ 58 (noting that "without contemporaneous objection, the trial court would not likely cure a violation or formally express its findings on the record.") While Radford is not factually similar to this case, the reasoning applies here where, if defendant had appeared at his trial, he could have objected to Pesantino's testimony, and the issue could have been addressed and any potential error could have been cured. Likewise, if defendant had filed a post-trial motion for a new trial and included this issue, he could have elicited this information from Pesantino at a hearing in the trial court. However, defendant did not take these steps to ensure the preservation of these alleged errors in the trial court. As such, because defendant has not

established that any error occurred, this court should find that defendant forfeited review of this issue.

Finally, the People note, this court can affirm the trial court's decision on any basis in the record. People v. Williams, 2019 IL App (3d) 160132, ¶ 16. Here, the record shows that defendant's license had been suspended before he was pulled over by Pesantino. (C. 93) Moreover, a certified copy of defendant's driver's license abstract was admitted as evidence, which was secured and is not included in the record on appeal (C. 177); and, the trial court noted that the abstract indicated defendant's license was suspended on the date of the offense. (R. 102-03) Thus, even if Pesantino had testified falsely that he was the arresting officer when he was not, any error in failing to correct the testimony was harmless where the record established that defendant's driver's license was suspended.

CONCLUSION

For the foregoing reasons, the People urge that this court affirm the defendant's conviction and sentence.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 23 pages.

/s/Nicholas A. Atwood

NO. 3-18-0705

IN THE

APPELLATE COURT OF THE STATE OF ILLINOIS

THIRD JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,	)	**Appeal from the Circuit Court**
	)	**of the 12th Judicial Circuit**
Plaintiff-Appellee,	)	**Will County, Illinois**
	)	
v.	)	**Nos. 17-TR-79150, 17-TR-79151**
	)	
EDWARD HAMBRICK,	)	**Honorable**
	)	**Theodore Jarz**
Defendant-Appellant.	)	**Judge Presiding**

NOTICE OF FILING

TO: Edward Hambrick-Day
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PLEASE TAKE NOTICE that I have this 22nd day of October, 2019, caused to be filed electronically in the office of the Clerk of the Appellate Court of Illinois, Third Judicial District, the Plaintiff-Appellee's Brief and Argument in the above-entitled cause and hereby serve defense counsel through e-file service.

/s/ Nicholas A. Atwood
For the State's Attorney

STATE OF ILLINOIS)
) SS.
COUNTY OF LASALLE)

CERTIFICATE OF SERVICE

Upon electronic filing of this brief, the undersigned deposes and states that on this 22nd day of October, 2019, a copy of the foregoing brief, which complies with the Appellate Court's Electronic Filing User Manual, will be e-served upon the person(s) listed above through the Illinois Court's e-service program.

/s/ Nicholas A. Atwood