

**NOTICE:** This order was filed under Illinois Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2026 IL App (3d) 250256-U

Order filed September 10, 2026

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

2026

|                            |   |                               |
|----------------------------|---|-------------------------------|
| THE PEOPLE OF THE STATE OF | ) | Appeal from the Circuit Court |
| ILLINOIS,                  | ) | of the 12th Judicial Circuit, |
|                            | ) | Will County, Illinois,        |
| Plaintiff-Appellee,        | ) |                               |
|                            | ) | Appeal No. 3-25-0256          |
| v.                         | ) | Circuit No. 22-CF-1140        |
|                            | ) |                               |
| ALLEN WHITE,               | ) | Honorable                     |
|                            | ) | Amy M. Bertani-Tomczak,       |
| Defendant-Appellant.       | ) | Judge, Presiding.             |

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JUSTICE PETERSON delivered the judgment of the court.  
Presiding Justice Hettel and Justice Davenport concurred in the judgment.

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**ORDER**

- ¶ 1       *Held:* Defendant waived his claims of error.
- ¶ 2       Defendant, Allen White, appeals his convictions for armed violence and aggravated battery, arguing (1) his convictions violated the one-act, one-crime rule and (2) the Will County circuit court improperly imposed an extended-term sentence, amounting to reversible error under the plain error doctrine. We affirm.

¶ 3

## I. BACKGROUND

¶ 4

The State charged defendant with two counts of armed violence (720 ILCS 5/33A-2(a) (West 2022)), attempted first degree murder (*id.* §§ 8-4(a), 9-1(a)(1)), armed robbery (*id.* § 18-2(a)(1)), two counts of unlawful possession of a weapon by a felon (*id.* § 24-1.1(a)), three counts of aggravated battery (*id.* § 12-3.05(a)(1), (c), (f)(1)), burglary (*id.* § 19-1(a)), and possession of burglary tools (*id.* § 19-2(a)).

¶ 5

On January 6, 2025, defendant entered a guilty plea to one count each of armed violence and aggravated battery. Pursuant to that plea, the State agreed to dismiss the remaining nine charges. The State’s factual basis indicated that Raymualdo Ortiz secured his belongings in a locker at his gym. When Ortiz returned to collect his belongings, he observed the locker open and defendant rifling through his personal items. Defendant approached Ortiz with a screwdriver that he had on his person. When Ortiz was unable to retreat, defendant stabbed Ortiz, causing puncture wounds to his chest and arm.

¶ 6

Defendant’s written guilty plea indicated that he “freely and voluntarily” subjected himself “to the penalty that shall be imposed by the judge.” The court admonished defendant regarding the nature of the charges, the range of penalties, and the fact that he was waiving his right to a trial. The court questioned defendant regarding his understanding of the consequences of the plea. The court found that defendant entered his plea knowingly and voluntarily and accepted defendant’s guilty plea. Following a sentencing hearing, the court sentenced defendant to 25 years’ imprisonment for armed violence and 10 years’ imprisonment for aggravated battery, to be served concurrently. The court admonished defendant of his appeal rights, stating that prior to appealing defendant would have to file a motion to withdraw guilty plea or reconsider sentence and “[a]ny

issues or claim of error not raised in [the] motions are waived.” Counsel informed the court of his intention to file a postplea motion.

¶ 7 On April 23, 2025, defendant filed a *pro se* motion to withdraw his guilty plea. On April 30, defense counsel withdrew defendant’s motion and informed the court that he would file postplea motions. On May 9, 2025, counsel filed a “motion to withdraw guilty plea.” The motion alleged that defendant’s 25-year sentence was excessive in light of the mitigating evidence of defendant’s age, medical conditions, nonviolent criminal history, and family obligations. On the same date, counsel filed an Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024) certificate.

¶ 8 On May 20, 2025, the court heard arguments regarding the motion to withdraw defendant’s guilty plea. Before arguments started, counsel asked the court to “allow [defendant] to withdraw his prior plea of guilty and vacate the judgments of conviction, or in the alternative to reconsider the \*\*\* sentence.” During the hearing, counsel also argued, in the alternative, a “motion to reconsider the length of \*\*\* the sentence.” The court denied the motions, and defendant appealed.

¶ 9 II. ANALYSIS

¶ 10 On appeal, defendant argues that his convictions violated the one-act, one-crime rule and the court improperly imposed an extended-term sentence. Initially, the State concedes in its brief that defendant’s convictions violated the one-act, one-crime doctrine and that he received an improper extended-term sentence for a lesser offense. The State argues however, that defendant waived both issues by failing to raise them in his posttrial motion. Defendant concedes that he failed to include the claims of error in his postplea motions. Thus, defendant must overcome the procedural hurdles established under Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024). See *People v. Ratliff*, 2024 IL 129356, ¶¶ 20, 48 (plurality opinion) (a defendant waives a claim by pleading guilty and failing to raise the issue in a postplea motion).

¶ 11 Rule 604(d) applies to appeals following a plea of guilty and “serves the systemic interest in the finality of judgments, while offering an important outlet that allows the defendant to avoid waiver of any constitutional claims by raising them in a postplea motion.” *Id.* ¶ 23; Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). “Rule 604(d) is intended to ensure that trial courts have an opportunity to correct any potential errors in guilty pleas and sentences prior to appeal, while witnesses are available and memories are fresh.” (Internal quotation marks omitted.) *Ratliff*, 2024 IL 129356, ¶ 27. Rule 604(d) promotes this purpose by incorporating a strict waiver rule: “[u]pon 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. Apr. 15, 2024).<sup>1</sup> “[R]ules concerning guilty pleas, including Rule 604(d), mesh together not only to ensure that defendants’ constitutional rights are protected, but also to avoid abuses by defendants.” (Internal quotation marks omitted.) *Ratliff*, 2024 IL 129356, ¶ 27. Importantly, supreme court rules “concerning criminal defendants and guilty pleas are in fact rules of procedure and not suggestions.” (Internal quotation marks omitted.) *Id.*

¶ 12 Here, defendant entered an open plea to two charges in exchange for the State’s agreement to dismiss the remaining nine charges. The court admonished defendant regarding his range of penalties and the consequences of his guilty plea. The court found defendant entered his plea freely and voluntarily and admonished him of his appeal rights. Defendant filed a *pro se* motion to withdraw his guilty plea. Counsel amended defendant’s motion and made an oral motion to reduce defendant’s sentence, both raising issues solely related to the court’s failure to consider factors in

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<sup>1</sup>To guard against waiver of a meritorious issue, Rule 604(d) contains a certificate requirement from the attorney who prepared a defendant’s postplea motions. Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). While counsel filed a motion to withdraw defendant’s guilty plea, the court also considered counsel’s oral motion to reduce defendant’s sentence. Defendant brings no claim regarding counsel’s representation during plea, sentencing, postplea proceedings, or counsel’s Rule 604(d) certificate.

mitigation when imposing defendant's sentence. Neither motion raised a one-act, one-crime or improper extended-term sentence issues. Defendant raised both of his claims for the first time on appeal. Since defendant did not raise the claims in his postplea motions, the circuit court lacked the opportunity to address and correct any errors. See *id.* Thus, according to Rule 604(d) and our supreme court's decision in *Ratliff*, defendant's omission of the issues in his postplea motions waived consideration on review. *Id.* ¶ 22 (following a guilty plea, a waived issue is not cognizable on appeal, even if it qualifies as "plain error," thus, Rule 615(a) and plain error "in no way speaks to waivers" (internal quotation marks omitted)). Accordingly, we are without authority to reach the merits of those issues. See *id.* ¶¶ 19, 48; *People v. Whitfield*, 228 Ill. 2d 502, 520-21 (2007) (only the supreme court possesses supervisory authority to review claims).

¶ 13 In coming to this conclusion, we acknowledge that the errors at issue have been determined to be second-prong structural errors by our courts. See *People v. Nunez*, 236 Ill. 2d 488, 493 (2010) (one-act, one-crime); *People v. Artis*, 232 Ill. 2d 156, 165-66, 168 (2009) (one-act, one-crime); *People v. Foreman*, 2019 IL App (3d) 160334, ¶ 42 (sentence that is not statutorily authorized); *People v. Myrieckes*, 315 Ill. App. 3d 478, 482-83 (2000) (mistaken belief that defendant is eligible for an extended-term sentence). However, we must reject defendant's contention that forfeiture principles and second prong plain error review apply due to the nature of his claims. Notably, defendant's support for this contention relies on cases which do not specifically discuss the waiver implicated when a defendant fails to raise his claims in a postplea motion under Rule 604(d) and which predate our supreme court's ruling in *Ratliff*. See *People v. Morgan*, 385 Ill. App. 3d 771, 775-77 (2008); *People v. White*, 2025 IL 129767, ¶¶ 31-32; *Artis*, 232 Ill. 2d at 165-66, 168. To the extent that defendant argues that his guilty plea does not waive his claims of error or cites case law directing a reviewing court to implement plain error review, we find that the definition of

waiver in *Ratliff* pursuant to Rule 604(d) precludes such analysis. *Supra* ¶ 10; see *Myrieckes*, 315 Ill. App. 3d at 483; see also *Artis*, 232 Ill. 2d at 165-66, 168.<sup>2</sup> Therefore, we find defendant's claims are waived.

¶ 14 We note that, historically, the Illinois Supreme Court has used the terms waiver and forfeiture interchangeably. *People v. Hughes*, 2015 IL 117242, ¶ 37; *People v. Blair*, 215 Ill. 2d 427, 443 (2005); see also *Ratliff*, 2024 IL 129356, ¶ 62 (Cunningham, J., specially concurring). *Ratliff*, as well as cases involving factually similar circumstances as presented here, have defined the terms of waiver and forfeiture explaining that, *waiver* involves the intentional relinquishment of a known right, whereas *forfeiture* is the failure to make a timely assertion of a right. *Ratliff*, 2024 IL 129356, ¶ 26; *Morgan*, 385 Ill. App. 3d at 775-77; *People v. Sophanavong*, 2020 IL 124337, ¶ 20, *abrogated by Ratliff*, 2024 IL 129356. More simply stated, *waiver* is on purpose, and *forfeiture* can be by accident. However, pursuant to *Ratliff*'s plurality opinion, waiver includes the failure to raise a claim in a postplea motion under Rule 604(d), encompassing the issues in the present case. See *Ratliff*, 2024 IL 129356, ¶¶ 20, 48.

¶ 15 This would at first glance seem to be an inconsistency. However, it is the interpretation of the use of the phrases “any issue” and “known right” that is instructive. The circuit court is required to admonish defendant upon a plea of guilty regarding the requirement to file a motion to reconsider the sentence or to withdraw the guilty plea and that if the motion is denied “[u]pon appeal *any* issue not raised by the defendant in the motion to reconsider the sentence or withdraw the plea of guilty \*\*\* shall be deemed waived.” (Emphasis added.) Ill. S. Ct. R. 604(d) (eff.

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<sup>2</sup>Defendant cites several procedurally inapplicable cases involving appeals which follow trials rather than guilty pleas and thus do not implicate Rule 604(d). See *People v. Lindsay*, 247 Ill. App. 3d 518, 520 (1993); see also *People v. Harvey*, 211 Ill. 2d 368, 373, 376, 378 (2004); *People v. Palen*, 2016 IL App (4th) 140228, ¶ 13; *People v. Foreman*, 2019 IL App (3d) 160334, ¶¶ 11, 42; *People v. Rosenbalm*, 2025 IL App (4th) 241489-U, ¶ 6.

Apr. 15, 2024); *Ratliff*, 2024 IL 129356, ¶¶ 23, 26. Our interpretation of *Ratliff* and the supreme court’s declaration in Rule 604(d) that such issues are deemed waived, is that the words “any issue” as used in Rule 604(d), must mean issues known or unknown by defendant at the time of the plea. Thus, defendant does not have to know of and understand the actual specific issue not raised in the postplea motion. Defendant just needs to know that “any” issue not raised in the motion cannot be raised on appeal. This is the apparent purpose of the admonishment. Thus, if properly admonished by the court, defendant has “knowingly” waived the right to appeal any issues, known or unknown, upon failure to comply with Rule 604(d). This interpretation of *Ratliff* seems to best reconcile the definitions of waiver and forfeiture set forth in our case law with the holding in *Ratliff* and the language of Rule 604(d) that such issues are “deemed” waived by procedural default.

¶ 16

### III. CONCLUSION

¶ 17

The judgment of the circuit court of Will County is affirmed.

¶ 18

Affirmed.