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).

2026 IL App (4th) 251388-U

NO. 4-25-1388

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 23, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Livingston County
PHILLIP A. BREGIN,	)	No. 24CF166
Defendant-Appellant.	)	
	)	Honorable
	)	Jennifer H. Bauknecht,
	)	Judge Presiding.

JUSTICE VANCIL delivered the judgment of the court.
Presiding Justice Steigmann and Justice DeArmond concurred in the judgment.
Presiding Justice Steigmann also specially concurred.

ORDER

¶ 1 *Held*: The appellate court remanded, finding the trial court failed to conduct an adequate inquiry into defendant's *pro se* posttrial claim of ineffective assistance of counsel.

¶ 2 Defendant, Phillip A. Bregin, was convicted by jury of two counts of predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1) (West 2012)) and was sentenced to consecutive 40-year terms on each count. He appealed, raising the following arguments: (1) the trial court failed to conduct an adequate inquiry into his *pro se* claims of ineffective assistance pursuant to *People v. Krankel*, 102 Ill. 2d 181 (1984); (2) the State shifted the burden of proof in its rebuttal argument at trial, denying him a fair trial; (3) the court abused its discretion in sentencing him to consecutive 40-year terms; and (4) the evidence was insufficient to find him guilty beyond a reasonable doubt.

¶ 3 We agree with defendant's first argument and remand for further proceedings.

¶ 4 I. BACKGROUND

¶ 5 On June 28, 2024, defendant was charged by information with five counts of predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1) (West 2012)). Counts I through III alleged that he committed sexual acts with N.C., who was under 13 years of age, using his penis, finger, and mouth. Counts IV and V alleged that he committed sexual acts with A.C., also under the age of 13, using his mouth and finger.

¶ 6 A jury trial was held on October 20, 2025, and October 21, 2025. Defendant was ultimately acquitted of the first three counts and convicted of the latter two. He filed a motion for a new trial, which was denied.

¶ 7 At a sentencing hearing on December 8, 2025, defendant gave a statement in allocution, in which he asserted his innocence, claimed that there was not "a shred of evidence" to support his convictions, and accused the police of performing a "shoddy" investigation. Additionally, he made the following comments about his trial counsel:

> "I asked motions be filed to dismiss, to suppress. [Counsel] never filed the motions I asked him to file on my behalf, where he never explained how the trial process or the jury selection all worked, all the way down to not asking the questions I had prepared for him and instructed him to ask the State's witnesses in the cross examination or the detective in the case, not to mention the evidence he never brought to light which was given to him and would have helped me defend myself in trial."

¶ 8 The trial court paused sentencing proceedings to address defendant's claims of ineffective assistance of counsel. The following conversation took place between the court and defendant:

"THE COURT: Okay. [Defendant], I think you, in talking about ineffective assistance of counsel, you mentioned failure to file a motion to suppress and failure to ask certain questions that you had asked?

[DEFENDANT]: Yes, that he told me he was going to do.

THE COURT: Okay. And how else do you think he was ineffective?

[DEFENDANT]: Well, he didn't bring the Court the evidence that I had given to him.

THE COURT: Oh, you had certain evidence that you wanted—

[DEFENDANT]: Yes.

THE COURT: —him to use at trial?

[DEFENDANT]: Yes. Yes, [Y]our Honor.

THE COURT: All right.

And anything else?

[DEFENDANT]: Like I said, just the evidence, the questions, and the motions.

THE COURT: Okay. Okay. So, these were all things that were done throughout the trial preparation and then during the trial?

[DEFENDANT]: Yes, [Y]our Honor.

THE COURT: Okay."

The court then allowed defense counsel to address defendant's assertions. Counsel stated that he did not believe there existed a good-faith basis in law or fact to file a motion to suppress or a motion to dismiss and that the questions he asked witnesses at trial were matters of trial strategy based on how he felt the questions would be perceived by the jury.

¶ 9 Based on its inquiry, the trial court stated that all of defendant's complaints centered around matters of trial strategy, such as what questions to ask during trial, what evidence to present during trial, and what motions to file. The court also noted that it had observed defense counsel's performance at trial and found him to be "extremely competent, prepared and capable." It particularly emphasized that defendant had been acquitted of three of the charges against him, suggesting that counsel's trial strategy was "pretty effective." The court concluded that defendant's complaints did not require the appointment of new counsel to represent him at a hearing pursuant to *Krankel*.

¶ 10 Defendant was sentenced to 40-year terms on each count, to run consecutively. He filed a motion to reconsider his sentence, which was denied.

¶ 11 This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 Defendant raises the following arguments on appeal: (1) the trial court failed to conduct an adequate *Krankel* inquiry into two of his *pro se* claims of ineffective assistance; (2) the State shifted the burden of proof in its rebuttal argument at trial, denying him a fair trial; (3) his sentences were an abuse of discretion; and (4) the evidence was insufficient to find him guilty of each count beyond a reasonable doubt.

¶ 14 We agree with defendant's first argument and find that remand is necessary. Accordingly, we do not reach the remainder of defendant's claims.

¶ 15 A. Preliminary *Krankel* Inquiry

¶ 16 Defendant argues that the trial court's inquiry into his claims of ineffective assistance of counsel was inadequate because the court never developed the factual basis for two of his claims, specifically, his claims regarding counsel's failure to present evidence at trial and

failure to communicate with him. The State concedes the error on both points and agrees that remand is necessary.

¶ 17 "*Krankel* and its progeny establish the procedures a trial court must follow when a *pro se* defendant raises a posttrial claim of ineffective assistance of counsel." *People v. Cook*, 2023 IL App (4th) 210621, ¶ 52. "A *Krankel* inquiry proceeds in two stages." *Id.* ¶ 53. First, the court must conduct a preliminary inquiry into the factual basis of the defendant's claims. *Id.* If the court determines that the defendant's claims show possible neglect of his case, it must appoint new counsel to represent defendant and proceed to the second stage, a separate hearing on ineffectiveness. *Id.* ¶ 54. If, at the first stage, the court determines that the claims lack merit or pertain only to matters of trial strategy, it need not appoint new counsel. *People v. Moore*, 207 Ill. 2d 68, 78 (2003). When conducting its preliminary inquiry into the factual basis of a defendant's claims of ineffective assistance, "some interchange between the trial court and trial counsel regarding the facts and circumstances surrounding the allegedly ineffective representation is permissible and usually necessary." *Id.* Additionally, a brief discussion between the court and the defendant, the trial court's own knowledge of defense counsel's performance at trial, or the insufficiency of the defendant's allegations on their face may also present sufficient bases for finding the claims meritless. *Id.* at 78-79.

¶ 18 Our standard of review depends on whether the trial court reached the merits of the defendant's claims. *People v. Jackson*, 2020 IL 124112, ¶ 98. We review *de novo* the question of whether the trial court conducted an adequate inquiry into the factual basis of a defendant's claims. *Id.* "However, if the trial court has properly conducted a *Krankel* inquiry and has reached a determination on the merits of the defendant's *Krankel* motion, we will reverse only if the trial court's action was manifestly erroneous." *Id.*

¶ 19 We agree with the parties that the trial court here failed to conduct an adequate inquiry into defendant's claim that trial counsel failed to present certain exculpatory evidence in his defense at trial. In his statement in allocution, defendant argued that counsel did not present evidence that "was given to him and would have helped [defendant] defend [himself] in trial." In discussing this claim with defendant, the court repeated the claim—that defendant had certain evidence that he wanted counsel to use at trial—but inquired no further. This was not a sufficient inquiry into the factual basis of defendant's claim. The court did not determine what the evidence was, whether or when it had been given to defense counsel, or how it might have benefited defendant's case. Further, when the court asked defense counsel to address defendant's claims, counsel limited his response to defendant's first and second claims, that counsel failed to file certain motions and ask witnesses certain questions. From this brief inquiry, the court concluded that all of defendant's claims pertained to trial strategy and did not require appointment of new counsel. However, having never conducted an inquiry into the factual basis of defendant's claim that counsel failed to present useful evidence, the court could not have concluded that counsel's failure to do so was a matter of trial strategy and not an instance of ineffective assistance. Thus, we agree with defendant and the State that the trial court's inquiry was insufficient.

¶ 20 Defendant further argues that the trial court conducted an inadequate *Krankel* inquiry into his claim that trial counsel failed to communicate with him or explain the trial or jury selection process to him. Although the State concedes this point as well, we disagree. In his statement in allocution, defendant stated that counsel never "explained how the trial process or the jury selection all worked." However, a few moments later, when the court repeatedly asked defendant to present his claims of ineffective assistance, defendant did not raise this argument. Indeed, defendant expressly limited his claims to "the evidence, the questions, and the motions."

Where defendant chose not to present this claim to the court when given repeated opportunities to do so, we decline to find that the court was required to conduct any further inquiry into the claim's factual basis. See *People v. Little*, 2021 IL App (1st) 181984, ¶ 51 (finding the trial court was not obligated to conduct a preliminary *Krankel* inquiry into a claim that the defendant did not raise or pursue in the trial court despite being given the opportunity to raise any claims of ineffectiveness he had).

¶ 21 B. Defendant's Remaining Arguments

¶ 22 In his reply brief, defendant argues that we should remand for a *Krankel* inquiry only if, after considering the other issues he raises, we find that he is not entitled to an outright reversal. We disagree. We have repeatedly declined to address other issues raised by a defendant on appeal where we conclude that remand is necessary under *Krankel*. See, *e.g.*, *People v. Bell*, 2018 IL App (4th) 151016, ¶ 37 (declining to address other issues raised by the defendant on appeal where they may become moot depending on the result of the remand proceedings); *People v. Wilson*, 2019 IL App (4th) 180214, ¶ 25 ("Because we are remanding the matter for further proceedings on defendant's *pro se* claim of ineffective assistance of trial counsel, we again decline to reach the merits of defendant's other claims."); *People v. Roberson*, 2021 IL App (3d) 190212, ¶ 23 ("Because we remand the matter for the court to complete posttrial proceedings, it would be premature for this court to consider the remaining contentions raised in this appeal."). If defendant is not satisfied with the outcome of the proceedings on remand, he may again appeal his original claims, if they are still relevant, as well as any supplementary claims relating to the remand proceedings. See *Wilson*, 2019 IL App (4th) 180214, ¶ 26.

¶ 23 III. CONCLUSION

¶ 24 For the reasons stated, we remand for the trial court to conduct an inquiry into

defendant's claim that trial counsel was ineffective in failing to present exculpatory evidence at trial.

¶ 25 Remanded with directions.

¶ 26 PRESIDING JUSTICE STEIGMANN, specially concurring:

¶ 27 Although I fully agree with my distinguished colleagues in the majority, I write this special concurrence to suggest how the trial court might treat this case on remand.

¶ 28 Given that (1) defendant received an aggregate sentence of 80 years in prison and (2) he has already complained about his trial counsel's representation, I view as inevitable that defendant will at some point raise a postconviction claim that he received ineffective assistance of trial counsel. It would be better for that claim to be addressed now—that is, on remand—than months or years down the road, when defendant files a postconviction petition raising that claim. Appointing new counsel now to fully address that issue, if defendant still wishes, would mean that any necessary witnesses would likely still be available and memories about what was said and done might still be relatively fresh.

¶ 29 As a result, instead of conducting a Krankel hearing, I suggest that on remand, the trial court (1) ask defendant if he continues to claim that he received ineffective assistance of counsel from his trial lawyer and (2) if defendant answers yes, then the court should appoint new counsel with directions that appointed counsel look into defendant's claims and then file whatever motions counsel deems appropriate.