

No. 132060

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of
	)	Illinois, No. 4-24-1021.
Plaintiff-Appellee,	)	
	)	There on appeal from the Circuit Court of
-vs-	)	the Tenth Judicial Circuit, Peoria County,
	)	Illinois, No. 21-CF-274.
	)	
STYLES STUCKEY,	)	Honorable
	)	Paul Gilfillan,
Defendant-Appellant.	)	Judge Presiding.
	)	

REPLY BRIEF FOR DEFENDANT-APPELLANT

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ORAL ARGUMENT REQUESTED

E-FILED
5/21/2026 3:22 PM
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ARGUMENT

A new sentencing hearing is required where the trial court considered Styles Stuckey’s irrelevant and unreliable student discipline report as evidence in aggravation.

The state opens its response with an extraordinary ask. It would have this Court hold that an entire class of federal constitutional claims is “not cognizable on direct appeal,” even where—as here—the claim relies solely on the existing record. (Appellee’s brf. at 20.) Because any such holding lacks support in the plain language of Supreme Court Rule 604(d) and does not align with the caselaw on the rule, on the right to counsel, and on the mechanisms for enforcing that right, this Court should refuse the state’s request and consider the merits of Mr. Stuckey’s cognizable claim of ineffective assistance of post-plea counsel.

As a threshold matter, that request is not properly before this Court. The state attempts to frame the desired holding as if it were long-settled law under *People v. Wilk*, 124 Ill. 2d 93, 106-07 (1988), brushing off in a footnote the far more recent case of *People v. Brown*, 2024 IL 129585, ¶¶ 26-44, in which this Court treated as cognizable the defendant’s direct-appeal claim of ineffective assistance of post-plea counsel. (Appellee’s brf. at 26 n.3; see Appellee’s brf. at 20-26.) Yet the state did not so much as suggest in its appellate court brief that claims of ineffective assistance of post-plea counsel are categorically non-cognizable on direct appeal. (See State’s AC brf. at 2-5.) Instead, that brief nominally argued that Mr. Stuckey’s claim of ineffective assistance of post-plea counsel was waived because the claim was not included in his amended motion to reconsider sentence (see State’s AC brf. at 3-4), a dramatically different position from the one the state now takes.

Tellingly, the state observes that “the appellate court below” did not consider “whether or why *all* ineffective assistance of post-plea counsel claims would be cognizable on direct review,” without acknowledging that the state did not raise that sweeping issue for the appellate court to address. (Appellee’s brf. at 26, emphasis in original; see State’s AC brf. at 2-5.) Insofar

as the issue seems to be centered on *Wilk*, 124 Ill. 2d at 106-07 (see Appellee’s brf. at 20-24)—a nearly 40-year-old case that the state did not even baldly cite in its appellate court brief (see State’s AC brf. at ii, 2-5)—its last-minute appearance in the litigation cannot be justified, and this Court should not consider it. See *People v. Salamon*, 2022 IL 125722, ¶ 70 (affirming that “the forfeiture rule applies to the State as well as to the defendant in a criminal case” and collecting cases); cf. *People v. Gray*, 2024 IL 127815, ¶ 19 (“[W]here the appellate court reverses the judgment of the trial court, and the appellee in that court brings the case to this court as appellant, that party may raise any issues properly presented by the record to sustain the judgment of the trial court, even if the issues were not raised before the appellate court.”).

In any event, the cognizability issue newly raised by the state is based on little more than an overreading of *Wilk*. That case involved an earlier version of Rule 604(d), which provided in relevant part that “[n]o appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to withdraw his plea of guilty and vacate the judgment.” (Internal quotation marks omitted.) *Wilk*, 124 Ill. 2d at 99. This Court held that the rule thereby established “a condition precedent for an appeal from a defendant’s plea of guilty,” that is, the timely filing of a motion to withdraw guilty plea or, if only the sentence is being challenged, a motion to reconsider sentence. *Id.* at 105-07, 109-10. Because “a Rule 604(d) motion is a condition precedent to the appeal of a plea of guilty,” the appeal cannot proceed in the absence of the required motion. *Id.* at 107. It follows that the defendant cannot make a direct-appeal claim of ineffective assistance of post-plea counsel based on counsel’s failure to file the required motion, his appeal being subject to dismissal for that very failure. *Id.* at 105-07.

Wilk therefore implicates a narrow slice of a larger pie: the majority opinion forecloses not all direct-appeal claims of ineffective assistance of post-plea counsel, as the state asserts

here (see Appellee’s brf. at 20-24), but only those claims that are based on counsel’s failure to file the motion that is required to “perfect” a guilty-plea appeal. See *Wilk*, 124 Ill. 2d at 105-07. And even a claim of the latter type is not so much non-cognizable as it is impossible to advance as a practical matter, since the appeal in which the defendant would like to advance the claim must be dismissed—missing, as it is, a “condition precedent” to proceed. See *id.*

The limited reach of *Wilk*’s holding is confirmed by the plain language of Rule 604(d). Again, the rule as it then existed provided that “[n]o appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to withdraw his plea of guilty and vacate the judgment.” Ill. S. Ct. R. 604(d) (eff. Oct. 1, 1983). The rule thus unambiguously conditioned the appeal of a guilty plea on the timely filing in the trial court of a motion to withdraw that plea, just as it does today. See Ill. S. Ct. R. 604(d) (eff. April 15, 2024) (“No appeal from a judgment entered upon a plea of guilty shall 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.”).

By contrast, the rule did not then and does not now condition the appeal of a guilty plea on the motion’s *contents*; instead, the plain language of the rule indicates that (1) an appeal may be taken if the necessary motion has been filed, and (2) even if the motion omits an issue that it ought to have included, no more than waiver of the omitted issue results from the omission. See Ill. S. Ct. R. 604(d) (eff. April 15, 2024) (“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. Oct. 1, 1983) (“Upon appeal any issue not raised by the defendant in the motion to withdraw the plea of guilty and vacate the judgment

shall be deemed waived.”); see also *People v. Ratliff*, 2024 IL 129356, ¶ 26 (“Rule 604(d) is unmistakably clear: Any issue not raised in a postplea motion is ‘waived’ on appeal.”), *reh’g denied* (Jan. 27, 2025). As this Court put it about six years after deciding *Wilk*:

“[T]he filing of a motion to withdraw guilty plea is a condition precedent to an appeal. While Rule 604(d) does impose other requirements, *** nowhere in the rule is it stated that the fulfillment of these requirements is a condition precedent to an appeal, and *Wilk*’s further admonition that all of the provisions of Rule 604(d) must be complied with does not create such a precondition.”

People v. Janes, 158 Ill. 2d 27, 34 (1994). Neither the rule nor the caselaw construing it poses any barrier to a direct-appeal claim of ineffective assistance that is based, not on post-plea counsel’s failure to file the necessary motion, but on the deficient contents of a motion that she did file.

Perhaps that is why this Court considered the merits of just such a claim in *Brown*, 2024 IL 129585, ¶¶ 26-44, a case the state explains away by noting that “neither party” there “raised the propriety of the appellate court reviewing” the claim. (Appellee’s brf. at 26 n.3.) But surely if Mr. Brown’s claim were categorically non-cognizable under *Wilk*, this Court would have recognized and flagged such a fundamental flaw. After all, *Brown* and *Ratliff* came out the same day, and *Ratliff* discussed *Wilk* immediately after addressing the “‘waive[r]’ on appeal” of issues omitted from a post-plea motion. See *Ratliff*, 2024 IL 129356, ¶¶ 26-27 (quoting Ill. S. Ct. R. 604(d) (eff. July 1, 2017)). *Wilk* obviously did not escape this Court’s attention as it simultaneously decided *Ratliff* and *Brown* in late 2024.

So by considering the merits of a direct-appeal claim of ineffective assistance of post-plea counsel in *Brown*, 2024 IL 129585, ¶¶ 26-44, this Court seems to have implicitly applied in a Rule 604(d) context the general principle that procedural bars may be relaxed where they resulted from constitutionally deficient representation by counsel. See, e.g., *People v. Guy*, 2025 IL 129967, ¶¶ 67-70 (concluding that the defendant “cleared the procedural bars necessary for relief” on his postconviction claim relating to a jury-instruction error, though trial counsel had invited the

error by agreeing to the instruction, where appointed postconviction counsel failed to raise a claim that direct-appeal counsel was ineffective “for failing to argue trial counsel’s ineffectiveness” in agreeing to the erroneous instruction). *Wilk* came out differently because it involved a “condition precedent” to even taking an appeal, see *Wilk*, 124 Ill. 2d at 105-07, rather than a procedural bar applicable to an issue in an extant appeal, see *Brown*, 2024 IL 129585, ¶¶ 17-20, 26.

Not only does this Court’s caselaw indicate that Mr. Stuckey *may* raise his claim of ineffective assistance of post-plea counsel on direct appeal; it indicates that Mr. Stuckey *must* raise that claim on direct appeal. For “in Illinois, defendants are required to raise ineffective assistance of counsel claims on direct review if apparent on the record.” *People v. Veach*, 2017 IL 120649, ¶ 46. And here, Ms. Sipiora filed an amended post-plea motion that included a procedurally barred claim of sentencing error but omitted allegations that would have overcome the procedural bar, resulting in waiver of the error that she attempted to properly present and preserve. (See C. 380-83/A-71–A-74; R. 141, 147.) An ineffective-assistance claim could hardly be more apparent on the direct-appeal record, which is in no way “incomplete or inadequate for resolving the claim.” See *Veach*, 2017 IL 120649, ¶ 46.

Had Mr. Stuckey raised his claim of ineffective assistance of post-plea counsel in a postconviction petition instead of on this appeal, then, he likely would have encountered an argument that because the claim did not “depend[] upon facts not found in the record,” it “could have been raised and considered on direct review” and was therefore “procedurally defaulted” for purposes of the postconviction proceedings. See *id.* at ¶ 47. Rightly so: as this Court emphasized in *Veach*, “[i]t is not the function of collateral review to consider claims that could have been presented on direct review.” *Id.* In short, any holding that claims like Mr. Stuckey’s are not cognizable on direct appeal, despite being apparent on the record, would be an undeniable departure from both the rule and the reasoning articulated in *Veach*.

And the departure cannot be justified by the state’s suggestion that the cognizability of direct-appeal claims of ineffective assistance of post-plea counsel “would render Rule 604(d) a nullity” by encouraging appellate counsel to “comb the record for potential issues that post-plea counsel might have raised, then obtain review of the omitted issues through the lens of [the] prejudice prong” of *Strickland v. Washington*, 466 U.S. 668 (1984). (Appellee’s brf. at 24; see also Appellee’s brf. at 21.) For the proverbial floodgates are already open to such claims, see, e.g., *Brown*, 2024 IL 129585, ¶¶ 26-44, and yet the state does not even attempt to substantiate its suggestion by demonstrating that the claims have been either numerous or onerous for reviewing courts to adjudicate (see Appellee’s brf. 20-26).

In fact, state and federal authority drastically limits the claims as it is. Under cases like *Veatch*, 2017 IL 120649, ¶¶ 46-51, reviewing courts may decline to consider any claim of ineffective assistance where the claim is unresolvable on the existing record, and under a litany of cases including *Strickland*, 466 U.S. at 689, reviewing courts must indulge a strong presumption that counsel’s challenged act or omission was the product of a sound strategic decision. So a direct-appeal claim of ineffective assistance of post-plea counsel will make it to the prejudice prong only where the existing record shows that counsel’s omission of an issue from the post-plea motion was *not* the product of a sound strategic decision. Such cases will be rare, indeed—largely limited to cases, like the one now before this Court, in which counsel did include the substantive issue in the post-plea motion but failed to “present the issue in the proper legal form.” *Cf. Guy*, 2025 IL 129967, ¶¶ 19-20, 69 (addressing an analogous error by appointed successive postconviction counsel).

The state thus argues past this case when it quotes *People v. Sophanavong*, 2020 IL 124337, ¶ 25, in support of its complaint that defendants are or will be “ ‘raising issues on appeal whether or not [post-plea] counsel considered them of any importance.’ ” (Appellee’s

brf. at 21, alterations in original.) For one, *Sophanavong* involved neither a claim of ineffective assistance of post-plea counsel nor counsel’s presentation of a substantive issue in improper legal form; instead, Mr. Sophanavong’s post-plea counsel entirely omitted the substantive issue from his motion to withdraw guilty plea, and Mr. Sophanvong’s appellate counsel argued that the substantive issue nevertheless was not subject to procedural default as a matter of statutory interpretation, due process, and equitable principles. See *Sophanavong*, 2020 IL 124337, ¶¶ 12-15, 17, 21, 25; Brief for Phouvone V. Sophanavong, Respondent-Appellee, *People v. Sophanavong*, 2020 IL 124337 (No. 124337), available at 2019 WL 7403831. Not so here.

And the existing record in the case before this Court admits of no doubt that Ms. Sipiora considered the discipline-report issue to be of great importance, for she presented that issue as the primary basis for reconsideration of Mr. Stuckey’s sentence. (C. 380-82.) She simply failed to present the issue in the proper legal form, *i.e.*, by way of a claim of ineffective assistance of sentencing counsel for acquiescing to the trial court’s consideration of the discipline report. (See C. 380-82.) This Court concluded that an analogous error in the postconviction context fell short of “a reasonable level of assistance,” a level “less than that afforded by the federal and state constitutions.” See *People v. Addison*, 2023 IL 127119, ¶¶ 19, 26, 30 (“If we defer to [postconviction] counsel’s decision to pursue [certain] issues, why would we then hold that it was reasonable for counsel to fail to shape them into a form that would allow them to be considered?”). So it must be that the error falls short of the higher standard of effective assistance of counsel, and nothing prevents this Court from correcting that constitutional error on direct appeal. Mr. Stuckey’s claim is cognizable.

Remarkably, the state follows up one request to eliminate a complex of direct-appeal claims with another: it next asks this Court to hold that the filing of a certificate tracking the language of Rule 604(d) is “both necessary and sufficient to comply [with] the rule.”

(Appellee’s brf. at 29-30.) Put differently, the state’s position is that a facially sufficient certificate cannot be rebutted with record evidence—no matter how compelling—that post-plea counsel did not actually do the things she certified to having done. (Appellee’s brf. at 27-33.)

The state, then, would have this Court overrule a long line of appellate court cases saying precisely the opposite. See, e.g., *People v. Curtis*, 2021 IL App (4th) 190658, ¶ 37 (agreeing with the defendant that “a facially valid Rule 604(d) certificate may be refuted by the record”); *People v. Winston*, 2020 IL App (2d) 180289, ¶ 14 (“[E]ven when the [Rule 604(d)] certificate is valid on its face, a remand will be necessary if the record refutes the certificate.”); *People v. Bridges*, 2017 IL App (2d) 150718, ¶¶ 8-9, 12 (concluding that “the record refute[d] counsel’s certification that she made any amendments to the [post-plea] motion necessary for adequate presentation of any defects” where she “added new, detailed allegations” to the motion but did not attach a substantiating affidavit); *People v. Little*, 337 Ill. App. 3d 619, 621-22 (4th Dist. 2003) (concluding that the facially sufficient Rule 604(d) certificate was disproved where it was filed nearly a month before the report of proceedings from the plea hearing was available for review and remanding for “proper compliance with Rule 604(d)”). For no fewer than three reasons, this Court should not do so.

First, Mr. Stuckey has abandoned in this Court his alternative request in the appellate court for the rebutted-certificate relief of remand to the trial court for new post-plea proceedings in strict compliance with Rule 604(d). (Compare Appellant’s brf. at 45, with AC Opening brf. at 35; see also PLA at 18-20.) As a result, the question of whether such relief is ever appropriately granted is not presented here, and this Court should not stretch beyond Mr. Stuckey’s case to reach that expansive question. See *People v. Bass*, 2021 IL 125434, ¶ 29 (“Courts of review will not decide moot or abstract questions, will not review cases merely to establish precedent, and will not render advisory opinions.”); *People v. Ringland*, 2017 IL 119484, ¶ 35 (“Generally, a

court of review will not consider an issue where it is not essential to the disposition of the case or where the result will not be affected regardless of how the issue is decided[.]”). Indeed, limits on the scope of this Court’s review are not just prudent but pivotal in a case like Mr. Stuckey’s, where the nonessential issue is weighty and yet was undeveloped below. See *People v. Stuckey*, 2025 IL App (4th) 241021-U, ¶¶ 39-40 (stating without analysis that “a facially valid certificate may be refuted by the record” before denying rebutted-certificate relief).

Second, the appellate court had no opportunity to consider the state’s arguments against certificate rebuttal writ large, because the state did not make anything like those arguments before that court. (See State’s AC brf. at 2-5.) Rather, the state seems to have implicitly conceded in its appellate court brief that a Rule 604(d) certificate may be “refuted” in a case where the record indicates that the defendant “desired to raise” an issue that was omitted from the post-plea motion. (See State’s AC brf. at 4-5, citing *Curtis*, 2021 IL App (4th) 190658, ¶¶ 37-38.) That being so, this Court has even more reason to disregard the state’s certificate-rebuttal arguments here. See *People v. Denson*, 2014 IL 116231, ¶ 17 (“[W]hile a prevailing party may defend its judgment on any basis appearing in the record, it may not advance a theory or argument on appeal that is inconsistent with the position taken below.”); cf. *Gray*, 2024 IL 127815, ¶ 19 (“[W]here the appellate court reverses the judgment of the trial court, and the appellee in that court brings the case to this court as appellant, that party may raise any issues properly presented by the record to sustain the judgment of the trial court, even if the issues were not raised before the appellate court.”).

Third, if this Court nonetheless chooses to consider those arguments, it should reject them as a dangerous elevation of form over substance. Again, the state’s position is that Rule 604(d) requires nothing more of counsel than her filing of a certificate that recites the language of the rule. (Appellee’s brf. at 27-30.) But “fundamental fairness requires that the defendant have the

assistance of counsel in preparing and presenting his [post-plea] motion” in light of “the strict waiver requirements” of the rule. (Internal quotation marks omitted.) *Janes*, 158 Ill. 2d at 35. “Rule 604(d) sets forth [post-plea] counsel’s duties in this regard,” *id.* (internal quotation marks omitted), namely, (1) the duty to consult with the defendant about his “contentions of error in the sentence and the entry of the plea of guilty,” (2) the duty to “examine[] 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 (3) the duty to draft or amend a post-plea motion in a manner adequate to present “any defects in those proceedings,” see Ill. S. Ct. R. 604(d) (eff. April 15, 2024).

So a Rule 604(d) certificate is not an end in itself but a means to the end of due process for the guilty-plea defendant. See *Janes*, 158 Ill. 2d at 35 (emphasizing that the certificate requirement is “designed to insure that [post-plea counsel’s] duties are performed and, thus, that defendant’s due process rights are protected” (internal quotation marks omitted)); see also *People v. Easton*, 2018 IL 122187, ¶¶ 20, 32, 34 (explaining that the rule “dictate[s] the practices that must be followed by defense attorneys in postplea proceedings,” that a certificate is “the mechanism by which the circuit court is able to verify that counsel has fulfilled the rule’s requirements,” and that the “objective” of the certificate is “to describe past conduct,” that is, “what counsel actually did to achieve compliance with the rule”). More precisely, Rule 604(d) identifies three specific duties of post-plea counsel whose performance is necessary “to protect the defendant’s interests” in the preservation of plea and sentencing issues for appeal, and the certificate “serves as evidence” that counsel has performed those duties. See *Easton*, 2018 IL 122187, ¶ 32 (discussing the duty to consult with the defendant about his contentions of error).

It follows that a facially sufficient certificate ordinarily will demonstrate counsel’s performance of her Rule 604(d) duties. It does not follow that certificate evidence may not be rebutted by other record evidence. Yet the state does not identify any case holding that a

Rule 604(d) certificate must be credited over contrary evidence in the record. (See Appellee’s brf. at 28-31.) Most of the cases that the state cites as supposed support for such a holding here are instead cases addressing appellate challenges to the timing or wording of a certificate. See *People v. Gorss*, 2022 IL 126464, ¶¶ 6, 8, 10, 12 (certificate’s wording); *In re H.L.*, 2015 IL 118529, ¶¶ 1, 3-4 (certificate’s timing); *People v. Fitzgibbon*, 184 Ill. 2d 320, 321-24 (1998) (certificate’s wording); *People v. Shirley*, 181 Ill. 2d 359, 365-67 (1998) (certificate’s timing). And the remainder also are not rebutted-certificate cases. See *People v. Lindsay*, 239 Ill. 2d 522, 523 (2011) (answering the question of “whether, on remand for the failure to file a Rule 604(d) certificate of compliance, defense counsel also must file a new motion to withdraw the guilty plea and/or reconsider the sentence”); *Janes*, 158 Ill. 2d at 30, 34-35 (determining the effect on appeal of post-plea counsel’s failure to file a Rule 604(d) certificate at all); *People v. Tejada-Soto*, 2012 IL App (2d) 110188, ¶¶ 1-8, 10-15 (considering a challenge to the hearing conducted on a new post-plea motion filed on a Rule 604(d) remand).

The state makes use of such inapposite cases by repeatedly starting with an accurate quotation and then adding its own transformational word: “only.” For instance, the state quotes *Gorss* for the proposition that “strict compliance requires *only* that the certificate include ‘each element required by the rule.’” (Appellee’s brf. at 28, emphasis added.) But *Gorss* did not make any expression of exclusivity. See *Gorss*, 2022 IL 126464, ¶ 29 (concluding a discussion of certificate wording by saying that “each element required by the rule must be included in the certificate to strictly comply with its terms”). The state similarly quotes *H.L.* for the same proposition that “strict compliance requires *only* that post-plea counsel file ‘a certificate that meets the content requirements of the rule.’” (Appellee’s brf. at 31, emphasis added.) Again, the state characterizes a holding of necessity as a holding of sufficiency. See *H.L.*, 2015 IL 118529, ¶ 25 (concluding a discussion of certificate timing by saying that “[s]trict compliance requires 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”). The state, then, fails to back its bold assertion that this Court “has repeatedly held” strict compliance with Rule 604(d) to require nothing more of counsel than her filing of a facially sufficient certificate (see Appellee’s brf. at 31), and Mr. Stuckey’s own research has not uncovered even one case in which this Court so held.

As for *Tejada-Soto*, the state cites that appellate court case for its reasoning that guilty-plea defendants must not be permitted to evade “*Strickland*’s prejudice requirement” on appeal by “recasting any claim of attorney error [in the post-plea proceedings] as a violation of the holding of *Janes* and Rule 604(d)’s strict compliance standard,” *Tejada-Soto*, 2012 IL App (2d) 110188, ¶ 17. (Appellee’s brf. at 31.) Here, Mr. Stuckey does not disagree: a facially sufficient Rule 604(d) certificate may be rebutted only in a case where record evidence disproves counsel’s certification as to one or more of the three specific duties described by the rule. See, *e.g.*, *People v. Strehlow*, 2025 IL App (4th) 241354-U, ¶¶ 9-12, 15-21 (concluding that “the record refutes defense counsel’s Rule 604(d) certification that he ‘made any amendments to the motion necessary for the adequate presentation of any defects’ in the guilty plea proceedings” where counsel offered evidence on and argued in support of a claim for plea withdrawal that was not raised in any manner in the defendant’s motion to withdraw guilty plea (quoting Ill. S. Ct. R. 604(d) (eff. July 1, 2017))). Any other attorney error in the post-plea proceedings, such as counsel’s deficient performance at the hearing on the post-plea motion, may be raised only by way of a claim of ineffective assistance subject to the ordinary *Strickland* standard.

For the same reason, the state is mistaken in its insistence that the continued availability of rebutted-certificate relief will leave the appellate court “free to *** remand for further proceedings” based on the lack of a record explanation for counsel’s omission of material from the post-plea motion. (See Appellee’s brf. at 30.) Once more, a facially sufficient Rule 604(d)

certification on the duty to amend may be rebutted on appeal only in a case where record evidence contradicts that certification. See, *e.g.*, *Winston*, 2020 IL App (2d) 180289, ¶¶ 4-10, 15 (concluding that a facially sufficient certification on the duty to amend was rebutted where the transcript of the hearing on the post-plea motion showed that counsel orally pursued a plea-withdrawal claim that he failed to include in the written motion). So record silence on the reason for an omission will not rebut counsel’s certification on the duty to amend unless counsel could not have reasonably concluded that an amendment to include the omitted material was unnecessary. See, *e.g.*, *id.* at ¶ 18 (“[W]e fail to see how counsel could raise a new claim at the hearing and yet deem it unnecessary to amend the motion to include that claim.”).

Requests for rebutted-certificate relief, like claims of ineffective assistance of counsel, are thus hindered—not helped—by record silence, as presumptions apply on appeal to fill in the gaps around attorney performance. Compare *id.*, with *Strickland*, 466 U.S. at 689 (describing the “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance”). Still, the presumptions are overcome on occasion. An error by post-plea counsel may even constitute *both* a failure of strict compliance with Rule 604(d) *and* a violation of the constitutional right to effective assistance of counsel at post-plea proceedings, as where counsel’s deficient misframing of a meritorious issue in the post-plea motion prejudices the defendant by resulting in waiver of that issue on appeal. But insofar as counsel’s failure to perform her Rule 604(d) duties often results in an undeveloped record on the defendant’s post-plea claims, some such failures will be reachable only by way of rebutted-certificate relief. See, *e.g.*, *Little*, 337 Ill. App. 3d at 621-22 (concluding that the facially sufficient Rule 604(d) certificate was disproved where the record showed that a boilerplate motion to reconsider sentence was filed, heard, and denied nearly a month before the report of proceedings from the plea hearing was available for counsel to review).

In sum, Rule 604(d) does not provide an exhaustive list of post-plea counsel's duties, as recognized even by the state (Appellee's brf. at 32); rather, the rule identifies for special treatment three duties whose non-performance poses the greatest threat to due process in light of the rule's "strict waiver requirements," see *Janes*, 158 Ill. 2d at 35 (internal quotation marks omitted). And it is counsel's actual performance of those duties that protects the defendant's right of due process, not her bare certification of performance. See *id.* (explaining that the certificate requirement is "designed to insure that those duties are performed and, thus, that defendant's due process rights are protected" (internal quotation marks omitted)). So in cases where a facially sufficient certificate is proved false by other record evidence, the certificate requirement will be no more than an empty formality unless reviewing courts continue to allow the limited relief of remand to the trial court for the performance of those duties before applying Rule 604(d) waiver to the defendant's post-plea claims.

Turning at last to the sentencing issue on which this Court allowed leave to appeal, the state begins its response by arguing that Mr. Morris reasonably acquiesced to the trial court's consideration of the discipline report because any objection would have been meritless under—or even was "foreclosed" by—"binding appellate court precedent," namely, *People v. Ferguson*, 2021 IL App (3d) 200041. (Appellee's brf. at 35-39.) The state's argument here misapprehends the appellate court's holding in *Ferguson* and ignores superior authority from this Court.

To be sure, the *Ferguson* majority rejected the defendant's argument that the trial court "improperly considered his student disciplinary records during sentencing" in light of *Miller v. Alabama*, 567 U.S. 460 (2012), reasoning that (1) the records were "relevant to and consistent with [the defendant's] prior history of delinquency," (2) "the *Miller* rationale" had no application in the defendant's case because he was 23 years old when he offended and was sentenced to just 11 years in prison for his offense of aggravated robbery, and (3) the records "were not

the sole factor considered by the court in formulating the defendant's sentence." *Ferguson*, 2021 IL App (3d) 200041, ¶¶ 14, 17-20. But *Ferguson* did not hold that school disciplinary records are *per se* admissible at sentencing and always properly considered by the trial court; rather, the *Ferguson* majority concluded that Mr. Ferguson's school disciplinary records were admissible at sentencing and properly considered by the trial court that sentenced him, by reference to the facts of his case and the transcript of his sentencing hearing. See *id.*

This case-specific evidentiary conclusion is not a generally applicable holding that binds trial courts state-wide. *Cf. People v. Lighthart*, 2023 IL 128398, ¶ 75 (stating that trial courts were "bound to follow" an appellate court holding that "[f]or postconviction purposes, a direct appeal dismissed for failure to file a timely postplea motion pursuant to Rule 604(d) is tantamount to no appeal at all" (alteration in original)); *People ex rel. Glasgow v. Carlson*, 2016 IL 120544, ¶ 27 (stating that two appellate court decisions were "binding" on the trial court as to their construction of statutory language); *People v. Carpenter*, 228 Ill. 2d 250, 260 (2008) (stating that the trial court "was obliged to follow the holding of the appellate court" that a criminal statute was unconstitutional). And even if *Ferguson* were read to hold that school disciplinary records categorically cannot be excluded from sentencing consideration, however irrelevant and/or unreliable their contents are shown to be in a particular case, that holding would conflict with the long-established and more authoritative rule that sentencing evidence must be both "relevant and reliable" in order to be considered by the trial court. See *People v. Jackson*, 149 Ill. 2d 540, 549 (1992) (collecting cases).

So while the *Ferguson* majority opinion definitely would not have provided support for an objection to Mr. Stuckey's discipline report, neither did that opinion shut the door to an objection given this Court's caselaw conditioning the admissibility of all sentencing evidence on its relevance and reliability. Put another way, the objection would not have

sought a “change in the law,” as claimed by the state (Appellee’s brf. at 36; see also Appellee’s brf. at 35, 37); it would have sought a belated recognition that *existing law* on the admissibility of sentencing evidence applies to school disciplinary records. And as noted by Judge Gilfillan—the trial court judge who imposed sentence on Mr. Ferguson and denied Mr. Stuckey’s amended motion to reconsider sentence—Justice McDade’s partial dissent in *Ferguson* was “a wake-up call or red flag” alert that school disciplinary records might lack relevance and/or reliability at sentencing, regardless of their routinized use in Peoria County courtrooms. (See R. 264-67.) The 2021 filing of *Ferguson* as a whole was thus the beginning of the recognition, and it should have led to defense scrutiny of school disciplinary records in any case where those records might make a difference at sentencing.

This was just such a case. Mr. Stuckey entered a guilty plea that exposed him to a prison sentence of as few as 6 years and as many as 30 years (R. 123-27), and his youth meant that the discipline report was “basically *** all [Judge Lyons] had” in choosing from within that life-alteringly broad range (see C. 137; R. 276). The report was 64 pages of accusations and moral judgments spanning nearly 11 years (see C. 395-458/A-7–A-70), with layer upon layer of hearsay (see, *e.g.*, C. 396/A-8 e.2), innumerable failures of detail and attribution (see, *e.g.*, C. 400/A-12 e.1), and surface-level inaccuracies like a duplicate entry whose particulars do not hold from one page to another (compare C. 454/A-66 e.3, with C. 457-58/A-69–A-70 e.3)—all attached to the PSI, which was filed 5 days before the sentencing hearing and whose receipt and review Mr. Morris acknowledged (see C. 384; R. 138, 141, 147). On those facts, Mr. Morris could not have made a “reasonable professional judgment” that the relevance and reliability of the report were unassailable, or that the report was inadmissible but harmless for sentencing purposes. See *Strickland*, 466 U.S. at 689-90 (explaining that the presumption that counsel’s challenged act or omission was the product of sound strategy is overcome where, “on the facts

of the particular case, viewed as of the time” of the challenged act or omission, that act or omission could not have been “the result of reasonable professional judgment”).

What is more, Mr. Morris did not attempt to use anything in the discipline report as evidence in mitigation, he did not answer ASA Gast’s hyperbolic characterizations of the report, and he did not supply readily available context when ASA Gast emphasized an entry accusing Mr. Stuckey of kicking a teacher, *i.e.*, the fact that Mr. Stuckey was just 6 years old at the time. (See C. 137, 398/A-10 e.1; R. 153-58.) Indeed, Mr. Morris did not so much as acknowledge the report’s existence at sentencing. (See R. 155-58.) So we know that he did not acquiesce to the report’s admission because he planned to somehow neutralize its negative effects or turn the report to Mr. Stuckey’s advantage. See *Harrington v. Richter*, 562 U.S. 86, 109 (2011) (clarifying that the presumption of sound strategy is not license to “indulge ‘*post hoc* rationalization’ for counsel’s decisionmaking that contradicts the available evidence” (quoting *Wiggins v. Smith*, 539 U.S. 510, 526-27 (2003))).

Mr. Morris’s only argument at sentencing was that Mr. Stuckey’s sentence should be shorter than Mr. Monroe’s 24-year sentence because Mr. Monroe had brandished the only gun during the vehicular hijacking. (See R. 155-58.) But Mr. Morris did not identify *any* credible evidence that Mr. Monroe rather than Mr. Stuckey had brandished the gun (see C. 134; R. 155-58), and as the state itself points out (Appellee’s brf. at 2-3), a record proffer made by ASA Gast some six months before sentencing indicates that just the opposite was true (see R. 32-34). Mr. Morris’s exclusive pursuit of a sentencing strategy that was contradicted by the available evidence confirms that he acquiesced to consideration of the discipline report out of sheer neglect—not sound strategy. See *Andrews v. Davis*, 944 F.3d 1092, 1113-14 (9th Cir. 2019) (concluding that the presumption of sound strategy was overcome where counsel pursued a sentencing strategy of “portraying [the defendant] as a follower” of his co-defendant,

rather than presenting available mitigating evidence about the defendant's background, even though the trial evidence had showed that the defendant, not his co-defendant, "was the instigator" of the crime of conviction (internal quotation marks omitted)).

So after almost 40 pages of briefing, the state moves on to its substantive arguments that Mr. Stuckey's discipline report was admissible at sentencing. (Appellee's brf. at 39-57.) The state apparently agrees with Mr. Stuckey that sentencing evidence must be both relevant and reliable to be admissible. (See Appellee's brf. at 41.) But it would have this Court hold that "virtually all information about an offender's background *** is relevant" at sentencing (Appellee's brf. at 41) and that any source of information is reliable so long as it is not "inherently unbelievable" (Appellee's brf. at 42, quoting *People v. Whitehead*, 116 Ill. 2d 425, 154-55 (1987)). In essence, the state acknowledges the admissibility standards of relevance and reliability before defining them out of existence.

This Court should not do the same. Relevance is, after all, traditionally understood to be relational and specific: it "exists only as a relation between an item of evidence and a matter properly provable in the case." Fed. R. Evid. 401, Advisory Committee Notes to 1972 Proposed Rules. So the question as to relevance is not, as the state seems to suggest, whether Mr. Stuckey's personal story was a proper subject of the PSI (see Appellee's brf. at 42-44); certainly it was. See 730 ILCS 5/5-3-2(a)(1) (2022) (providing that a PSI must address "the defendant's history of delinquency or criminality, physical and mental history and condition, family situation and background, economic status, education, occupation and personal habit"). The question is instead whether the 64-page written record of Mr. Stuckey's alleged misbehavior at school when he was as young as 6 years old is proof of some fact that is "pertinent" to the appropriate sentence for an unrelated aggravated vehicular hijacking that he committed when he was 19 years old. See *People v. Crews*, 38 Ill. 2d 331, 337 (1967).

Mr. Stuckey has not argued, and he does not now argue, that a fact is pertinent to the trial court's sentencing decision only if it has been identified by our legislature as aggravating or mitigating. (See Appellant's brf. at 23-24; PLA at 9-10.) But he does maintain, over the state's disagreement (Appellee's brf. at 45 & n.5), that the statutes on aggravating and mitigating factors represent crucial guidance on the relevance of evidence at sentencing, guidance that the judiciary is not free to ignore. *Cf. People v. Heider*, 231 Ill. 2d 1, 20 (2008) (holding that a trial court has no discretion to treat "mental retardation" as an aggravating factor at sentencing because "the legislature chose to i[dentify] mental retardation as a mitigating factor *** but did not choose to i[dentify] it as an aggravating factor"); *People v. Sharpe*, 216 Ill. 2d 481, 487 (2005) (observing that "[w]e generally defer to the legislature in the sentencing arena"); *People v. Hill*, 199 Ill. 2d 440, 450-51 (2002) (concluding that "aggravating and mitigating factors need not necessarily be a part of the sentencing equation if the legislature deems such factors inappropriate," since "[t]he legislature has the power to fix the sentence for a crime and, in turn, limit the scope of judicial discretion with respect to imposing the sentence"), *overruled on other grounds by Sharpe*, 216 Ill. 2d at 515-16.

For even on authority cited by the state (Appellee's brf. at 45)—that is, *People v. Munson*, 171 Ill. 2d 158, 198 (1996), which involved a now-defunct statute specific to death-sentence eligibility rather than the generally applicable statute on aggravating factors—myriad "aspects of [the defendant's] life" are to be considered only insofar as they are "relevant to the sentencing proceeding," and "nonstatutory" aggravating factors may be considered only if they, too, are "relevant." *Munson* therefore does not advance the state's argument that sentencing is unmoored by legislative intent for aggravation and mitigation. And the state does not deny that the statute on aggravating factors lacks any hint of legislative intent that the defendant's noncriminal misbehavior in grade school might justify the imposition of a more severe sentence for an

unrelated crime that the defendant committed years later as an adult. (See Appellee’s brf. at 45 & n.5.) The state points instead to a statute providing that before a minor is committed to the Department of Juvenile Justice, a juvenile court must “review” the “[e]ducational background of the minor, indicating whether the minor has ever *** [had] any disciplinary incidents at school,” 705 ILCS 405/5-750(1)(D) (2023). (Appellee’s brf. at 44, 48.) Far from proving that school discipline is likewise relevant at adult sentencing, that statute suggests that our legislature made the opposite judgment. *Cf. Heider*, 231 Ill. 2d at 20 (concluding that the defendant’s “mental retardation” could not be used in aggravation where “mental retardation” was included in the statute on mitigating factors but was not included in the statute on aggravating factors); 2A Norman J. Singer & J.D. Shambie Singer, *Sutherland on Statutory Construction* § 46:5, at 228-29 (7th ed. 2007) (“[W]here the legislature has employed a term in one place and excluded it in another, it should not be implied where excluded.”).

Why might our legislature have made such a judgment? One answer to that question flows from the *Miller* principles, which counsel that a child’s choices tell us little about the adult he later becomes. See *Miller*, 567 U.S. at 471-72 (discussing the science showing “fundamental differences between juvenile and adult minds” (internal quotation marks omitted)). Based on those principles, it is reasonable to conclude that the record of a child’s behavior in school may have some descriptive and predictive value in a concurrent or near-concurrent juvenile justice setting but lacks such value in asynchronous adult sentencing proceedings.

As to *Miller*, though, the state claims that it is “wholly inapposite” in this case because Mr. Stuckey “does not raise an Eighth Amendment claim; he was not a juvenile offender; and he did not receive a mandatory sentence of life without parole.” (Appellee’s brf. at 47.) The state thus conflates *Miller*’s actionable holding with the scientific basis therefor, a familiar misstep that this Court has already corrected in a different case context. See *People v. Spencer*,

2025 IL 130015, ¶ 34 (explaining that “the science that helped form the basis for the *Miller* decision may assist emerging adult defendants in supporting an as-applied, proportionate penalties clause challenge” to their sentences even though *Miller* does not “directly apply” to such defendants). In other words, the takeaway from *Miller* is not just its rule but its rationale: namely, the United States Supreme Court’s determinations that a child is less morally culpable for antisocial behavior than is an adult and that his personal defects are more likely to be reformed naturally, “as the years go by and neurological development occurs.” *Miller*, 567 U.S. at 472. Whenever a child’s antisocial behavior is being used in court as evidence of his bad character and lack of rehabilitative potential, then, the principles of *Miller* are in play.

The state’s arguments on reliability are similarly unavailing. Recall that the state equates reliable evidence with evidence that is not “‘inherently unbelievable,’” quoting *Whitehead*, 116 Ill. 2d at 454-55. (Appellee’s brf. at 42; see also Appellee’s brf. at 54.) While this Court did use the quoted phrase in *Whitehead*, it gave no indication that it was thereby marking the line between reliability and unreliability. See *Whitehead*, 116 Ill. 2d at 434-35, 451-55 (concluding that the defendant’s confession to committing armed sexual assaults of young girls in vacant fields or along railroad tracks was properly considered by the trial court in imposing the death penalty for the defendant’s aggravated kidnaping and murder of a five-year-old girl, although the confession was “uncorroborated and lacking in detail,” where the defendant admitted on the stand that he had made the confession, three female witnesses testified to other sexual abuse and assaults by the defendant, and “there was nothing inherently unbelievable” about the confession).

Far more instructive here are this Court’s cases indicating that the requirement of reliability is meant to ensure the “accuracy”—that is, the “[c]onformity to fact,” see American Heritage Dictionary of the English Language 12 (5th ed. 2011) (defining “accuracy”)—of all sentencing evidence. See, e.g., *People v. La Pointe*, 88 Ill. 2d 482, 498 (1981) (concluding that the

admissibility of sentencing evidence is controlled by the “relevancy and accuracy of the information submitted”); *Crews*, 38 Ill. 2d at 337 (stating that “before relying on [available and pertinent] information” about the defendant and his offense, the sentencing judge “must determine its accuracy” and “take care to shield his mind from what might be the prejudicial effect of unreliable and other improper evidence”).

And of course, cross-examination is the unrivaled “age-old tool for ferreting out truth.” (Internal quotation marks omitted.) *Perry v. Leake*, 488 U.S. 272, 283 n.7 (1989). Is it any wonder that sentencing evidence deemed reliable has so often been sworn testimony subject to the crucible of cross-examination? See, e.g., *People v. Mertz*, 218 Ill. 2d 1, 78-79 (2005) (fellow inmate’s testimony about the defendant’s jailhouse statements); *People v. Hall*, 194 Ill. 2d 305, 351-53 (2000) (police officer’s testimony about statements taken during the course of an investigation); *People v. Terrell*, 185 Ill. 2d 467, 507 (1998) (testimony of Illinois Department of Corrections (IDOC) official about the defendant’s prison disciplinary records); *People v. Williams*, 181 Ill. 2d 297, 330-32 (1998), *as modified on denial of reh’g* (Mar. 30, 1998) (police officer’s testimony about information compiled during an investigation); *People v. Fair*, 159 Ill. 2d 51, 89 (1994) (testimony of a supervisor in the IDOC records office about the defendant’s prison disciplinary records); *People v. Morgan*, 112 Ill. 2d 111, 144 (1986) (police officer’s testimony about information compiled during an investigation); *La Pointe*, 88 Ill. 2d at 488-89, 498-99 (testimony of an acquaintance of the defendant about incriminating conversations between them).

As to cross-examination, the state acknowledges this Court’s instruction that “evidence of past criminal conduct” by the defendant “should be presented by witnesses who can be confronted and cross-examined, rather than by hearsay allegations” in the PSI, if the conduct did not result in conviction, *Jackson*, 149 Ill. 2d at 548-49. (Appellee’s brf. at 53-54.) But the state minimizes that instruction as no more than “a *preference*” that may be disregarded anytime it sufficiently

inconveniences the state, citing *Fair*, 159 Ill. 2d at 90, in supposed support. (See Appellee’s brf. at 53-54, emphasis in original.) In actuality, *Fair* undermines the state’s position. There, this Court rejected the defendant’s argument that evidence of his violations of prison rules was unreliable, even though the evidence was not presented in the form of testimony by “various persons with personal knowledge of the violations,” where the evidence was presented in the form of testimony by a supervisor in the IDOC records office. *Fair*, 159 Ill. 2d at 89-90. In *Fair*, then, a sworn witness was made available at sentencing to testify regarding the preparation and keeping of the defendant’s prison disciplinary records, and to be confronted with any inaccuracies or irregularities that may have been found in those records. See *id.* That did not happen here. (See R. 148.)

For related reasons, the state misses the mark with its apparent argument that all school disciplinary records are reliable evidence at sentencing because some school records have been admitted at trial under various hearsay exceptions. (See Appellee’s brf. at 50-52.) Even under the exception for records of regularly conducted activity, for instance, a hearsay document cannot be admitted without the testimony or certification of its “custodian” or of another “qualified witness,” and the party against which the document is offered always has an opportunity to show that the document’s “sources of information or other circumstances lack trustworthiness,” Ill. R. Evid. 803(6) (eff. Jan. 25, 2023), *i.e.*, that the document is not reliable enough to be admitted. To say that school records generally may qualify for admission under hearsay exceptions is thus to beg the question of the reliability *vel non* of Mr. Stuckey’s discipline report specifically. See *Terrell*, 185 Ill. 2d at 507 (considering the defendant’s “particular prison records” as part of a reliability analysis). And that is a question that the state essentially avoids through its 10,000-foot view of reliability, never dealing with the report’s inconsistent duplicate entries, vague and confusing entries, or entries comprised of unattributed multiple hearsay. (Compare Appellee’s brf. at 49-56, with Appellant’s brf. at 28-30.)

The state also tries to evade the reliability implications of racism in our schools by asking this Court not to consider certain secondary source materials cited by Mr. Stuckey for the first time on appeal. (Appellee's brf. at 55.) Those materials are: (1) a law review article that was used by Justice McDade in her partial dissent in *Ferguson*, 2021 IL App (3d) 200041, for its survey and discussion of the available data on racial disparity in school discipline; (2) an official Racial Disparities Report for the very same school district that generated Mr. Stuckey's disciplinary records, a report that is available on Peoria County's government website; and (3) this Court's own official statement on racial justice, a statement that is available on the Illinois Courts' government website. (Appellant's brf. at 37-39.)

The first challenged material is of a type not infrequently cited by reviewing courts. See, e.g., *Molina-Martinez v. U.S.*, 578 U.S. 189, 205 & n.1 (2016) (Alito, J., concurring in part) (citing law review articles for their discussion of inter-judge disparities in applying the Federal Sentencing Guidelines); *People v. Huddleston*, 212 Ill. 2d 107, 134-37 (2004) (citing a great number of law review articles for statistics and the results of studies about, among other things, the prevalence and deleterious psychological effects of child sexual abuse). And the second and third challenged materials are of a type that is subject to judicial notice. See *People v. Johnson*, 2021 IL 125738, ¶ 54 (indicating that courts may take judicial notice of "facts that are readily verifiable by referring to sources of indisputable accuracy," including facts that are recorded on government websites). Notably, the state itself relies on a material of that same type, though far more dated and far less illuminating than the materials on which Mr. Stuckey relies: an Illinois Probation and Court Services "Operational Standards" document last revised in 1996, which document does not so much as suggest that school disciplinary records are appropriate for wholesale incorporation into PSIs by attachment thereto. (See Appellee's brf. at 44, 48, 52.) The bottom line is that this Court need not shut its eyes to any

of the challenged materials. *Cf.* Ill. S. Ct. R. 341 (eff. Oct. 1, 2020) (expressing no restriction on the nature or source of authorities that may be cited in support of an argument on appeal).

The state closes with two alternative arguments, neither of which saves its case. The state first argues that even if Mr. Stuckey's discipline report was not admissible as substantive evidence at sentencing, it was admissible to rebut the testimony of his mother, Belinda Williams. (Appellee's brf. at 56.) But none of the cases cited by the state holds that unreliable evidence may yet be admitted to rebut the defendant's case in mitigation. (See Appellee's brf. at 56-57.) At most, a rebuttal connection between the report and Ms. Williams's testimony could be viewed as increasing the report's relevance, not as excusing the report's unreliability, and it remains that both relevance and reliability are required of all sentencing evidence. See *Jackson*, 149 Ill. 2d at 549 ("[T]his court *** has consistently stated that relevance and reliability are the important factors in the consideration of evidence at sentencing.") In any event, no such connection exists, because Ms. Williams did not testify that Mr. Stuckey was well-behaved at school; when asked about her son's childhood, Ms. Williams testified only that he was "a good kid" who did not cause trouble (R. 149), things that may have been true of his home life even if they were not true of his school life (see C. 459-71; see also R. 166-67).

Finally, the state argues that Mr. Stuckey was not prejudiced by Judge Lyons's consideration of the inadmissible discipline report, because the 28-year sentence imposed was based "primarily on the nature and circumstances" of the vehicular hijacking and/or on other aggravating factors like Mr. Stuckey's limited and minor criminal history. (Appellee's brf. at 57-60; see C. 138-39; see also R. 276.) The state's argument here is just a variation on reasoning that Mr. Stuckey has already refuted at some length (see Appellant's brf. at 17-22), and he sees no need to repeat the refutation. He adds only this. Judge Lyons's *ruling* on Mr. Stuckey's original motion to reconsider sentence was "nulli[fied]" by the first of two remands

for strict compliance with Rule 604(d). See *People v. Merriweather*, 2021 IL App (2d) 200379, ¶ 15. Judge Lyons's *remarks* at the hearing on that motion were not similarly undone by the remand. See, e.g., *Shirley*, 181 Ill. 2d at 363-66, 369-70 (considering the entire record, without limitation, on appeal from post-plea proceedings following a Rule 604(d) remand). It is unsurprising that the state attempts a quick claim to the contrary (see Appellee's brf. at 59), as those remarks couple with the sentencing monologue to confirm that some portion of Mr. Stuckey's near-maximum sentence is attributable to Judge Lyons's improper consideration of the report as evidence in aggravation (see R. 166-67, 195-97; see also R. 271, 276).

CONCLUSION

For the foregoing reasons, Styles Stuckey, defendant-appellant, respectfully requests that this Court vacate his 28-year prison sentence and remand his case to the trial court for a new sentencing hearing at which his student discipline report may not be considered as evidence in aggravation.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this reply brief conforms to the requirements of Rules 341(a) and (b), except that it exceeds the length limitation set forth in Rule 341(b)(1); accordingly, a Rule 341(b)(2) motion to file a brief in excess of the length limitation was filed on May 13, 2026. This Court entered an order on May 18, 2026, allowing that motion and granting leave to file a reply brief in excess of the length limitation but not exceeding twenty-seven pages. The length of this reply brief, excluding 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, and the certificate of service, is twenty-six pages.

/s/Amy J. Kemp
AMY J. KEMP
Assistant Appellate Defender

No. 132060

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of
	)	Illinois, No. 4-24-1021.
Plaintiff-Appellee,	)	
	)	There on appeal from the Circuit Court of
-vs-	)	the Tenth Judicial Circuit, Peoria County,
	)	Illinois, No. 21-CF-274.
	)	
STYLES STUCKEY,	)	Honorable
	)	Paul Gilfillan,
Defendant-Appellant.	)	Judge Presiding.
	)	

NOTICE AND PROOF OF SERVICE

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On May 21, 2026, the Reply Brief was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellant in an envelope deposited in a U.S. mail box in Springfield, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Reply Brief to the Clerk of the above Court.

/s/Amanda Mann

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