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) 251409-U

NO. 4-25-1409

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 24, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McDonough County
WILLIAM SHAYNE THORPE,	)	No. 25CF115
Defendant-Appellant.	)	
	)	Honorable
	)	Heidi A. Benson,
	)	Judge Presiding.

JUSTICE VANCIL delivered the judgment of the court.
Justices Doherty and Grischow concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, finding (1) the evidence was sufficient to prove defendant guilty of aggravated domestic battery beyond a reasonable doubt, (2) defendant forfeited his claims of error regarding identification testimony from a law enforcement officer, and (3) defendant was not entitled to inquiries into the ineffective-assistance-of-counsel claims he raised before and after trial.

¶ 2 Defendant, William Shayne Thorpe, was convicted by jury of two counts of aggravated domestic battery (720 ILCS 5/12-3.3(a-5) (West 2024)) and one count of domestic battery—enhanced (*id.* § 3.2(a)(1)). The trial court did not enter judgment on the domestic battery conviction because it was a lesser-included offense of aggravated domestic battery. He appeals, arguing (1) the State failed to prove him guilty beyond a reasonable doubt; (2) the court erred in allowing a law enforcement officer to identify defendant's voice in an audio message without a proper foundation being laid and without following the procedural safeguards outlined in *People v. Thompson*, 2016 IL 118667; and (3) the court erred in failing to conduct inquiries into his pretrial

and posttrial claims of ineffective assistance of counsel, as required by *People v. Krankel*, 102 Ill. 2d 181 (1984).

¶ 3 We affirm.

¶ 4 I. BACKGROUND

¶ 5 On June 18, 2025, defendant was charged with two counts of aggravated domestic battery, a Class 2 felony (720 ILCS 5/12-3.3(a-5) (West 2024)), and one count of domestic battery—enhanced, a Class 4 felony (*id.* § 3.2(a)(1)). The charges alleged that defendant had intentionally strangled J.H., a household or family member, by placing his hands around her neck and his forearm against her neck, applying pressure and impeding her normal breathing.

¶ 6 An arraignment hearing was held on July 14, 2025. At the start of the hearing, the following interaction took place between defendant and the trial court:

> "THE COURT: [Defendant], do you need something?
>
> [DEFENDANT]: Yes, [Y]our Honor. I would like to know if I can get a new counsel. My counsel came over July 3rd to the jail.
>
> THE COURT: Short answer is no.
>
> [DEFENDANT]: He told me he had a conflict of interest.
>
> THE COURT: No. That is your attorney who's been appointed. You can hire somebody if you wish, but that is your attorney if you're asking for a court-appointed lawyer."

The court then continued with the proceedings, ultimately finding probable cause and arraigning defendant. Defendant pled not guilty and demanded a jury trial.

¶ 7 Prior to trial, defense counsel filed a subpoena *duces tecum*, seeking a copy of surveillance video footage from the exterior of McDonough District Hospital. The subpoena

specifically requested footage from July 17, 2025, from 6 a.m. to 8 a.m. The subpoena was served shortly thereafter.

¶ 8 Defendant's jury trial began on August 28, 2025. Aric Cremer testified that he was a sergeant with the Macomb Police Department. On June 18, 2025, at approximately 5 a.m., he responded to McDonough District Hospital in response to a call from emergency room (ER) staff that a patient was being treated for injuries sustained in a battery. He testified that it was standard practice for the hospital to notify police when a patient came in with injuries consistent with a battery but noted that the person receiving care was not obligated to speak with police. When Cremer arrived at the hospital, he met with ER staff instead of the patient because his dispatch informed him that the patient did not want to report the incident. He asked the staff to ask the patient again if she wished to speak with police. At that time, the patient, whom he identified as J.H., agreed to speak with him.

¶ 9 Cremer stated that he spoke with J.H. in an examination room. He testified that her voice was "extremely hoarse" and that she had a bruise to the left side of her neck. A photo of the injury to her neck was admitted into evidence. Cremer stated that when he spoke to J.H., she was upset "to the point that as [they] communicated further, she would have to stop as she began crying." J.H. told him that she had been choked by her ex-boyfriend in the early morning hours the day before. She did not immediately provide her ex-boyfriend's name and appeared hesitant to do so. Eventually, she told Cremer that defendant was the person who choked her.

¶ 10 Cremer testified that he wore a body camera when he spoke to J.H. and that it captured their conversation.

¶ 11 Cremer testified that J.H. did not appear manic or excitable in her conversation with him at the hospital. He stated that he had experience interacting with people who were under the

influence of methamphetamine and did not notice any symptoms of methamphetamine intoxication in J.H.

¶ 12 On cross-examination, Cremer was asked if J.H. ever told him that the act of choking was nonconsensual. He stated that she had not told him and he had not asked.

¶ 13 J.H. testified that she had previously had a romantic relationship with defendant, and the two had lived together for a period. When asked if she was still dating him, she stated, "I don't know. No." The State asked her to explain her answer, and she stated, "I don't even want to fucking be here. I don't want to be in this courtroom. I don't want to be in front of none of y'all. I don't want to do this shit at all. You guys have been harassing me."

¶ 14 The trial court interrupted J.H. and encouraged her to take deep breaths. She replied, "Man, whatever. Yeah. Y'all just want to see me locked up. For what? I'm not a fucking criminal. I'm not a criminal. I didn't do shit wrong." The court removed the jury and informed J.H. that she was required by law to testify because she was under a subpoena. It told her to answer the State's questions and warned her against further outbursts.

¶ 15 The jury was brought back in, and the State asked J.H. if she was with defendant on June 16, 2025. J.H. stated that she did not know, adding, "Last thing I remember is, I was at his house. I pushed in his air conditioner, and he was fucking that girl (indicating) in the back over there." When asked if she remembered getting an order of protection against defendant, she answered, "Barely." She testified that she remembered going to the hospital for, according to her, "[a]n injury due to breaking into [defendant's] window." She stated that she did not recall what she told doctors at the hospital about her injury and did not remember meeting with police at the hospital. She admitted that she remembered telling people that defendant choked her, but she explained, "I—it wasn't true. It was because I was mad at him. I just wanted to get him in trouble

because I caught him screwing somebody else."

¶ 16 The State then published four video clips from Cremer's body camera. In the first clip, Cremer walks into a hospital room, and J.H. is lying in a bed. He informs her that she does not have to speak to him and asks if she wants to tell him anything. She states, "My ex-boyfriend strangled me." She tells him the incident occurred at her house the prior morning, on June 17, 2025. Cremer asks if she wants to give him the name of the person who strangled her. She pauses and states, "I'm just really nervous, um, it wouldn't go in my favor." She adds, "You definitely know who he is." When Cremer asks why she thinks it would not go in her favor, she responds, "Just [because] of how he is. He's just, he's dangerous." Cremer assures her that he will do everything he can to help her. After another pause, J.H. states, "I feel like you all know who I was dating." Cremer responds, "I think I'm starting to get an idea."

¶ 17 In the second clip, J.H. gives Cremer defendant's name.

¶ 18 In the third clip, J.H. tells Cremer that she and defendant were having sex when he accused her of lying to him about her interactions with other men. While crying, she states that defendant began choking her and "throwing [her] around."

¶ 19 In the fourth clip, J.H. tells Cremer that the incident occurred in her bedroom while she and defendant were in bed. Defendant was on top of her when he began choking her. She states that she does not know if she lost consciousness during the choking, but after he stopped, she realized she had urinated on herself. She agrees that she felt that her breathing was restricted. She states that after choking her, defendant got off the bed, and she followed him, continuing to argue and "freaking out." She tried to stop him from leaving, and defendant used his forearm to push her up against the door by her neck. She states that he also put his hand over her mouth and nose and "squeezed [her] face really hard." She confirms that she also had trouble breathing during this

interaction.

¶ 20 After the videos were played, J.H. stated from the stand, "Are we done? Like, I'm done." The trial court addressed her, and she said, "No. Don't. I don't want to deal with this shit." The court again removed the jury and admonished her to control her outbursts or risk being held in contempt of court.

¶ 21 After the jury was brought back in, the State asked J.H. if she had gotten an emergency order of protection against defendant. J.H. confirmed that she had but stated that it was irrelevant because it had been dismissed. She continued stating that it was irrelevant as the State offered it into evidence. The State asked for permission to treat J.H. as a hostile witness, which was granted. After J.H. refused to read the statement she gave in the order of protection, the trial court allowed the State to read it. The statement described the same general sequence of events that J.H. had told Cremer, including that defendant had choked her twice, both during and after the two had sex, resulting in her urinating on herself. J.H. further relayed in the statement that she was extremely dizzy after defendant left and had tried for hours to get a ride to the hospital.

¶ 22 The State asked J.H. if she had appeared at a pretrial hearing after defendant was arrested. J.H. stated she did not remember. The State asked her if, at that hearing, she told the trial court that she enjoyed "rough sex" and had asked defendant to choke her during sex. She confirmed that she had.

¶ 23 On cross-examination, J.H. confirmed that she had been diagnosed with several mental health conditions, including post-traumatic stress disorder, borderline personality disorder, bipolar disorder, and generalized anxiety disorder. She agreed that mood changes and emotional volatility were symptoms of borderline personality disorder and bipolar disorder.

¶ 24 Still on cross-examination, J.H. testified that before she went to the hospital, she

caught defendant cheating on her at his house. She stated she pushed in his window air-conditioning unit and crawled through the window, injuring her neck in the process. She again stated that she engaged in "BDSM-type sexual activities" with defendant. She also stated that before going to the hospital, she stood on the hood of defendant's car to prevent him from leaving. She further stated that she, defendant, and a friend named Treshawn Howard, had gone to the hospital together so that Howard could be treated for a broken wrist. This occurred after she was choked but prior to her going to the hospital on her own.

¶ 25 On redirect, the State asked J.H. to explain how she sustained the injury to her neck. J.H. stated that a corner of defendant's window air-conditioner had "scratched [her]" when she crawled through his window.

¶ 26 The State asked J.H. if it was true that she told two detectives that she had been "calling around to try to get a ride to the hospital since the choking incident occurred." J.H. stated she did not remember. The State asked if she remembered showing officers conversations on her phone that she had with a woman named Melissa Hughes. J.H. confirmed that she did and that Hughes was the woman she had caught defendant having sex with. J.H. agreed that she contacted Hughes in an attempt to get in touch with defendant. She denied that she was attempting to reach defendant in order to get a ride to the hospital.

¶ 27 William Anderson, an ER nurse at McDonough District Hospital, testified that on June 18, 2025, between 4 a.m. and 5 a.m., he treated J.H., who stated that she had been choked. She had bruising on her neck and her voice was hoarse, which he testified were injuries consistent with having been choked. She also told him she had been dizzy since the incident and experienced urinary incontinence. Anderson testified that it was common for a person who lost consciousness to experience urinary incontinence. He asked J.H. who choked her, but she did not tell him. He

asked her if she felt safe at home, and she said no. He agreed that he never told J.H. she was obligated to speak with police officers.

¶ 28 Joseph Calvo, an emergency physician at McDonough District Hospital, testified that he treated J.H. on June 18, 2025, after she came in due to acute worsening of dizziness stemming from an injury to her neck. While J.H. told him she had received the injury in an assault from a male, she did not disclose the identity of the person who choked her. Calvo testified that she did not tell him she lost consciousness, but she did tell him she lost control of her bowels, which would indicate a loss of consciousness. He stated that he did not test J.H. for any alcohol or illicit substances because she was alert and oriented and her thoughts were linear. He also confirmed that he did not require J.H. to speak with police officers in order to receive treatment.

¶ 29 On cross-examination, Calvo testified that J.H. reported she was hoarse prior to the choking incident. He agreed that he could not state with certainty the source of the bruising to J.H.'s neck.

¶ 30 Nick Severs, a detective with the Macomb Police Department, testified he met with J.H. later in the morning on June 18, 2025, at the McDonough County State's Attorney's Office. Another detective, Jordan Hawes, was also present. Severs testified that J.H. had information she wanted to share pertaining to an investigation of defendant. His interaction with J.H. was recorded on his body camera. Severs testified that J.H. showed the detectives texts and audio messages on her phone. The text messages were from Hughes's Facebook account, but J.H. informed the detectives that she was communicating with both Hughes and defendant through the account.

¶ 31 The State moved to admit footage from Severs's body camera that captured the text and audio messages on J.H.'s phone. Defense counsel objected as to foundation, which was overruled. The footage showed a text conversation on J.H.'s phone between J.H.'s account and an

account named "Melissa Hughes." In the text conversation, J.H. wrote, "Tell your dude to answer the phone," and, "I need a fucking ride to the hospital." She wrote, "My parents wont [*sic*] answer nobody will answer I haven't been able to stay awake very long and there's no way I'll make the walk thre [*sic*]." J.H. further texted that she and defendant had sex and that he got mad and "choked [her] so hard [she'd] been having dizzy spells ever since and there [*sic*] getting worse." As Severs scrolls through the text conversation, Hawes can be heard speaking to J.H. in the background. J.H. confirms to Hawes that defendant had contacted her from Hughes's account, "confirming that it [was] him." Severs then plays an audio message from the conversation, in which a male voice is heard saying the following:

> "Bro, this is me. I just told you I am fucked up off these motherfucking shrooms and you don't give a fuck about none of that, you keep talking about coming to your goddamn house. I'm so fucked up on shrooms that I can't—does anybody care about that? I can't even get the fucking car back to my house. Bitch, I don't care if you come to my house! You're gonna get your feelings hurt. Now I'm mad."

¶ 32 The video then shows a text sent from J.H.'s account stating, "And I'll tell the hospital exactly who did it then he told me he would come hre [*sic*]." Severs then plays a responsive audio message in which the same male voice states, "[A]nd since I'm so—then go tell the hospital who did it! *** [T]ell the hospital exactly what you want to tell them. I'm so glad I got these messages. You're so dumb. I was nowhere even near you tonight and I can prove it." Another text message is shown from J.H.'s account that reads, "You did it last night stupid."

¶ 33 After the conclusion of the video, the State asked Severs if he recognized the voice from the recorded audio messages. Severs stated that he did and that it was defendant. When asked

how he recognized defendant's voice, Severs replied, "I'm familiar with [defendant]." He then identified defendant in court.

¶ 34 The State then rested its case. Defendant offered no evidence in his defense. Defendant was ultimately convicted by the jury of two counts of aggravated domestic battery and one count of domestic battery.

¶ 35 Defendant filed a motion for a new trial, arguing, *inter alia*, the evidence was insufficient to find him guilty. At a hearing on November 10, 2025, the trial court denied his motion and sentenced defendant. Prior to his sentencing, defendant gave a lengthy statement in allocution, in which he denied having sex with J.H. or choking her, claimed the mark on her neck was from her attempting to hang herself with a six-foot iPhone charging cord, and argued that J.H. accused him of choking her to avoid being sent back to "Streamwood" based on her suicide attempt. He further claimed police officers did not do a thorough investigation of his case and that the State persisted in prosecuting him while knowing that J.H. lied in her statement and in open court. He also appeared to make multiple references to his trial attorney. For example, when explaining that he, J.H., and Howard had gone to the hospital on June 17, 2025, he stated,

> "I tried to get the evidence for that. My lawyer put the wrong date on the [subpoena] *duces tecum* or whatever, and the hospital ended up erasing the video. She was at the hospital. *** If she was threatened or if any of this had happened, she could have ran, she could have went into the hospital and seeked [*sic*] help, any of that."

He further added, "I'm not lying about anything that I said, and I know that he did his job and he did what he could do, but he's not an investigator, you know?" Defendant also stated,

> "I didn't do this. We didn't have sex. That's why I was telling him, I'm not adopting

> that. We didn't have sex. It wasn't true. She tried to kill herself and she didn't want to go back to Streamwood. That's—that's the truth. If I could get her social media, I would show you. I'd show you. I can—I can prove it, but I don't have the means, and he don't have the time or the means to do so."

Finally, defendant stated that his grandmother wanted to hire a private attorney to represent him, but he had declined due to his professed innocence. He stated,

> "Now I'm in a position where I wish I would have went and got it because it would have been—he would have been able to get investigators and get other things, and I would have had everything that I needed. Not saying that he didn't do his best, he did, but he's got other cases, and I just—I need the help."

¶ 36 The trial court sentenced defendant to six years on each count of aggravated domestic battery. Defendant filed a motion to reconsider his sentence, which was denied.

¶ 37 This appeal followed.

¶ 38 II. ANALYSIS

¶ 39 Defendant raises the following arguments on appeal: (1) the State failed to prove beyond a reasonable doubt that he committed aggravated domestic battery where the case rested on J.H.'s "unreliable, disavowed" prior statements; (2) the trial court erred in allowing Detective Severs to identify defendant's voice on the recorded audio messages where he had no familiarity with defendant's voice or, alternatively, the court erred in allowing Severs's identification testimony without employing the procedural safeguards for law enforcement opinion identification testimony established in *Thompson*; and (3) the court erred in failing to conduct *Krankel* inquiries into defendant's pretrial and posttrial claims of ineffective assistance of counsel.

¶ 40 We will address each issue in turn.

¶ 41 A. Sufficiency of the Evidence

¶ 42 Defendant first argues that no rational trier of fact could have found him guilty of aggravated domestic battery on the basis of J.H.'s unreliable statements. He notes that J.H. offered multiple inconsistent stories to account for the injuries to her neck and argues that her "long history of severe mental health disorders" further cast doubt on her testimony. He asserts that J.H. had motive to lie and that her motive "aligned with the overall timeline, undermin[ing] the veracity of her prior statements." For example, he notes that J.H. waited over 24 hours after her injury to contact defendant to get a ride to the hospital, that her text conversation with Hughes suggested that she was confrontational rather than afraid, and that she did not seek help when she first went to the hospital with defendant and Howard. He states that this evidence aligns with her testimony that she lied about defendant choking her due to her anger over seeing defendant with another woman. Finally, he argues that the State failed to prove that J.H.'s breathing was intentionally impeded where the injury to her neck may have resulted from consensual "rough sex" or the "[air conditioning] unit incident."

¶ 43 "When a defendant challenges the sufficiency of the evidence, a reviewing court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *People v. Jackson*, 2020 IL 124112, ¶ 64. In making this determination, a reviewing court will not substitute its judgment for that of the trier of fact on issues involving the weight of the evidence or the credibility of the witnesses. *Id.* Where a witness's trial testimony contradicts an earlier statement, it is for the trier of fact to determine which account of events to believe. *People v. Brooks*, 187 Ill. 2d 91, 133 (1999). "Even a recanted statement alone can be sufficient" to affirm a conviction. *People v. Heller*, 2017 IL App (4th) 140658, ¶ 35. We will not set aside a criminal

conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *Jackson*, 2020 IL 124112, ¶ 64.

¶ 44 We find that the evidence here was sufficient to allow a rational trier of fact to find defendant guilty of aggravated domestic battery. To prove that defendant committed aggravated domestic battery, the State was required to prove that, in committing domestic battery, he intentionally impeded J.H.'s normal breathing by applying pressure to her throat or neck. 720 ILCS 5/12-3.3(a-5) (West 2024).

¶ 45 J.H. provided three contradictory explanations for the injuries to her neck. In her original statements to police officers and medical staff, J.H. stated that defendant choked her twice, both during and after the two had sex, leading her to lose control of her bladder, experience increasingly worsening dizziness, and sustain bruising to her neck. However, at a pretrial hearing, J.H. testified that although defendant had choked her, the choking was a consensual part of "rough sex." Then, at trial, J.H. testified that defendant had not choked her at all and that she had fabricated the story after catching defendant cheating on her with Hughes. At trial, she maintained that she injured her neck after punching in defendant's window air conditioning unit and crawling through his window.

¶ 46 The jury reasonably concluded that J.H. told the truth in her initial statements to police officers and medical staff rather than in her later testimony. In those initial statements, J.H.'s statements remained consistent. She repeated to multiple people, at different times, that defendant had choked her twice in her bedroom and that she lost control of her bladder.

¶ 47 Further, when speaking with Cremer, J.H. appeared calm and levelheaded. In contrast, at trial, she had frequent emotional outbursts, contradicted herself, and responded aggressively or not at all to questioning. The jury could reasonably have compared J.H.'s demeanor

between her initial statements to her trial testimony and determined that she was speaking truthfully in her first account and lying in her later recantation.

¶ 48 We also note that J.H. testified at trial that she lied in her initial statement to police and medical staff because she was angry at defendant and wished to see him punished. However, this was contradicted by the fact that, in her earlier statements, she was reluctant to speak to police at all, and especially to give them defendant's name. Where her claimed motive for lying was undermined by the content of her initial statements, the jury could reasonably have disbelieved that such a motive compelled her initial statements.

¶ 49 Moreover, the physical evidence corroborated J.H.'s initial account to police. A photo of J.H. taken at the hospital was entered into evidence that showed a line of bruising to the left side of her neck. This injury was more consistent with her account of defendant asserting pressure on her neck than it was with her trial testimony that she "scratched" her neck on a window air conditioning unit. This gave further credence to her initial story than her later recantation.

¶ 50 We find defendant's arguments on this issue unpersuasive. He argues that J.H. suffered from multiple mental illnesses but does not explain why her mental health struggles should render her account of defendant choking her unbelievable, particularly where her account was corroborated by physical evidence. Further, although defendant is correct that J.H. did not seek medical attention until approximately 24 hours after the choking incident, this was explained by the testimony of Calvo, who stated that J.H. sought treatment only after experiencing dizziness that worsened as time went on. This would explain her delay in seeking treatment and why she might have appeared fine and able to walk when accompanying defendant and Hughes to the hospital at an earlier point. Defendant additionally points to evidence that J.H. still trusted him after the hospital visit and wanted to maintain a relationship with him. However, despite their

relationship having periods of calm, a jury could still reasonably conclude that defendant choked J.H. with the provided evidence.

¶ 51 In sum, defendant asks us to weigh the evidence and substitute our own judgment for that of the jury. We will not do this. *Jackson*, 2020 IL 124112, ¶ 64. The jury chose to believe J.H.'s initial statement that defendant choked her. Based on the evidence discussed above, this was reasonable and was sufficient to find defendant guilty beyond a reasonable doubt.

¶ 52 B. Audio Message Identification

¶ 53 Defendant next argues that no proper foundation was laid regarding Severs's identification of defendant's voice in the audio messages captured by his body camera. He states that Severs's testimony that he was "familiar with" defendant was insufficient. He further argues that because Severs was a law enforcement officer, the trial court should have implemented the procedural safeguards established in *Thompson* prior to allowing him to identify defendant's voice. He acknowledges that he did not preserve these issues for review but contends that they are reviewable under the first prong of plain error or, alternatively, as ineffective assistance of counsel.

¶ 54 "To preserve a purported error for consideration by a reviewing court, a defendant must object to the error at trial and raise the error in a posttrial motion." *People v. Sebby*, 2017 IL 119445, ¶ 48. "Failure to do either results in forfeiture." *Id.* However, plain errors may be noticed and reviewed where (1) a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatens to tip the scales of justice against the defendant or (2) a clear or obvious error occurred and the error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process. *Id.* "In determining whether the evidence adduced at trial was close, a reviewing court must evaluate the totality of the evidence and conduct a qualitative, commonsense assessment of it within the context of the case." *Id.* ¶ 53. "A reviewing

court's inquiry involves an assessment of the evidence on the elements of the charged offense or offenses, along with any evidence regarding the witnesses' credibility." *Id.*

¶ 55 Similarly, a defendant may overcome procedural default by alleging ineffective assistance of counsel. *People v. Tayborn*, 2016 IL App (3d) 130594, ¶ 13. To establish ineffective assistance of counsel, a defendant must show (1) that his counsel's performance was deficient and (2) that the deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). "[T]he proper standard for attorney performance is that of reasonably effective assistance." *Id.* A reviewing court will indulge a strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance. *Id.* at 689. To prove prejudice, it is not enough for a defendant to show merely that counsel's errors had "some conceivable effect on the outcome of the proceeding," as "[v]irtually every act or omission of counsel would meet that test." *Id.* at 693. Rather, the defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Id.* at 694. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* The failure to establish either deficient performance or resulting prejudice is fatal to a claim of ineffective assistance. *Jackson*, 2020 IL 124112, ¶ 90.

¶ 56 1. *Foundation*

¶ 57 "Audio recordings that are otherwise competent are admissible when a proper foundation is laid that assures the court of the recording's reliability and authenticity, including the identification of voices." *People v. Camacho*, 2018 IL App (2d) 160350, ¶ 23. "In other words, the trial court need only determine the identity of the person(s) on the recording and may do so through voice identification or other corroborative circumstances." *Id.* A proper foundation is laid where the witness testifies that he has heard the defendant's voice before, that he recognizes the

voice he heard, and that it is the defendant's voice on the recording. See *People v. Harris*, 17 Ill. 2d 446, 450 (1959). We review rulings on the admissibility of evidence for an abuse of discretion. *Camacho*, 2018 IL App (2d) 160350, ¶ 23.

¶ 58 Here, Severs identified defendant, testified that he recognized defendant's voice in the audio messages, and stated that he was familiar with defendant. While the details of Severs's familiarity with defendant were somewhat ambiguous, Severs's identification of defendant's voice was nevertheless sufficient to lay a foundation for the audio messages. Defendant appears to argue that, in the absence of Severs providing details about his past interactions with defendant, Severs was unable to lay a foundation for the audio messages. We find no support for this position, and defendant has not provided us with any.

¶ 59 Instead, defendant relies on *People v. Howell*, 358 Ill. App. 3d 512 (2005), a case that is easily distinguishable. In *Howell*, the appellate court determined that a witness was unable to identify the defendant's voice in a phone call where she testified that she had not heard the defendant speak before and had only ever seen him from a distance. *Id.* at 520. This is clearly distinguishable from the instant case, in which Severs testified that he was able to identify defendant's voice because he was familiar with him. Indeed, we note that in *Howell*, the court specifically found the witness was unable to identify the defendant's voice because it could not be inferred from her statement that she "was familiar with the defendant's voice." *Id.* Here, the trial court did not need to infer Severs's familiarity with defendant; Severs stated it outright. We find that the trial court did not abuse its discretion in admitting recordings of the audio messages based on Severs's identification.

¶ 60 Because we find no error, we likewise find no plain error. Further, because there was no error, counsel could not have been ineffective in failing to object to the admission of the

audio messages. Accordingly, defendant has forfeited this issue.

¶ 61 2. Thompson*'s Procedural Safeguards*

¶ 62 Defendant further argues that even if an adequate foundation was laid to admit Severs's identification testimony, the trial court erred in failing to employ the procedural safeguards described in *Thompson* for that testimony.

¶ 63 The defendant in *Thompson* was charged with violating the Methamphetamine Control and Community Protection Act (720 ILCS 646/25(a)(2), (d)(2) (West 2010)). *Thompson*, 2016 IL 118667, ¶ 1. Specifically, the defendant was charged with stealing anhydrous ammonia from a local farm supply company. *Id.* ¶ 4. At trial, four witnesses identified the defendant as the individual depicted in a surveillance video and still photographs taken from the crime scene. *Id.* ¶ 1. Three of these individuals were law enforcement officers. *Id.* ¶¶ 13, 17, 23. The fourth person was an acquaintance of the defendant and was not a law enforcement officer. *Id.* ¶ 21. Both before and at trial, the defendant objected to the admissibility of the lay opinion identification testimony of the witnesses, arguing that it invaded the province of the jury as the finder of fact. *Id.* ¶¶ 5, 24. The trial court denied his pretrial motion and his objection. *Id.* ¶¶ 6, 24. Following his conviction, he appealed. *Id.* ¶ 30.

¶ 64 The supreme court considered the question of whether and under what circumstances law enforcement officers could provide identification testimony. *Id.* ¶ 55. The defendant argued that he would be prejudiced by allowing identification testimony from law enforcement officers because "a complete and uninhibited cross-examination regarding the witness's familiarity [was] not possible since questions could reveal information about the defendant's criminal past." *Id.* The court held that there was no *per se* rule against the admission of a law enforcement officer's lay opinion identification testimony because the defendant's right

to confront witnesses against him was only denied where the court prohibited a defendant from engaging in cross-examination. *Id.* ¶ 56. Because the inability to cross-examine a law enforcement officer would be a tactical decision made by defense counsel and not a limitation imposed by the court, the court found no sixth amendment violation (U.S. Const., amend. VI). *Id.*

¶ 65 However, the court held that safeguards should be employed in situations concerning lay opinion identification by law enforcement officers. First, it held that defendants should be afforded the opportunity to cross-examine the officer to establish the foundation for his testimony outside of the presence of the jury. *Id.* ¶ 59. The court explained,

> "This will provide the defendant with an opportunity to explore the level of the witness's familiarity as well as any bias or prejudice. Moreover, it will allow the circuit court to render a more informed decision as to whether the probative value of the testimony is substantially outweighed by the danger of unfair prejudice." *Id.*

Second, the court held that a law enforcement officer's "testimony involving his acquaintance with the defendant should consist only of how long he knew the defendant and how frequently he saw him or her." *Id.* The court finally held that, "to lessen any concerns regarding invading the province of the jury or usurping its function," the trial court should instruct the jury, before the officer's identification testimony and in its final instructions, that it "need not give any weight at all to such testimony" and should "not *** draw any adverse inference from the fact the witness is a law enforcement officer if that fact is disclosed." *Id.*

¶ 66 Defendant here argues that the trial court should not have permitted Severs to identify the voice on the audio messages recorded on his body camera as defendant's without employing the safeguards discussed in *Thompson* for law enforcement identification testimony. The State concedes the error but argues that defendant cannot overcome his forfeiture of the issue.

¶ 67 Arguably, *Thompson*'s procedural safeguards for law enforcement identification testimony apply in the instant case because the possibility for prejudice exists regardless of whether the officer is identifying the defendant by appearance in a surveillance video or by voice in an audio call. Specifically, defendant here could not have questioned Severs on his familiarity with defendant without exposing the jury to his prior run-ins with law enforcement. However, even assuming *Thompson*'s safeguards apply in the instant context, defendant cannot establish prejudice under either a plain error theory or an ineffective assistance of counsel theory and has thus forfeited the issue.

¶ 68 Defendant argues that the first-prong plain error exception to forfeiture applies in this case because the evidence was closely balanced. We disagree. As discussed previously, the State's central witness in this case was J.H., who gave conflicting accounts of whether defendant strangled her, whether the act was part of a consensual sexual encounter, and whether the injury she sustained to her neck stemmed from defendant's choking her or from an encounter with a window air conditioning unit. Although J.H. disavowed her statements to officers and hospital staff that defendant strangled her, her alternative account of events was unbelievable and ran counter to the physical evidence presented at trial. As stated above, J.H.'s original account was coherent and consistent when she shared it with medical staff and police officers. In contrast, her latter accounts were contradictory and argumentative, delivered with a clear disdain for the trial court. Further, J.H.'s explanation for giving differing accounts (that she wished to get defendant in trouble) was belied by her initial statement, in which she appeared reluctant to speak with police or give them defendant's name. Finally, J.H.'s account of the injury to her neck as resulting from a "scratch" from an air conditioner was inconsistent with the photographic evidence shown at trial, as well as the testimony of various witnesses, who identified bruising to her neck, not a scrape. As

part of our assessment of the evidence, we are charged with assessing the evidence regarding the witnesses' credibility. *Sebby*, 2017 IL 119445, ¶ 53. Here, the various accounts offered by J.H. were not equally plausible. Only her initial account, that defendant twice impeded her breathing to the point that she sustained bruising to her neck and lost control of her bladder, was both credible and supported by extrinsic evidence. Accordingly, we conclude that the evidence in this case was not closely balanced. *Cf. People v. Naylor*, 229 Ill. 2d 584, 608 (2008) (finding the evidence closely balanced where two different versions of events were equally plausible and there was no additional evidence to corroborate either version). Defendant therefore has not established the prejudice prong of plain error.

¶ 69 Similarly, defendant cannot establish prejudice with respect to his claim of ineffective assistance of counsel. Defendant alleges two instances of ineffective assistance. He asserts that trial counsel was ineffective in (1) failing to request that the trial court employ *Thompson*'s procedural safeguards and (2) failing to preserve the issue for review by including it in a posttrial motion.

¶ 70 As stated previously, under *Thompson*, when a law enforcement officer provides lay opinion identification testimony, the trial court is required to (1) "afford the defendant an opportunity to examine the officer outside the presence of the jury" and (2) instruct the jury, before the testimony and at the close of evidence, that it need not give any weight to the officer's testimony and should not draw any adverse inference from the fact that the witness is a law enforcement officer. *Thompson*, 2016 IL 118667, ¶ 59. Additionally, although a law enforcement witness may identify himself as an officer, his testimony "should consist only of how long he knew the defendant and how frequently he saw him or her." *Id.*

¶ 71 Defendant cannot show that there exists a reasonable probability that the result of

his trial would have been different if counsel had requested that *Thompson*'s procedural safeguards be followed. At the outset, we note that Severs did not testify to any specific past experiences with defendant at trial. He stated that he was familiar with defendant but did not specifically state that his familiarity stemmed from his employment as a detective. This aspect of Severs's testimony was in compliance with *Thompson*.

¶ 72 Defendant was also not prejudiced by his counsel's failure to request the opportunity to examine the source of Severs's familiarity with defendant outside of the jury's presence. The purpose of this procedure is to prevent the jury from hearing testimony that would establish a defendant's criminal past such that he would be familiar to law enforcement officers. Here, as stated, Severs testified only that he was familiar with defendant and did not give the jury any additional information to conclude that his familiarity stemmed from defendant's criminal past. Although no hearing was held outside of the jury's presence, the jury was still not presented with information beyond the bare fact that Severs was a law enforcement officer who knew defendant, something which *Thompson* allows. See *id.*

¶ 73 Moreover, even if defendant had been afforded the opportunity to explore Severs's familiarity with him outside of the jury's presence, and even if that exploration established a lack of foundation such that Severs's identification testimony would have ultimately been excluded, even this would not have created a reasonable probability of a different result at trial. The evidence contained in the audio messages on which Severs identified defendant's voice was largely insignificant to the ultimate question of whether defendant choked J.H. In contrast to *Thompson*, in which the recordings on which the defendant was identified actually showed the commission of the crime, here, the recordings only showed that (1) defendant had consumed illegal substances and (2) defendant spoke aggressively to J.H. In light of the other evidence presented at trial that

went to the heart of the issue—namely, the testimony of officers and medical personnel that J.H. had reported a choking, the statements of J.H. captured on Cremer's body camera, and the physical evidence of bruising to J.H.'s neck—evidence that defendant consumed drugs and was, at one point in time, angry with J.H. would not have altered the final result. Indeed, not only did the audio messages not contain such inculpatory evidence as to create the possibility of a different outcome, they in fact contained exculpatory evidence, such that their inclusion at trial may have actually benefitted defendant. Specifically, in the audio messages defendant explicitly denies choking J.H. in response to her threats to tell hospital staff that he had. Thus, we cannot say that the exclusion of the audio messages would have created the reasonable probability of a different result at trial.

¶ 74 Defendant also argues that counsel was ineffective in failing to request that the trial court instruct the jury both before Severs's testimony and at the close of evidence that it need not give any weight to Severs's testimony and should not draw any adverse inference from the fact that Severs was a detective.

¶ 75 Again, while we acknowledge that the State conceded error on this front, we cannot conclude that defendant suffered prejudice. As explained above, the content of the audio messages was not such that, even if the jury had been instructed that it need not give any weight to such testimony, it might reasonably have altered the result of the proceeding. The messages were simply too inconsequential in light of the other evidence presented at trial. Further, although the trial court failed to instruct the jury not to draw any adverse inference from the fact that Severs was a detective, we find this was not prejudicial where the jury had already heard other evidence that defendant was known to law enforcement from which it could have drawn the same inference. Before Severs ever testified, the jury heard recorded statements from J.H. in which she told Sergeant Cremer that he "definitely [knew] [defendant]" and that law enforcement officers knew

who she was dating. Cremer then confirmed that, in speaking with J.H., he was "starting to get an idea" of the identity of the man who had strangled her. Hearing these statements, the jury was already aware that defendant had past contact with law enforcement officers to the point that multiple officers would be familiar with him by name. Therefore, even if the jury had been instructed not to draw an adverse inference from Severs's familiarity with defendant, it could still have drawn the same inference from Cremer's and J.H.'s earlier statements, and the court was not required, under *Thompson*, to admonish the jury as to their testimony. Accordingly, we must conclude that defendant suffered no prejudice.

¶ 76 Finally, defendant argues that counsel was ineffective in failing to preserve this issue in a posttrial motion. We disagree. Having found that counsel's failure to demand the trial court follow *Thompson*'s procedural safeguards was harmless, counsel cannot be deemed ineffective in failing to preserve the issue. See *People v. Saulsberry*, 2021 IL App (2d) 181027, ¶ 98.

¶ 77 Because defendant has failed to establish plain error or ineffective assistance of counsel, we will honor his procedural default of this claim.

¶ 78 C. *Krankel* Inquiries

¶ 79 Finally, defendant argues that the trial court erred in failing to conduct *Krankel* inquiries into (1) his pretrial statement that his trial counsel had a conflict of interest and (2) his posttrial statement that counsel listed the wrong date on a subpoena for surveillance video footage from the hospital, leading to potentially exculpatory evidence being deleted.

¶ 80 1. *Pretrial* Krankel *Inquiry*

¶ 81 Prior to trial, defendant informed the trial court that his trial attorney had visited the jail and informed him of a conflict of interest. The court did not inquire further into the issue

and refused to appoint defendant a new attorney. Defendant argues that the court was obligated, under *Krankel*, to inquire into this claim of ineffective assistance. He asks us to remand for the limited purpose of allowing the trial court to conduct a *Krankel* inquiry.

¶ 82 The common law procedure developed from the supreme court's decision in *Krankel* is triggered when a defendant raises a *pro se* posttrial claim of ineffective assistance. *People v. Ayres*, 2017 IL 120071, ¶ 11. Once a defendant brings his claim to the court's attention, the court must conduct an adequate inquiry into the claim to determine if independent counsel should be appointed to argue the claim before the court. *Id.*

¶ 83 In *People v. Jocko*, 239 Ill. 2d 87, 93 (2010), our supreme court held that *Krankel* applies only to posttrial claims of ineffective assistance. The court reasoned that, under *Strickland*, ineffective assistance claims require a court to determine if counsel's alleged errors prejudiced the defendant. *Id.* However, in the instance of pretrial claims of ineffective assistance, where the outcome of the proceeding has not yet been determined, it is impossible to determine if the outcome was affected by counsel's errors. *Id.* The court therefore held that a trial court is not obligated to address a *pro se* defendant's *Strickland* claims prior to trial. *Id.*

¶ 84 In reaching its decision, the *Jocko* court acknowledged the State's concession that, even if *Krankel* did not apply prior to trial, there may nevertheless be some instances when a trial court was obligated to investigate potential sixth amendment violations prior to trial. *Id.* at 92. Citing *Holloway v. Arkansas*, 435 U.S. 475 (1978), the court provided one such example: cases in which a potential conflict of interest is brought to the court's attention at an early stage. *Jocko*, 239 Ill. 2d at 92.

¶ 85 In *People v. Washington*, 2012 IL App (2d) 101287, the Appellate Court, Second District, created a framework for analyzing the necessity of a *Krankel* inquiry on pretrial

ineffective assistance claims under *Jocko*. There, the court determined that "under *Jocko*, the court's duty before trial is limited to determining whether a defendant's complaint about counsel's performance falls within an exception to the prejudice requirement of [*Strickland*] [citation], and, if it does not fall within an exception, the court is not obligated to apply *Krankel* before trial." *Id.* ¶ 1. The *Washington* court again noted that one situation in which prejudice was irrelevant, and therefore where the trial court was obligated to conduct a *Krankel* inquiry prior to trial: a potential sixth amendment violation concerning a conflict of interest. *Id.* ¶ 20.

¶ 86 Following *Washington*, the supreme court decided *Ayres*. *Ayres* concerned the sufficiency of a defendant's posttrial allegation of ineffective assistance of counsel. *Ayres*, 2017 IL 120071, ¶ 9. The court determined that a trial court's duty to conduct a *Krankel* inquiry was triggered whenever a defendant brought a "clear claim asserting ineffective assistance, either orally or in writing." *Id.* ¶ 18. It specifically held that the claim need not be supported by facts or specific examples. *Id.* ¶ 19. In stating its holding, the court addressed the State's argument that, under this view, "a claim of ineffective assistance in *any* communication to the court would necessitate an inquiry." (Emphasis in original). *Id.* ¶ 22. The court disagreed, stating plainly, "*Krankel* is limited to posttrial motions." *Id.*

¶ 87 Based on the unequivocal language in *Ayres*, we have since rejected the *Washington* court's extension of *Jocko* to apply *Krankel* inquiries to a limited group of pretrial claims of ineffective assistance. See *People v. Robinson*, 2026 IL App (4th) 250418-U, ¶ 38. Accordingly, to the extent defendant argues that the trial court was obligated to conduct a *Krankel* inquiry into his pretrial claim of ineffective assistance, he is incorrect. Moreover, while defendant relies on *Washington* for the principle that, even if the trial court was not obligated to inquire into his pretrial claim of ineffective assistance, it should have revisited the issue after trial concluded, we again

note that we have not followed *Washington*'s analysis. Moreover, *Jocko*, on which the *Washington* court relied in creating its guidelines, stated only that there was "nothing to prevent a circuit court from addressing, at the conclusion of trial, a *pro se* claim of ineffective assistance that was previously raised by the defendant," not that a trial court was obligated to. See *Jocko*, 239 Ill. 2d at 93. Indeed, we note that the *Jocko* court specifically held that *Krankel* was "inapposite" to pretrial claims of ineffective assistance. *Id.* at 92.

¶ 88 As stated in *Robinson*, *Krankel* does not apply to defendant's claim of ineffective assistance before trial. Accordingly, we reject defendant's argument.

¶ 89 We find it necessary to briefly discuss *Holloway*, as defendant has cited this case in his brief on appeal. In *Holloway*, three codefendants were represented at trial by the same appointed public defender. *Holloway*, 435 U.S. at 477. Twice before trial, counsel moved the trial court to appoint separate counsel for each defendant, arguing that the joint representation presented a potential conflict of interest. *Id.* at 477-78. The court denied both motions. *Id.* At trial, each defendant testified, and counsel argued to the trial court that he would be unable to question each defendant while also protecting the other two defendants' interests. *Id.* at 478-79. The court disregarded counsel's concern and directed him to question each defendant. *Id.* Each defendant gave unguided testimony, with counsel noting on the record that he could not ask them any questions that might tend to incriminate the other codefendants. *Id.* at 480-81. All codefendants were found guilty. *Id.* at 481.

¶ 90 The codefendants appealed, arguing that their representation by a single appointed attorney, over their objection, violated the federal constitutional guarantee of effective assistance of counsel. *Id.*

¶ 91 The Supreme Court reversed. It held that, while it was not *per se* violative of the

constitutional guarantees of effective assistance of counsel to allow a single attorney to represent codefendants, where defense counsel makes the trial court aware of a potential conflict of interest, the trial court is obligated to either appoint separate counsel or take adequate steps to ascertain whether the risk of conflict was too remote to warrant separate counsel. *Id.* at 484.

¶ 92 *Holloway* specifically concerned the issue of joint representation of codefendants by a single attorney. However, after *Holloway*, our supreme court decided *People v. Spreitzer*, 123 Ill. 2d 1 (1988), which appeared to extend the *Holloway* requirement to any conflict of interest. In *Spreitzer*, an attorney working in the Du Page County State's Attorney's Office was involved in the decision to charge the defendant with murder and aggravated kidnapping. *Id.* at 12. Later, this attorney became the Du Page County Public Defender. *Id.* At trial, the defendant was represented by an attorney in the public defender's office. *Id.* After being convicted, the defendant appealed, arguing that the prior involvement of the Du Page County Public Defender as a prosecutor in his case disqualified the entire public defender's office from representing him. *Id.* at 11.

¶ 93 The supreme court first discussed *per se* conflicts of interest, which occur when certain facts about a defense attorney's status engender, by themselves, a disabling conflict. *Id.* at 14. The court then discussed a second class of alleged conflicts that generally, although not exclusively, involved joint or multiple representation of codefendants. *Id.* at 17. Relying in part on *Holloway*, the court repeated the rule that, when counsel brings a potential conflict to the attention of the trial court at an early stage, a duty devolves upon the court to either appoint separate counsel or take adequate steps to ascertain whether the risk of conflict was too remote to warrant separate counsel. *Id.* at 18. Where the trial court had not done so, reversal did not require a showing that the attorney's actual performance was affected by the conflict. *Id.* However, if the trial court was not made aware of the conflict of interest at an early stage, reversal of the conviction would only

be had upon a showing that an actual conflict adversely affected counsel's performance. *Id.*

¶ 94 The supreme court found that the conflict of interest presented in *Spreitzer* was not a *per se* conflict. *Id.* at 22. Accordingly, it applied the framework for analyzing the second class of conflicts of interest. *Id.* Because counsel did not bring the conflict to the attention of the trial court at an early stage, and because the defendant did not identify any specific deficiency in his counsel's performance stemming from the alleged conflict, the court affirmed the defendant's conviction. *Id.* at 23.

¶ 95 Although *Holloway* and *Spreitzer* govern appellate court review of alleged conflicts of interest before trial, defendant does not rely on this framework. He does not ask us to determine if defense counsel labored under a conflict of interest, nor does he ask us to determine if that conflict of interest might require reversal. He asks us only to remand for a *Krankel* inquiry into his pretrial claim of ineffective assistance. As stated, *Krankel* does not apply pretrial. Accordingly, we decline to remand.

¶ 96 2. *Posttrial* Krankel *Inquiry*

¶ 97 Defendant further argues that the trial court was obligated to conduct a *Krankel* inquiry into the comments he made in his statement in allocution at sentencing regarding trial counsel's performance. Specifically, defendant asserts that he raised a claim of ineffective assistance of counsel with his statement that he attempted to get surveillance video from the hospital on June 17, 2025, but "[his] lawyer put the wrong date on the [subpoena] *duces tecum* or whatever, and the hospital ended up erasing the video." He correctly notes that the subpoena counsel filed sought surveillance video footage from July 17, 2025, as opposed to June 17, 2025, when the incident occurred. He asserts that, had counsel noted the correct date and the video from June 17 been obtained, it would have shown J.H. arriving at the hospital, her physical movements,

her demeanor, and whether she had any marks on her neck at that time. He again asks us to remand for a preliminary *Krankel* inquiry into this claim.

¶ 98 As stated, under *Krankel*, when a defendant asserts a *pro se* posttrial claim of ineffective assistance, the trial court is obligated to examine the factual basis of the claim to determine if new counsel should be appointed. *People v. Moore*, 207 Ill. 2d 68, 77-78 (2003). A *pro se* defendant need only bring his claim to the attention of the trial court; he need not support his claim with facts or specific examples. *Ayres*, 2017 IL 120071, ¶¶ 19, 24. However, where a defendant does not assert a clear claim of ineffective assistance, the trial court is not obligated to conduct a *Krankel* inquiry. *People v. Scott*, 2025 IL App (4th) 241438-U, ¶ 13. "The question of whether [a] defendant's statements were sufficient to trigger a *Krankel* inquiry is reviewed *de novo*." *Id.*

¶ 99 We find *People v. Taylor*, 237 Ill. 2d 68 (2010), helpful to our review of this issue. There, the defendant was convicted of possession of a controlled substance with intent to deliver. *Id.* at 70. Prior to trial, the State informed the trial court that a plea deal had been offered and rejected and thus was no longer available. *Id.* at 70-71. After defendant's conviction, during his statement in allocution at sentencing, the defendant proclaimed his ignorance of the possible penalties he faced if he refused the plea deal. *Id.* at 73. He stated, " '[There's] no way on God's earth[ ] I would [have taken] that chance knowing the situation, knowing me, and knowing the situation with my family.' " *Id.* at 74. On appeal, he argued that these statements were implicit assertions of ineffective assistance of trial counsel for failing to advise him about the possible penalties if he rejected the State's plea offer. *Id.*

¶ 100 The supreme court disagreed. *Id.* at 77. It noted that the defendant never complained about his attorney's performance or expressly stated he was claiming ineffective assistance of

counsel. *Id.* at 76. The court further noted that the defendant's statements were amenable to more than one interpretation and could equally be construed as merely expressing regret at not accepting the plea deal. *Id.* at 77. The court therefore found that the defendant's statement at sentencing was insufficient to trigger a *Krankel* inquiry. *Id.*

¶ 101 The situation before us is similar to that in *Taylor*. Here, defendant clearly stated that his counsel wrote the wrong date on a subpoena in his case, resulting in surveillance video that he believed would be useful being deleted and unavailable for use at his trial. However, defendant never expressed dissatisfaction with his attorney's performance. Indeed, twice in his statement in allocution, defendant affirmed that his attorney's performance was acceptable. He stated, "[Counsel] did his job and did what he could do, but he's not an investigator, you know?" and, "[N]ot saying that [counsel] didn't do his best, he did, but he's got other cases." Clearly, while acknowledging counsel's error, defendant did not allege this error rendered his performance deficient, and indeed, he positively affirmed that he was satisfied with counsel's assistance.

¶ 102 Further, we note that, as in *Taylor*, these statements were made in the context of a lengthy, rambling statement in allocution. In this same statement, defendant proclaimed his innocence, accused J.H. of lying, blamed his actions on his drug use, accused the police of failing to investigate his case properly, and accused the State of continuing to prosecute the case when it allegedly had knowledge that J.H. was lying. In this context, defendant's statements about his attorney's performance, specifically, that his attorney did his best but was "not an investigator," may have just been a continuing critique of law enforcement's handling of his case rather than a condemnation of his attorney's performance. Given the ambiguous nature of defendant's statements when taken as a whole, as well as his clear assertions that he was not alleging that counsel was ineffective, we find the trial court was not obligated to conduct a *Krankel* inquiry into

his comments.

¶ 103 III. CONCLUSION

¶ 104 For the reasons stated, we affirm the trial court's judgment.

¶ 105 Affirmed.