NOTICE
Decision filed 11/03/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250222-U

NO. 5-25-0222

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Wayne County
	)	
v.	)	No. 21-CF-236
	)	
RAY E. TATE,	)	Honorable
	)	Denton W. Aud,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE VAUGHAN delivered the judgment of the court.
Justices Hackett and Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: Where there is no arguable merit to this direct appeal, pursuant to *Anders v. California*, 386 U.S. 738 (1967), appellate counsel is granted leave to withdraw, and the judgment of conviction is affirmed.

¶ 2 The defendant, Ray E. Tate, appeals from the judgment of the circuit court of Wayne County, denying his motion to withdraw his guilty plea and vacate sentence. The Office of the State Appellate Defender (OSAD) was appointed to represent the defendant in this appeal. OSAD has concluded this appeal lacks arguable merit, and, on that basis, pursuant to *Anders v. California*, 386 U.S. 738 (1967), filed a motion for leave to withdraw as counsel, along with a supporting memorandum of law. OSAD properly served the defendant with notice, and this court gave the defendant the opportunity to file a response. The defendant has chosen not to file a response to OSAD's motion. Having considered OSAD's *Anders* motion and memorandum, and the entire

record on appeal, this court agrees with OSAD's assessment that this appeal is without arguable merit. We therefore grant OSAD's motion to withdraw, and we affirm the judgment of the trial court.

¶ 3 I. BACKGROUND

¶ 4 The following facts and procedural history are necessary to our disposition of this appeal. On December 29, 2021, the defendant was arrested and charged by information with one count of first degree murder for knowingly shooting Wayne County Sheriff's Deputy Sean Riley with a handgun with intent to kill. On the following day, the defendant was appointed a public defender.

¶ 5 On January 21, 2022, in a 38-count indictment, the grand jury charged the defendant with 36 counts of first degree murder, one count of aggravated vehicular hijacking, and one count of unlawful use of a weapon by a felon. Relevant to this appeal, count IX charged the defendant with intentional first degree murder (720 ILCS 5/9-1(a)(1) (West 2020)) while personally discharging a firearm that proximately caused Deputy Riley's death (730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2020)). Additionally, count IX explicitly charged that, if at the time of the commission of the offense, the adult defendant was found guilty of murdering a peace officer, killed while "performing his official duties," and the defendant "knew or should have known" that the victim was a peace officer, "the court *shall* sentence the defendant to a term of natural life imprisonment." (Emphasis added.) 730 ILCS 5/5-8-1(a)(1)(c)(iii) (West 2020).

¶ 6 A. Guilty Plea

¶ 7 On March 17, 2022, the parties announced that the defendant wished to enter a "negotiated

plea."[1] The State indicated that pursuant to the plea agreement, it was prepared to nol-pros all the counts except for count IX. The State made no sentencing concessions and instead clarified that because count IX explicitly charged the defendant with the murder of a peace officer killed in the line of duty, the sentence was natural life imprisonment without the possibility of parole. The State confirmed that the agreement was that the defendant would enter a guilty plea and the matter would be set for a sentencing hearing at a later date.

¶ 8 Before accepting the defendant's guilty plea, the trial court proceeded to thoroughly question the defendant regarding his understanding of the plea agreement and his ability to enter into it freely and voluntarily. First, the trial judge inquired whether the defendant had taken any medication, food, or beverage that might affect his ability to understand, to which the defendant responded, "Unfortunately not." Next, the judge asked the defendant whether he had spoken with his defense attorney and reviewed his discovery with her prior to coming to court, and whether he was "satisfied with the time spent and the conversation had," and the defendant responded in the affirmative.

¶ 9 After reading count IX out loud and ascertaining that the defendant understood the charge, the court further admonished the defendant regarding the potential sentence. The court explained that a first degree murder charge carried a sentence of 20 to 60 years' imprisonment but that two sentencing enhancements in count IX increased that sentence to natural life in prison. Specifically, because the defendant personally discharged the firearm that caused the victim's death, an additional 25 years to natural life had to be added to his murder sentence. Moreover, because count

[1]As OSAD correctly notes, this was an incorrect characterization and the record unequivocally establishes that this was an open, rather than a negotiated, guilty plea. See *People v. Gooch*, 2014 IL App (5th) 120161, ¶ 15 (defining an open plea, in contrast to a negotiated plea, as one in which the sentence is not a material element of the plea agreement and instead the State and the defendant are free to argue for any sentence permitted by the statute, which the trial court ultimately imposes).

IX charged the defendant with knowingly killing a peace officer while that officer was performing his duties, the court had no choice but to impose a sentence of natural life imprisonment without the possibility of parole. The defendant acknowledged that he understood the penalties. When the court later advised the defendant that the conviction in the instant case could also result in a sentencing enhancement in future criminal prosecutions, including in other counties or states, the defendant responded, "I mean, natural life is natural life," but acknowledged that the conviction "might be something that would come up" in later cases.

¶ 10 The court also admonished the defendant that he was under no obligation to plead guilty. The court explained that by pleading guilty, the defendant was relinquishing his right to remain silent and his right to a trial, at which the State would be required to prove his guilt beyond a reasonable doubt, and at which the defendant would be entitled to confront the witnesses against him and compel witnesses to appear on his behalf. The court explained the difference between a bench and a jury trial and informed the defendant that in a jury trial, 12 citizens would have to render a unanimous verdict of guilty. The defendant indicated that he understood all this, acknowledged his signature on the written jury waiver, and affirmed that he had read the waiver and discussed it with his attorney. The defendant also confirmed that no threats or promises (beyond those discussed in the courtroom) were made to him, and that he had not been coerced into entering a plea. He then stated that his plea was both free and voluntary.

¶ 11 After this discussion, the trial court found that the defendant understood "the nature of the charges pending against him, the possible penalties, his legal rights, [and] the possible future impact of his plea of guilty" and that he was entering into the plea agreement "voluntarily."

¶ 12 The State next recited, and defense counsel conceded to, the following factual basis for the plea. According to the State, in the early morning hours of December 29, 2021, Deputy Riley was

acting as a peace officer in the course of performing his official duties. At approximately 4:31 a.m., Deputy Riley was in uniform and operating a marked squad car while responding to a motorist-assist call on eastbound I-64 near milepost 115 in Wayne County. The vehicle in question was a silver gray 2014 Nissan Altima, and the defendant was in the driver's seat. Deputy Riley pulled up and approached the driver's side of the Nissan with his body-worn camera activated. Deputy Riley questioned the defendant for a few minutes, during which time the defendant failed to produce any form of identification. After taking out his notepad, Deputy Riley asked the defendant for his name, and the defendant identified himself as "Raymond Scott." As Deputy Riley began to write down the name, the defendant reached for a firearm and shot the deputy in the face.

¶ 13 Deputy Riley fell to the ground, and the defendant exited the vehicle and moved toward its rear. Deputy Riley reached for his firearm and attempted to crawl toward the defendant, but the defendant fired additional shots at him. Deputy Riley was struck multiple times but was able to radio for help before the defendant walked directly up to him, placed a gun to his head, and fired a final shot, killing him. The defendant then dragged Deputy Riley's body from the roadway into a ditch and absconded in the deputy's patrol car.

¶ 14 After Fairfield police officers Caleb Koker and Austin Russel responded to Deputy Riley's call for help, they could not locate the deputy's patrol vehicle at the scene. Instead, they only found the unoccupied Nissan and Deputy Riley's motionless body lying in a nearby ditch. Wayne County Sheriff Christopher Otey arrived shortly thereafter and attempted CPR without success.

¶ 15 A subsequent autopsy revealed that Deputy Riley sustained five gunshot wounds: to the head, right eye, right ear, right back, and left thigh. The head wound was a contact-range shot and two of the other wounds (to the right eye and ear) were intermediate-range shots. The cause of death was multiple gunshot wounds.

¶ 16 The police search of the interior of the Nissan produced a wallet containing multiple forms of identification belonging to the defendant. Inside the trunk, officers also found court documents dated December 17, 2021, showing that the defendant was wanted in Indiana on an armed robbery charge.

¶ 17 Deputy Riley's unoccupied patrol vehicle was soon discovered on I-64 eastbound near milepost 120. A multistate manhunt ensued, leading the police into Missouri and then back into Illinois. Later that same afternoon, police located the defendant at a residence at 20240 Beaver Creek Road in Carlyle, Illinois, where he was holding hostages. One of the hostages, whom the defendant had carjacked earlier that morning, was able to escape from the residence. After hearing gunshots, the Illinois State Police SWAT team entered the home and successfully placed the defendant into custody. A search warrant was later executed at the residence, and the police recovered a black .380-caliber semiautomatic pistol from a chair in the basement.

¶ 18 Subsequent ballistic testing of that semiautomatic pistol revealed that it matched the cartridge casings found at the crime scene and the bullets extracted from Deputy Riley's body during the autopsy. In addition, DNA testing of the weapon revealed the defendant's DNA on the grip and trigger, and Deputy Riley's DNA on the muzzle.

¶ 19 After the State's recitation of these facts, the trial court found there was a sufficient factual basis for the plea. The court then accepted the defendant's guilty plea, ordered a presentence investigation report (PSI), and set the matter for a sentencing hearing.

¶ 20 B. Sentencing Hearing

¶ 21 At the subsequent sentencing hearing, held on April 22, 2022, defense counsel initially requested that the State be prohibited from presenting any evidence in aggravation. Defense counsel argued that because the court was obligated to impose a natural life sentence, any

aggravating evidence was irrelevant and, therefore, inadmissible. The trial court denied defense counsel's motion, explaining that, despite the court's lack of sentencing discretion, because this was an open, rather than a negotiated, plea the State was permitted to present aggravating evidence.

¶ 22 The State then began by offering two victim impact statements, from Deputy Riley's widow (and the mother of his three children) and from his sister. Next, the State called several officers to testify regarding the circumstances of the instant crime. Sheriff Otey and Officer Koker described their observations of the crime scene and their discovery of Deputy Riley's body. In addition, Illinois State Police Trooper Cheyenne Thompson testified that she recovered Deputy Riley's body-worn camera from the crime scene and watched the footage together with Sheriff Otey. After Sheriff Otey identified that footage, over defense counsel's objection, the footage was admitted into evidence and played for the court with Sheriff Otey narrating portions of it.

¶ 23 The footage, which this court has independently reviewed, depicts the following from the vantage point of the deputy. At 4:32 a.m., Deputy Riley exits his patrol car and walks to the driver's side of the Nissan, which is parked off the side of the road, with the defendant in the driver's seat. For the first 2:54 seconds of the video, Deputy Riley and the defendant engage in what appears to be a friendly conversation during which the defendant claims his vehicle "ran out of gas" and cannot provide the deputy with his driver's license. Throughout this conversation, the defendant is rummaging through numerous articles of clothing strewn over the passenger seat of his vehicle. When Deputy Riley asks the defendant his name, the defendant provides a false one. As Deputy Riley takes out his notepad to write down the name, the defendant pulls down a hoodie over his head, reaches to his right, and with no warning, grabs a handgun, aims it at Deputy Riley's face with both hands, and fires. Bits of tissue fly into the air and are visible in the beam of the deputy's flashlight. Deputy Riley falls to the ground on his left side and rolls toward the Nissan. The

defendant exits the car and points the pistol at the deputy before running to the back of the vehicle. Deputy Riley pulls himself up and is seen on his knees, bleeding over the roadway, slowly attempting to crawl toward the back of the Nissan with a pistol visible in his right hand. He is heard moaning as he is shot again. As the deputy makes his way to the back of the vehicle, an arm and hand holding a pistol enter the frame from the right and the deputy is seen trying to wrestle it away. The deputy is heard making a call for help before he falls on his right side into the grass. He is then seen being dragged off the roadway, after which the defendant's face enters the frame, and the defendant rifles through items on the deputy's body. The remainder of the video shows the police, EMS, and Illinois State Police Crime Scene Investigator's response from the vantage point of the body worn camera.

¶ 24 After the footage was played, in aggravation, the State presented evidence of the defendant's actions following his flight from the crime scene. Brian Reuss testified that approximately three hours after Deputy Riley had been shot, the defendant approached him in a gas station in St. Peters, Missouri, coaxed him out of his vehicle by pretending to need help, pulled out a gun, shot Reuss in the shoulder, and stole Reuss's vehicle.

¶ 25 Joesph Reagan testified that later that morning when he arrived at the CitiBank in O'Fallon, Missouri, where he worked, the defendant walked up to him with a gun and told him that he had already shot a police officer and another person and would shoot Reagan, too, unless Reagan drove him out of town. Reagan obliged and for the next several hours drove the defendant around in his truck looking for a place where the defendant could "lay low." During this time, the defendant disposed of several cell phones through the window and then used Reagan's cell phone to make calls to various people. After learning from one of those calls that the police were searching for Reagan's truck, the defendant ordered Reagan to drive to a car dealership in Pierron,

Illinois. There, he secured a car by pretending he was buying it for his daughter and ordered Reagan, at gunpoint, into the passenger seat.

¶ 26 The defendant then drove both of them to what looked like an abandoned house. When an elderly woman appeared at the door, the defendant pretended that his vehicle was overheating and needed water. After the woman began taking pictures of the vehicle with her cell phone, the defendant sped off. About a mile and a half away, amidst fields, the defendant pulled into a solitary farm that had a garage door open, forced himself into the house, and took the owner hostage. After hiding the car in the garage, the defendant ordered Reagan and the owner inside the house and held them there at gunpoint. After the police arrived, the defendant moved the men into the basement and called his sister to help "rescue him" and get him out of town. The defendant told Reagan that he intended to go out with "guns blazing" and "didn't mind taking out another officer." Reagan was able to escape while the defendant was distracted, and the defendant was eventually taken into custody.

¶ 27 In aggravation, the State also presented evidence regarding the defendant's conduct in jail after his arrest. Trooper Thompson testified that she monitored all of the defendant's communications while he was housed in Jefferson County jail, including, among other things, his "chirps," or text messages made via a secure jail-provided device. According to Trooper Thompson, between February 11 and March 1, 2022, the defendant made numerous inculpatory statements via "chirps." For purposes of brevity, we relate only the most incriminating ones. For example, on February 11, 2022, defendant wrote: "I shot him in the face, and back of his head, and drug him in a ditch. Crazy." On that same day, he wrote: "The f*** up thing, brother, I didn't feel anything." On February 13, 2022, the defendant wrote: "How does it make you feel if it does at all? That I shot a cop in his face and the back of his head?" Two days later, the defendant also

"chirped": "Is it f*** up that I wanted to kill cops and [racial slur]?" On March 1, 2022, the defendant also wrote: "Because I hate cops and didn't want to go back to the system."

¶ 28 After Trooper Thompson's testimony, the State also called Jefferson County sheriff's correctional officer Gilbert Haynes who testified that about two weeks after the plea hearing, on the evening of April 9, 2022, the defendant nearly broke out of jail. According to Officer Haynes, the defendant escaped his jail cell, broke into the kitchen, and reached the final door to the outside before officers captured him. The defendant had put a bundle of clothes under his bed sheets to make it look like he was in bed and had somehow pried apart the shower in his jail cell and escaped into the hallway behind it. Inside a broom closet by the kitchen door, officers also discovered two duffel bags containing an electric Sawzall, metal files, screwdrivers, pliers, a carpenter's knife, and dark clothes.

¶ 29 After the witnesses' testimony, in aggravation, lastly the State offered the defendant's PSI into evidence. The PSI reflected that the defendant was 41 years old and had an extensive prior criminal history, comprised of a 1995 juvenile adjudication for a Class A battery, and four adult felony convictions in Illinois, including: residential burglary and theft in 1999, a Class 3 burglary in 2000, a Class 4 theft in 2002, and a Class 3 aggravated battery in 2003. The defendant also had convictions in Louisiana, for simple escape in 2008, and false imprisonment with a dangerous weapon in 2018, and in Kentucky for wanton endangerment, methamphetamine possession, fleeing/evading, prescription in an improper container, possession of drug paraphernalia, operating under the influence, and marijuana possession in 2013, and promoting contraband in 2018. In addition, at the time of his arrest, the defendant had pending charges in Indiana for armed robbery, resisting law enforcement, burglary, criminal confinement, and theft, and in Missouri for

kidnapping, vehicular hijacking, armed criminal action, robbery, assault, and unlawful possession of a firearm.

¶ 30 After the State presented its evidence, defense counsel informed the court that she had met with the defendant on several occasions and discussed the PSI with him but that he did not wish to present any evidence in mitigation. Counsel nonetheless noted that the PSI reflected that the defendant had reported that, as a child, he was sexually abused by his father. We note that the PSI also reflects that the defendant dropped out of high school in tenth grade, obtained his GED in 2016, and heavily used intravenous methamphetamine from April 2021 until his arrest in the instant case.

¶ 31 After the parties' arguments, the trial court sentenced the defendant to natural life imprisonment without the possibility of parole. The trial court admonished the defendant of his appeal rights.

¶ 32 C. Postplea Proceedings

¶ 33 On May 17, 2022, the defendant filed a *pro se* motion to withdraw his guilty plea and vacate sentence. Therein, he made three contentions. First, the defendant argued that his "plea was the result of coercion (force or threats)." The defendant explained that he was "not allowed phone, mail, [or] visits" and that he was "threatened" that unless he "took the plea" he "would not be allowed these rights while in held facility." Second, the defendant asserted that he was not mentally competent to enter the plea because he had "seen and heard things in [the] factual basis that made [him] question" his competence but "was never given [a] mental evaluation." Third, the defendant argued that defense counsel had provided him with "inadequate representation" because there was a "lack of time and understanding with [the] attorney regarding [the] plea" and he was not allowed to "call, write, or visit adequately with [her]."

¶ 34 At the next status hearing, on June 28, 2022, the trial court noted that it appeared that the defendant was "not alleging ineffective assistance of counsel" but rather that "he didn't have enough time to confer" with his attorney. The court, therefore, stated that it would decide at a later date whether a separate hearing on the defendant's ineffective assistance of counsel claim was necessary. In the meantime, it would give defense counsel an opportunity to review the defendant's claims and prepare a certificate pursuant to Illinois Supreme Court Rule 604(d) (eff. July 1, 2017).

¶ 35 On July 10, 2023, defense counsel filed an amended motion to withdraw the defendant's guilty plea and vacate his sentence, as well as her Rule 604(d) certificate. In the amended motion to withdraw the guilty plea, counsel first argued that the defendant was "under duress and entered into the guilty plea by coercion." Counsel alleged that, while in jail, the defendant was in isolation the entire time and was cut off from all non-legal communications. Moreover, a jail guard told the defendant that if he did not plead guilty, he would be prosecuted in federal court where he would be subject to the death penalty. The defendant was also beaten by another inmate who was allowed into the defendant's cell by a jail guard. The defendant's family was harassed and threatened by the deputy's family, and the defendant did not want his family to have to watch the body-worn camera footage alongside the victim's family. Under these circumstances, counsel argued, the defendant had no choice but to plead guilty to protect himself and his family from ongoing threats of violence and to restore some access to communication.

¶ 36 Counsel did not attach an affidavit from the defendant in support of these allegations but explained its absence was "due to circumstances beyond [the defendant's] and [counsel's] control, attributable to conditions at Menard [Correctional Center] including lockdowns and mail interruptions."

¶ 37 The amended petition also challenged the constitutionality of the defendant's mandatory life sentence. Therein, counsel argued that under the Illinois proportionate penalties clause (Ill. Const. 1970, art. I, § 11) the statute mandating natural life imprisonment for the instant crime (730 ILCS 5/5-8-1(a)(1)(c)(iii) (West 2020)) was *per se* unconstitutional. Counsel also asserted that the defendant's particular rights were violated because the trial court was foreclosed from considering the defendant's rehabilitative potential.

¶ 38 On July 13, 2023, the defendant informed the court that he wished to raise additional allegations and to proceed *pro se*. Upon the State's request, the court thoroughly questioned the defendant regarding this decision. The court informed the defendant that if he were to proceed *pro se*, he would be held to the same legal standards as any attorney, that the judge could not help him with his pleadings or legal arguments, and that he was putting himself "at a great disadvantage" considering opposing counsel's expertise. The defendant acknowledged that he had no prior experience representing himself but stated that because of the numerous previous charges brought against him in various states he "basically kn[ew] the law." The defendant said that he had experience in doing legal research and understood "the gist" of the rules of evidence. He also confirmed that he was 42 years old, had a GED, was "fairly intelligent," and would have no issues with reading, comprehension, or communication.

¶ 39 The court reiterated that the defendant had the right to be represented by counsel and informed him that he could change his mind in the future and decide to be represented again but could not choose which counsel would be appointed. In addition, the court told the defendant that, if he wished, it could appoint standby counsel to assist him. The defendant stated that he understood and believed that he could "move forward [in his own] best interests."

¶ 40 The trial court found that the defendant had made a knowing, intelligent, informed, and voluntary waiver of his right to counsel, permitted defense counsel to withdraw, and granted the defendant's request to represent himself. The court then granted the defendant leave to file a second amended motion to withdraw his guilty plea or a supplement to the existing motion.

¶ 41 On September 15, 2023, the defendant filed a motion for the appointment of standby counsel, which the court granted on March 26, 2024.

¶ 42 On March 29, 2024, the State filed a response to the defendant's motion to withdraw his guilty plea. Therein, among other things, the State argued that the defendant's plea had not been coerced because he had unfettered access to defense counsel while in jail, and his non-legal communications had been restricted for only about a week prior to his guilty plea. The State explained that despite being classified as a high-security inmate, for the first two months in jail, the defendant was allowed unrestricted communication with family and friends, during which he made and received nearly 10,000 "chirps." According to the State, the defendant's ability to communicate was curtailed on March 9, 2022, only after jail officials discovered that three days earlier, during a video visit, the defendant had discussed obtaining a gun and cutting tools for an escape attempt. After a review of 185 "chirps" confirmed an escape plan involving outside accomplices, weapons, and a getaway driver, jail authorities notified the Illinois State Police, who ordered that all of the defendant's non-legal communication be stopped on March 10, 2022. Nevertheless, later that same day, the defendant attempted to communicate with his accomplices through another inmate, and jail authorities intercepted additional escape-related messages, including a plan to have someone shoot out the defendant's cell window.

¶ 43 At a subsequent status hearing on May 31, 2024, the defendant waived attorney-client privilege with defense counsel so that the State could subpoena her notes and address his

allegations regarding her representation. The defendant then informed the court that he intended for his original *pro se* motion to withdraw his plea, defense counsel's amended motion, and any supplemental motions he intended to file to complement, rather than supersede, each other.

¶ 44 On June 3, 2024, the defendant filed a supplemental *pro se* motion to withdraw his guilty plea. Therein, he attributed additional faults to defense counsel, including counsel's failure to: request a change of venue, "raise issues regarding coercion," and use their "limited time" to review discovery and the State's evidence. The defendant also asserted that counsel coerced him with "death penalty threats if he didn't reach [a] plea agreement," and led him to believe that "all other charges would be dismissed upon pleading," and would "stop coercion, violence." In addition, the defendant claimed that defense counsel instructed him to "remain silent and keep [his] mouth shut," "get through the hearing," and agree that his plea was "free and voluntary." According to the defendant, contrary to defense counsel's promises, and in violation of the terms of the plea agreement, the State did not drop the remaining charges.

¶ 45 On August 28, 2024, the trial court held a hearing on the defendant's various motions to withdraw his guilty plea. For purposes of clarity, henceforth, we will refer to all of these motions as one, *i.e.*, the defendant's motion to withdraw his plea.

¶ 46 At the hearing, defense counsel testified that after she was appointed to represent the defendant on December 30, 2021, she met with him three times (once in jail and twice before court hearings) and spoke with him on the phone seven times. In that time, the defendant never denied committing the offense and from the start informed her that he intended to plead guilty.

¶ 47 Defense counsel testified that the very first time she spoke with the defendant on January 14, 2022, he told her that he wanted to plead guilty but would wait and see if any other options unfolded after discovery. During this conversation, defense counsel informed the defendant that

the penalty for the first degree murder charge in the information was natural life imprisonment. On January 20, 2022, defense counsel and the defendant discussed his prior criminal history, background, and any mental health treatment he might have had in the past. According to defense counsel, the defendant had been in prison continuously since he was 24 years old and had been released only about six months prior to the instant offense.

¶ 48 During their next conversation, on January 24, 2022, defense counsel informed the defendant that the grand jury had issued a 38-count indictment against him and discussed those charges with him. She explained the sentencing enhancements in the charges and the defendant understood that he was subject to mandatory life imprisonment. After defense counsel described the arraignment process, the defendant told her that he wished to appear in person, have the charges formally read to him, and plead not guilty with the understanding that "there was a high likelihood" that he would subsequently change his plea to guilty but wished to "size up the situation" first. Defense counsel testified that it was the defendant who, once again, brought up the possibility of a guilty plea because the crime was "on video" and "there [wa]s no way around it."

¶ 49 On February 1, 2022, defense counsel had a telephone conversation with the defendant in which they discussed his physical and mental condition at the time of the murder. The defendant told defense counsel that he had been awake a long time because he was on the run, that he had run out of gas on the side of the road, and that he was worried that Deputy Riley would arrest him once he learned there was an arrest warrant out for him in Indiana. For the first time, the defendant also told defense counsel that he had been taking drugs—"possibly *** bath salts." Defense counsel advised the defendant that he would need to undergo a psychological examination if he was going to raise any issues regarding his state of mind at the time of the murder, but the defendant refused.

¶ 50 During their next phone conversation on March 11, 2022, the defendant instructed defense counsel to request an earlier court date so that he could plead guilty. The defendant told defense counsel that his communications with family and friends had been terminated and he was "stressed with having no contact." The defendant believed that the jail had cut off his outside communications the previous day in order to coerce him to plead guilty but acknowledged that he had also been disciplined for bad behavior, *i.e.*, his foiled escape plan. According to counsel, the defendant told her that he wanted to "plead guilty to go to a different facility where [he] would be able to have communications," and because he did not want his family to go through trial and see the deputy's body-worn camera footage.

¶ 51 During this conversation, the defendant also told defense counsel for the first time that when he killed Deputy Riley, he had been awake for five days and was on his way to kill his father in Indiana and asked her whether that would justify an insanity plea. The defendant told counsel that he had been sexually abused by his father, which had "messed him up for real," and that his father had been reaching out to him recently, which "weighed on his mind." After defense counsel advised the defendant that a psychological evaluation would be necessary for such a defense, the defendant, again, refused to undertake such an exam

¶ 52 On March 15, 2022, defense counsel met with the defendant in jail in order to go over all the State's evidence with him before he entered his guilty plea. Together they watched the body-worn camera footage "at least twice" and reviewed four binders containing the State's entire discovery. Afterwards, the defendant reiterated that he wanted to plead guilty and instructed defense counsel not to pursue any type of mental status defense.

¶ 53 According to defense counsel, at the subsequent March 17, 2022, plea hearing, the defendant did not seem nervous or confused and appeared to understand the plea proceedings.

Based on the plea colloquy, which she witnessed, defense counsel believed that the defendant's guilty plea was both knowing and voluntary.

¶ 54 Defense counsel repeatedly testified that throughout her representation, she had no qualms that the defendant understood the nature of the charges against him, the potential penalties, and the judicial process; and was able to assist her in his defense.

¶ 55 Defense counsel denied: that she told the defendant that he would permanently lose communication privileges unless he pleaded guilty; that as part of the plea agreement, charges would be dropped in other jurisdictions; that he and his family would not have to watch Deputy Riley's body-worn camera footage during sentencing; and that he should "keep his mouth shut" and acquiesce during the plea colloquy. Defense counsel also denied that she told the defendant that unless he pleaded guilty, he would face the federal death penalty. Instead, counsel explained that she merely informed the defendant that although Illinois law no longer had a death penalty, she could not know whether federal prosecutors would charge him and seek the death sentence.

¶ 56 Defense counsel acknowledged that she and the defendant discussed potential bias, pretrial publicity, and change of venue but explained that she never got a chance to file a motion for a change of venue because the defendant chose to plead guilty.

¶ 57 The defendant's sister, Virginia Tate, next testified that it was her understanding that the defendant's plea agreement included the following provisions: that Deputy Riley's body-worn camera footage would not be played in the courtroom; that the defendant was going to be taken directly from the courtroom to the Illinois Department of Corrections, and that "maybe" all of the other charges against him, except for one, would be dropped. The defendant's girlfriend, Amanda Brown, testified that the defendant pleaded guilty to "get his phone and mail privileges back."

¶ 58 The defendant next testified on his own behalf. He stated that he pleaded guilty to avoid the federal death penalty, to get out of Jefferson County, and to prevent the body-worn camera footage from being shown. The defendant claimed that it was defense counsel, and not a jail guard, who told him that if he did not plead guilty "the feds were going to seek the death penalty and run all of these other charges together." He also asserted that defense counsel refused to pursue a change of venue and told him that all charges would be dropped against him. The defendant further testified that on the day of the plea hearing and sentencing, he told defense counsel that he changed his mind and wanted to back out of the plea deal, but defense counsel instructed that if he just kept quiet and pleaded guilty, he would have 30 days to change his mind and withdraw his plea. The defendant also claimed that on his way up to the plea hearing, a correctional officer "slammed" his head into the wall and told him not "to waste anyone's time" and plead guilty.

¶ 59 On cross-examination, the defendant acknowledged that it was his choice to plead guilty and that he understood at the plea hearing that he would be sentenced to natural life imprisonment. The defendant admitted that he was so relaxed that day that he tried to be funny, so when the trial court asked him whether he had consumed anything that would affect his judgment he had responded, "Unfortunately not." The defendant acknowledged that neither mandatory life imprisonment nor "killing an officer" were funny but explained that he was "stuck in this situation" because he "did it." When the State asked the defendant if he was saying that he killed a police officer, the defendant responded, "Absolutely." The defendant also acknowledged that the body-worm camera footage showed him shooting Deputy Riley and dragging his body into a ditch.

¶ 60 On cross-examination, the defendant also admitted that for two months prior to March 10, 2022, while in jail, he was permitted to make "thousands" of "chirps" to his family and friends He acknowledged that his communication was "shut down" after his video call visit with Ronald

Mayden and Christina Cox, during which he had asked them to help him get a cutting tool to escape jail, and after which the police discovered numerous "chirps" he had previously made that "corresponded to an escape plan," which included "guns and a get-away driver."

¶ 61 The defendant also admitted that before he actually escaped his jail cell on April 9, 2022, he left a note to jail staff on top of his bunk, stating, *inter alia*, "sometimes you see opportunity and you just got to take it *** ya'll been good company, but I got to try."

¶ 62 After the defendant's testimony, the State called retired Jefferson County sheriff's jail administrator Thomas Vowell. Vowell testified that when the defendant arrived at Jefferson County jail on January 6, 2022, based on his charges and extensive prior criminal history, which included "an aggravated escape out of Louisiana," the defendant was classified as "high risk." As a result, throughout his stay, the defendant was closely monitored and kept in a cell by himself.

¶ 63 According to Vowell, the defendant initially had access to phones, a video kiosk, and a jail-provided "chirping" device for text messages, which he used to send out almost 10,000 chirps. The defendant's non-legal communications were restricted on March 10, 2022, a week before his guilty plea, only after Vowell discovered that he was planning an escape.

¶ 64 Specifically, on January 28, 2022, Vowell first noticed that in one of the defendant's "chirps," capital letters randomly scattered through the text, spelled, "I have a cuff key." Although no "cuff key" was found when the defendant was searched, the defendant was transferred to another block. On March 9, 2022, Vowell viewed a video call between the defendant, Mayden, and Cox, in which he observed the defendant talking about getting a cutting tool and a weapon That video call was admitted and published into evidence.

¶ 65 The video call, which this court has independently reviewed, shows the defendant sitting unguarded in a room, talking and laughing with Cox and Mayden. During the call, the defendant

asks Mayden whether he still has a certain item. Mayden responds by nodding his head and mimicking the use of a cutting tool with his fingers. The defendant then asks whether Mayden remembers occasions when they were riding in his truck and the defendant was carrying "that big mother f***," prompting Mayden to make a handgun gesture with his index finger and thumb. The defendant states that he needs "a ride" and needs "somebody, anybody in the whole wide world" to deliver two items to an unidentified female so she can bring them to him. He comments that certain individuals are "dumb," but ultimately notes that he does not care who completes the task. He tells Mayden that he wants him to have "everything" and to "just kind of send that b*** on a dummy mission." Mayden agrees that he "can do that for him." When Cox reappears on the call, the defendant asks her, *inter alia*, whether she remembers a time when he came to her house and warned her to be careful because he had "that thing" on him. After Cox confirms, the defendant says, "That's the only thing I need this b*** for—to bring that thing to me."

¶ 66 After intercepting this video call, Vowell proceeded to review 185 "chirps" sent by the defendant between March 6 and March 9, 2022, and confirmed that the defendant, was, in fact, coordinating an escape plan involving "a driver that was going to bring a saw and weapons" and "break [him] out." These messages, which were admitted into evidence, reveal that the defendant instructed Mayden to get a woman named "Alesia" "high" to make her believe that she was the defendant's "one and only" and to obtain a "leafblower." Mayden also wrote, "The AK she told you about, she gotta get it," to which the defendant replied, "That would be nice, but it's not needed *** all I need is the one I have." Vowell understood "AK" to refer to an assault rifle and "leafblower" to be slang for a shotgun.

¶ 67 Vowell testified that after he reviewed these messages, he alerted the Illinois State Police and, on March 10, 2022, was instructed to shut down all of the defendant's communications except

for those with counsel. According to Vowell, after this was done, the defendant nevertheless obtained another inmate's device and, later that same evening, continued to "chirp" with his coconspirators. These additional messages, also admitted into evidence, show that the defendant instructed his sister, Maria Tate, to bring a gun, shoot out his window, and hand him a gun and a Sawzall, while Mayden would drive the getaway car and cut the fence. Tate responded that she had an AR, a .22, and a 9-millimeter. Vowell testified that after these communications were discovered, the defendant was moved to a room with no windows.

¶ 68 According to Vowell, although restrictions on the defendant's communications remained in place, about a month later, on April 9, 2022, the defendant succeeded in escaping his holding cell and was discovered, nine hours later, near the kitchen exit door leading to a fenced-in area. According to Vowell, the defendant "made it through the duct work up into the upstairs of [the] facility through the concrete ceiling," entered the maintenance area, and retrieved various tools, including a Sawzall, a riot control vest, handcuffs, a razor knife, pliers, a pry bar, a screwdriver, some rope, and sunglasses.

¶ 69 At the hearing, Vowell denied that he made any threats to persuade the defendant to plead guilty. Vowell averred that he did not condition the defendant's communication privileges on pleading guilty and did not inform him that federal prosecutors intended to seek the death penalty. Vowell also denied that the defendant was beaten or abused while in custody and stated that no inmate was permitted into his cell to harm him. In addition, Vowell testified that, during the defendant's transport to the courthouse for the plea hearing on March 17, 2022, nothing occurred in the elevator, and he did not observe any correctional officer strike the defendant. The only injuries Vowell ever observed on the defendant were those sustained during his arrest and from contact with jagged duct work during his escape attempt. In addition, according to Vowell,

throughout his incarceration, the defendant had access to a grievance kiosk but never filed any complaint alleging abuse.

¶ 70 After hearing arguments, the trial court denied the defendant's motion to withdraw his guilty plea. In reaching its decision, the court stated that it had reviewed the transcripts from the plea and sentencing hearings, the parties' filings, and the evidence and arguments presented at the hearing on the motion to withdraw. The court first concluded that the defendant had "failed to demonstrate [the] necessary nexus between the alleged coercive conditions at the [j]ail and his [g]uilty [p]lea." The court found Vowell's testimony to be "convincing evidence" that the defendant was not physically abused while in jail and held that the suspension of the defendant's communication privileges was justified after officers discovered his plot to escape. The court also found no evidence that the victim's family had threatened the defendant's family.

¶ 71 Regarding the defendant's claims of ineffective assistance of counsel, the court found that the defendant had ample time to confer with his attorney and himself chose to move the proceedings forward so that he could plead guilty. The court held that by proceeding in this manner, the defendant also waived his right to seek a change of venue. The court further determined that defense counsel appropriately informed the defendant that the federal government could seek the death penalty regardless of whether he pleaded guilty in Wayne County. Additionally, the plea colloquy established that the defendant understood that only the 37 counts in the present case would be dismissed as part of the plea agreement.

¶ 72 In denying the motion to withdraw, the trial court also found that the plea colloquy showed no indication that the defendant was unfit to enter a plea and that the court had complied with Rule 402 admonishments. Ill. S. Ct. R. 402 (eff. July 1, 2012). Finally, the court held that the defendant's

mandatory life sentence was constitutional because the statute imposing that sentence had been repeatedly upheld. For all these reasons, the court denied the motion. This timely appeal followed.

¶ 73 II. ANALYSIS

¶ 74 As noted above, OSAD has filed an *Anders* motion to withdraw as counsel in this appeal. In the legal memorandum that accompanies the motion, OSAD raises four potential issues. OSAD concludes that none of the four are meritorious, and this court agrees.

¶ 75 A. Compliance with Rule 402

¶ 76 The first potential issue raised by OSAD is whether the trial court complied with Illinois Supreme Court Rule 402 (eff. July 1, 2012), which governs the procedure for accepting guilty pleas.

¶ 77 The purpose of Rule 402 is to "ensure that a defendant understands his plea, the rights he has waived by pleading guilty, and the consequences of his actions." *People v. Dougherty*, 394 Ill. App. 3d 134, 138 (2009); see also *People v. Fish*, 316 Ill. App. 3d 795, 799 (2000) ("Rule 402 is a means of enforcing important constitutional dictates to assure that a defendant enters a guilty plea as 'a knowing, intelligent act, done with sufficient awareness of the relevant circumstances and likely consequences.' " (quoting *People v. Didley*, 213 Ill. App. 3d 910, 915 (1991))). Under the rule, before accepting a guilty plea, the trial court must personally address the defendant in open court and confirm that he understands: (1) the nature of the charge, (2) the minimum and maximum sentence prescribed by law, (3) the right to plead not guilty or to persist in a not guilty plea, and (4) that by pleading guilty he waives the right to a jury trial and to confront the witnesses against him. Ill. S. Ct. R. 402(a) (eff. July 1, 2012); see also *People v. Higgins*, 2023 IL App (4th) 220837, ¶ 38. The rule further requires that the trial court affirmatively determine that the plea is voluntary, confirming in open court the terms of any plea agreement, and ensuring that no force,

threats, or improper promises were used to obtain the plea. Ill. S. Ct. R. 402(b) (eff. July 1, 2012); *Higgins*, 2023 IL App (4th) 220837, ¶ 38. And, finally, the rule requires that the trial court determine that there is a factual basis for a guilty plea before entering final judgment. Ill. S. Ct. R. 402(c) (eff. July 1, 2012); *Higgins*, 2023 IL App (4th) 220837, ¶ 38.

¶ 78 Literal compliance with Rule 402 is not required, and the rule is satisfied where the trial court "substantially" complies with the aforementioned provisions. *People v. Fuller*, 205 Ill. 2d 308, 323 (2002); *Doughtery*, 394 Ill. App. 3d at 138-39. Our review of whether the trial court substantially complied with Rule 402 is *de novo. People v. Hall*, 198 Ill. 2d 173, 177 (2001).

¶ 79 In the present case, there can be no question that in accepting the defendant's guilty plea, the trial court substantially complied with Rule 402. The transcript of the plea colloquy shows that pursuant to Rule 402(a), the court admonished the defendant that under count IX he was charged with the first degree murder of Deputy Riley and that because of two sentencing enchantments contained in that charge, he was subject to a mandatory life sentence without the possibility of parole. In literal compliance with Rule 402(a), the trial court further admonished the defendant that he had a right to persist in his original not guilty plea and informed him that by changing his plea, he would be relinquishing his rights to a trial and to confront the witnesses against him. The court then went beyond what was required by the rule and explained that in a jury trial, all 12 jurors would be required to render a unanimous finding of guilt, something the defendant was giving up by pleading guilty. The court also confirmed the defendant's signature on the written jury waiver and affirmed that he had read the waiver and discussed it with defense counsel.

¶ 80 The plea colloquy also establishes that the court substantially complied with Rule 402(b) by ascertaining that the defendant's guilty plea was voluntary. After the State announced that in exchange for the defendant's plea of guilty to count IX, which carried a mandatory sentence of

natural life imprisonment without parole, it would nol-pros the remaining counts in the indictment, the trial court went through great lengths to ensure that the defendant both understood the terms of the agreement and that he was entering his plea voluntarily. As detailed above, the court inquired, and the defendant confirmed, that aside from the plea agreement, no promises were made to him in exchange for his plea, and no one threatened or coerced him into pleading guilty. The defendant explicitly stated that he was pleading guilty freely and voluntarily. In addition, and of its own accord, the court also verified that the defendant had not taken any substances that would affect his ability to understand the proceedings, that he was given sufficient time to confer with his defense counsel prior to his plea and to go over the State's discovery with her, and that he was satisfied with the time spent with her.

¶ 81 The transcript of the plea hearing further shows that after the State's detailed recitation of the factual basis, and defense counsel's concession that this would be the State's evidence, the court found that there was a sufficient factual basis for the guilty plea. As such the court also complied with Rule 402(c).

¶ 82 Under this record, we agree with OSAD that the trial court's admonishments were more than sufficient to safeguard the rights of the defendant and to comply with Rule 402 such that there is no merit to this issue.

¶ 83 B. Denial of Motion to Withdraw the Guilty Plea

¶ 84 The second potential issue raised by OSAD is whether the trial court erred in denying the defendant's motion to withdraw his guilty plea.

¶ 85 A ruling on a motion to withdraw a guilty plea rests in the sound discretion of the trial court. *People v. Davis*, 145 Ill. 2d 240, 244 (1991). Appellate review of such a ruling is under the abuse-of-discretion standard. *People v. Burge*, 2021 IL 125642, ¶ 37. An abuse of discretion occurs

only "where the court's ruling is arbitrary, fanciful, unreasonable, or no reasonable person would take the view adopted by the trial court." *People v. Delvillar*, 235 Ill. 2d 507, 519 (2009).

¶ 86 A defendant does not have an absolute right to withdraw his guilty plea. *People v. Hughes*, 2012 IL 112817, ¶ 32. "A plea of guilty is a grave act that is not reversible at the defendant's whim." *People v. Reed*, 2020 IL 124940, ¶ 47. The trial court should grant leave to withdraw a guilty plea only "as required to correct a manifest injustice under the facts involved." *People v. Hillenbrand*, 121 Ill. 2d 537, 545 (1988); *Hughes*, 2012 IL112817, ¶ 32. Withdrawal is proper where it appears that (1) the plea was entered on a misapprehension of the facts or the law, (2) there is doubt as to the guilt of the accused, (3) the accused has a meritorious defense, and (4) the ends of justice would be better served by submitting the case to a jury. *Davis*, 145 Ill. 2d at 244.

¶ 87 OSAD asserts, and we agree, that the first three circumstances do not apply. The trial court's Rule 402 admonishments and the defendant's responses, detailed above, demonstrate that the defendant was not operating under any misapprehension of the facts or the law when he entered his guilty plea. Moreover, there can be no doubt as to the defendant's guilt. At the hearing on the motion to withdraw, under oath, the defendant admitted his guilt, stating that he "[a]bsolutely" killed Deputy Riley. What is more, the footage from Deputy Riley's body-worn camera conclusively establishes that the defendant shot and killed the deputy in cold blood and then disposed of his body in a ditch. The defendant has also failed to allege any defense to the murder charge.

¶ 88 This leaves us with the fourth contention—whether justice would be better served by submitting this case to a jury. According to OSAD, in the motion to withdraw his guilty plea, the defendant made three allegations in this respect, all of which relate to the voluntariness of his plea. We address each in turn.

¶ 89 1. Coercion

¶ 90 First, in the motion, the defendant asserted that his plea was a result of coercion. Specifically, the defendant alleged that jail staff threatened him that unless he pleaded guilty, he would be kept in isolation and denied communication privileges and that the federal government would seek the death penalty against him. The defendant further alleged that jail staff allowed another inmate into his cell to beat him up. In addition, the defendant alleged that Deputy Riley's family had threatened his own family and that he wished to spare them from having to watch the body-worn camera footage in court with the deputy's family.

¶ 91 To determine whether a plea is voluntary rather than a product of coercion we look to whether the trial court properly admonished the defendant under Rule 402(b) to determine that no "force or threats" of any kind were used to obtain his plea. See Ill. S. Ct. R. 402(b) (eff. July 1, 2012). When a defendant alleges coercion stemming from prison conditions "[he] must allege a specific instance of abuse, which caused him to plead guilty, and he must sufficiently establish a nexus between the alleged violence and his guilty plea." *People v. Urr*, 321 Ill. App. 3d 544, 547 (2001) (citing *People v. St. Pierre*, 146 Ill. 2d 494, 508 (1992)).

¶ 92 In the present case, the trial court found that the defendant failed to establish such a nexus. This conclusion is clearly supported by the record. The defendant's allegations regarding the jail staff's inappropriate conduct were directly rebutted by the testimony of both the jail administrator and defense counsel. Contrary to the defendant's position, Vowell testified that neither isolation nor communication restrictions were conditioned in any way on the defendant pleading guilty. Instead, Vowell explained that the defendant was housed in isolation because of his history of escape attempts, and that the brief restriction on his outside communications was imposed in response to his video call with Mayden and Cox, which revealed that he was planning an escape.

At the hearing, the defendant himself admitted to planning his escape with Mayden and Cox, and defense counsel confirmed that the defendant acknowledged to her that his communication privileges had been revoked because of the discovery of this escape plot.

¶ 93 In addition, at the hearing, Vowell testified that no inmate was allowed into the defendant's cell to assault him and that no correctional officer attacked the defendant in the elevator of the courtroom. Moreover, Vowell averred that neither he nor anyone else in the jail ever threatened the defendant with the possibility of federal prosecutors seeking the death penalty unless he pleaded guilty. Similarly, at the hearing, the defendant presented no evidence whatsoever that Deputy Riley's family threatened his family.

¶ 94 Above all, as already detailed above, contrary to his subsequent allegations, during the plea hearing, the defendant explicitly told the trial court that he was neither threatened nor coerced into pleading guilty. Likewise, at the plea hearing, the defendant appeared neither subdued nor afraid and instead joked with the court when asked whether he had consumed any substances that would prevent him from understanding the plea proceedings. Certainly, if the defendant had felt pressured to plead guilty because he was being threatened in jail or had just been assaulted by a correctional officer in the elevator up to the courtroom, the defendant should have informed the court. He did not, and instead answered the court's questions, denying any threats or coercion, and confirming that his plea was being given freely and voluntarily. His subsequent assertions to the contrary were self-serving, and simply not credible.

¶ 95 "[B]y virtue of its ability to observe the conduct and demeanor of the witnesses," the trial court was "in the best position to make credibility determinations." *People v. Glover*, 2017 IL App (4th) 160586, ¶ 28. The court acted well within its discretion when it credited Vowell's and defense counsel's testimonies over that of the defendant and we find nothing manifestly erroneous in its

credibility finding. See *id.* (a trial court's credibility determinations are entitled to great deference, and we will defer to them absent manifest error); *People v. Tolefree*, 2011 IL App (1st) 100689 ¶ 24 (manifest error is "error that is clearly plain, evident and indisputable"). Under this record, we agree with OSAD that the trial court did not abuse its discretion when it found that the coercion allegations were without merit.

¶ 96 2. Mental Competence

¶ 97 In the motion to withdraw his plea, the defendant next asserted that he was mentally incompetent to enter [the] plea" because he had "seen and heard things that made [him] question mental competence" and because he was "never given [a] mental evaluation."

¶ 98 It is well-settled that "[d]ue process bars the prosecution of an unfit defendant." *People v. Brown*, 236 Ill. 2d 175, 186 (2010). A defendant is unfit if due to a mental or physical condition, he or she is unable to understand the nature and purpose of the proceedings or to assist in the defense. 725 ILCS 5/104-10 (West 2020). Under Illinois law, a defendant is presumed fit to enter a plea unless there is a *bona fide* doubt as to his competency. *Brown*, 236 Ill. 2d at 186; *People v. Washington*, 2016 IL App (1st) 131198, ¶ 72; 725 ILCS 5/104-10 (West 2020). Where a *bona fide* doubt is raised as to the defendant's fitness, the trial court must order a fitness hearing. 725 ILCS 5/104-11(a) (West 2020). "The test of a *bona fide* doubt is objective, examining whether facts raise a 'real, substantial, and legitimate doubt' regarding the defendant's mental capacity to meaningfully participate in his or her defense." *Washington*, 2016 IL App (1st) 131198, ¶ 72 (quoting *People v. Eddmonds*, 143 Ill. 2d 501, 518 (1991)).

¶ 99 Whether a *bona fide* doubt exists is within the discretion of the trial court, which is in the best position to observe the defendant and evaluate his or her conduct. *Tolefree*, 2011 IL App (1st) 100689, ¶ 53.

¶ 100 In the present case, nothing in the record supports the conclusion that the defendant was unfit to enter his plea. There is no evidence that the defendant was confused, exhibited impaired judgment, or was unable to think rationally. On the contrary, the record overwhelmingly demonstrates that the defendant knew precisely what he was doing when he pleaded guilty. During the plea colloquy, the defendant communicated coherently with the trial court. The defendant explicitly stated that he had not taken any substance that would impair his ability to understand or think clearly and confirmed that he fully understood the court's Rule 402 admonishments. Subsequently, at the motion to withdraw hearing, the defendant admitted that, at the time of his plea, he understood both the nature of the charges and the length of the mandatory sentence, felt relaxed enough to attempt humor, and was not under the influence of any substances. Likewise, defense counsel confirmed that at the plea hearing, the defendant did not seem confused, appeared to understand the proceedings, and entered his plea knowingly. In fact, counsel testified that she never harbored any concern about the defendant's ability to understand the proceedings, comprehend her advice, or assist meaningfully in his defense.

¶ 101 While counsel and the defendant discussed the potential of raising an insanity defense, the record reflects that this conversation was initiated by the defendant only after his plot to escape was discovered. Moreover, when counsel informed the defendant that such a defense would require him to undergo a psychological evaluation, the defendant adamantly refused and insisted that she move the proceedings forward so that he could plead guilty. This reflects a deliberate choice.

¶ 102 Furthermore, the record establishes that leading up to his guilty plea, the defendant meticulously and cleverly plotted his escape. His video call to Mayden and Cox demonstrates not only that he was lucid but also that he possessed sufficient cunning and awareness to attempt to communicate in a manner that would not disclose the true nature of their conversation.

¶ 103 Under this record, there is simply no basis for any doubt as to the defendant's fitness. We therefore agree with OSAD that the trial court acted well within its discretion when it concluded that the defendant was mentally competent to enter his guilty plea.

¶ 104 3. Ineffective Assistance of Counsel

¶ 105 In the motion to withdraw, the defendant next alleged that his plea was the result of defense counsel's deficient performance. When a defendant raises a *pro se* postplea claim of ineffective assistance of counsel, the two-step common-law procedure derived from *People v. Krankel*, 102 Ill. 2d 181 (1984), is triggered. See *People v. Ayres*, 2017 IL 120071, ¶ 11. The purpose of the procedure is to allow the trial court to decide whether to appoint independent counsel to argue the defendant's *pro se* ineffective assistance of counsel claim. *People v. Patrick*, 2011 IL 111666, ¶ 39. Under *Krankel*, the trial court must first conduct a preliminary inquiry to "examine the factual basis of the defendant's claim." *People v. Roddis*, 2020 IL 124352, ¶ 35. If the court determines that the claim lacks merit or pertains only to matters of trial strategy, it need not appoint new counsel to represent the defendant. *People v. Jackson*, 2020 IL 124112, ¶ 97. However, if the allegations show "possible neglect of the case" new counsel must be appointed to represent the defendant at a hearing on the merits. *Id.*; *Ayres*, 2017 IL 120071, ¶ 11.

¶ 106 In conducting its preliminary inquiry, a trial court may consider the merits of the defendant's claims "in their entirety" (*Roddis*, 2020 IL 124352, ¶ 61) and base its decision on "its knowledge of defense counsel's performance *** and the insufficiency of the defendant's allegations on their face." *People v. Moore*, 207 Ill. 2d 68, 78-79 (2003); see also *Ayres*, 2017 IL 120071, ¶ 12. "A claim lacks merit if it is ' "conclusory, misleading, or legally immaterial" or do[es] "not bring to the trial court's attention a colorable claim of ineffective assistance of

counsel." ' " *People v. Robinson*, 2015 IL App (1st) 130837, ¶ 71 (quoting *People v. Burks*, 343 Ill. App. 3d 765, 774 (2003), quoting *People v. Johnson*, 159 Ill. 2d 97, 126 (1994)).

¶ 107 Failure to conduct a *Krankel* inquiry is subject to harmless error analysis. *Jackson*, 2020 IL 124112, ¶ 127. To show harmless error, "the State must prove beyond a reasonable doubt that the result would have been the same absent the error." *Id*. Moreover, the record must be sufficiently developed with respect to the defendant's claim of ineffective assistance such that the reviewing court can evaluate its merit. *Tolefree*, 2011 IL App (1st) 100689, ¶ 24. Where the trial court reaches a determination on the merits of a defendant's ineffective assistance of counsel claim, we will reverse only if the trial court's action was manifestly erroneous. *Id*.

¶ 108 In the present case, while the record reflects there was no *Krankel* inquiry, as shall be demonstrated below, because the trial court held an evidentiary hearing at which it addressed each and every one of the defendant's allegations regarding counsel's ineffectiveness and concluded none had merit, thereby supplying a more-than-adequate record for review, and making it clear beyond a reasonable doubt that a preliminary inquiry would have reached the same result, we find that any error stemming from the absence of such an inquiry was necessarily harmless. See *id.* ¶ 46; *Jackson*, 2020 IL 124112, ¶ 127.

¶ 109 Turning to the merits of the defendant's ineffective assistance of counsel claims, OSAD correctly notes that they are evaluated under the two-pronged test established in *Strickland v. Washington*, 466 U.S. 668 (1984). See *People v. Brown*, 2017 IL 121681, ¶ 25. To prevail under *Strickland*, the defendant must show both (1) that counsel's performance fell below an objective standard of reasonableness and (2) that the defendant was prejudiced by counsel's conduct. *Id.* In the context of plea proceedings, to demonstrate prejudice under *Strickland*, a defendant must

establish that, but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. *Id.* ¶ 26.

¶ 110 Here, the defendant alleged that counsel was ineffective for (1) insufficiently reviewing discovery and the plea offer with him, (2) failing to seek a change of venue, (3) failing to challenge his restricted jail communications, (4) threatening him with a federal death penalty unless he pleaded guilty, (5) instructing him to plead guilty to stop the coercion or violence, (6) leading him to believe all charges in all jurisdictions would be dismissed, and (7) promising that the body-worn camera footage would not be shown if he pleaded guilty. All of these allegations were directly contradicted by the defendant's own sworn statements during the plea colloquy that he was satisfied with counsel and had adequate time to review discovery with her. Moreover, they were refuted by defense counsel's detailed testimony at the motion to withdraw hearing. As described above, defense counsel testified that between January 6 and March 17, 2022, she met with the defendant three times and spoke with him by phone seven times. During those meetings, she and the defendant discussed the defendant's mental and physical health, family background, criminal history, potential defenses, and the full scope of discovery, including the body-worn camera footage. Counsel explained that she intended to evaluate pretrial publicity and determine whether to seek a change of venue closer to trial but that the defendant foreclosed that possibility by choosing to plead guilty. Counsel also testified that she did not challenge the defendant's communication restrictions because she was aware that those privileges were curtailed because of a failed escape attempt, and because the defendant instructed her to move the proceedings forward so that he could plead guilty and obtain a transfer to another facility where those privileges would be reinstated. Moreover, counsel denied that she advised the defendant to "keep his mouth shut" and agree that his plea was voluntary in order to restore those communication privileges and to

stop the alleged coercion. She also denied promising the defendant that all charges in all jurisdictions would be dropped and that body-worn camera footage would not be shown if he pleaded guilty. Finally, counsel explained that she merely advised the defendant that she did not know whether federal prosecutors might pursue charges or the death penalty but denied threatening that result to induce his plea.

¶ 111 In the present case, the trial court found counsel's testimony to be credible and therefore that her conduct did not fall below an objective standard of reasonableness. As noted above, the trial court was "in the best position to make credibility determinations," and we find nothing manifestly erroneous in the court's ruling. *Glover*, 2017 IL App (4th) 160586, ¶ 28.

¶ 112 Moreover, even if we were to find that counsel's conduct was somehow deficient, the defendant's claim would still be without merit because he cannot establish prejudice under the second prong of *Strickland*. The evidence of the defendant's guilt in the instant case is overwhelming. The body-worn camera footage showing the defendant shooting Deputy Riley in cold blood, ballistics and DNA testing of the weapon recovered upon the defendant's arrest, and the defendant's own inculpatory "chirps" boasting that he "killed a cop" leave no plausible basis for contesting his guilt. Moreover, the defendant professed that he did not wish to view the body-worn camera footage even at sentencing. Accordingly, we find it implausible that the defendant would have chosen to undergo a full trial involving that same footage and extensive testimony, particularly where, from the start, he admitted the crime to defense counsel and told her he intended to plead guilty. We, therefore, agree with OSAD that there is no viable claim of ineffective assistance of counsel.

¶ 113 For all of these reasons, we conclude that the trial court did not abuse its discretion in denying the defendant's motion to withdraw his guilty plea. We do not find that the ruling was

arbitrary, fanciful, or unreasonable, or that no reasonable person could take the view adopted by the trial court. See *Delvillar*, 235 Ill. 2d at 519. The plea was knowing and voluntary and there is no manifest injustice in allowing it to stand.

¶ 114 C. *Pro se* Representation and Appointment of Standby Counsel

¶ 115 The third potential issue OSAD raises concerns the propriety of the trial court's decision to allow the defendant to proceed *pro se* with the assistance of standby counsel. Our supreme court has repeatedly held that a criminal defendant "has the right to self-representation that is ' "as basic and fundamental as [the] right to be represented by counsel." ' " *People v. Marcum*, 2024 IL 128687, ¶ 43 (quoting *People v. Wright*, 2017 IL 119561, ¶ 39, quoting *People v. Nelson*, 47 Ill. 2d 570, 574 (1971)). As long as a defendant's waiver of his constitutional right to counsel is voluntary, knowing, and intelligent, the defendant may choose to proceed *pro se*. *Id.*

¶ 116 To ensure that the waiver of counsel is proper, Illinois Supreme Court Rule 401 requires that the trial court address the defendant in open court and ensure that he understands the nature of the charge, the minimum and maximum sentence, and that he has a right to counsel even if indigent. *Id.* ¶ 44 (citing Ill. S. Ct. R. 401 (eff. July 1, 1984)). Substantial compliance with Rule 401 is mandatory and "will effectuate a valid waiver 'if the record indicates that the waiver was made knowingly and voluntarily, and the admonishment the defendant received did not prejudice his rights.' " *Id.* (quoting *People v. Haynes*, 174 Ill. 2d 204, 236 (1996)). Each waiver of trial counsel must be assessed on the particular facts of the case. *People v. Reese*, 2017 IL 120011, ¶ 62. Whether the trial court properly admonished the defendant pursuant to Rule 401 presents a question of law that we review *de novo*. *Washington*, 2016 IL App (1st) 131198, ¶ 50.

¶ 117 Here, the record establishes that the defendant's waiver of his right to counsel was voluntary, knowing, and intelligent. The defendant asserted his right to proceed *pro se* more than

a year after his guilty plea and sentencing. By that point, he indisputably understood both the nature of the charge and the mandatory life sentence it carried. Nevertheless, before allowing the defendant to represent himself, the trial court confirmed that the defendant understood both. In addition, the court made sure that the defendant knew he still had the right to the appointment of counsel. The court then went the extra mile and inquired into the defendant's age, education, familiarity with the legal system, understanding of the rules of evidence, and awareness of the disparity between his own abilities and the prosecution's legal training in order to make sure the defendant understood what his decision to represent himself entailed.

¶ 118 Furthermore, when the defendant subsequently requested standby counsel, the trial court appointed one to assist him. See *People v. Hui*, 2022 IL App (2d) 190846, ¶ 56 ("a trial court may, in its discretion, appoint standby counsel to assist a defendant who has elected to proceed *pro se*").

¶ 119 Under this record, we agree with OSAD that the trial court more than substantially complied with Rule 401 in ensuring that the defendant's decision to proceed *pro se* was knowing, voluntary, and intelligent, and that it properly granted the defendant's request for the appointment of standby counsel to assist him in his defense. Accordingly, there is no viable argument that the trial court erred in permitting the defendant to represent himself.

¶ 120 D. Constitutionality of Mandatory Life Sentence

¶ 121 The final potential issue raised by OSAD concerns the constitutionality of the defendant's mandatory life sentence, which was imposed pursuant to section 5-8-1(a)(1)(c)(iii) of the Unified Code of Corrections. 730 ILCS 5/5-8-1(a)(1)(c)(iii) (West 2020). That section provides that "the court shall sentence the defendant to a term of natural life imprisonment" if, at the time of the offense, the defendant "had attained the age of 18," and "is found guilty of murdering a peace

officer *** killed in the course of performing his official duties," and the defendant "knew or should have known that the murdered individual was a peace officer." *Id.*

¶ 122 A constitutional challenge to a statute may be either facial or as applied. *People v. Harris*, 2018 IL 121932, ¶ 38. "A facial challenge requires a showing that the statute is unconstitutional under any set of facts, whereas an as-applied challenge is dependent on the particular facts and circumstances of the challenging party." *People v. Hilliard*, 2023 IL 128186, ¶ 21. Both types of challenges involve legal questions, which we review *de novo*. *Id.*

¶ 123 In its memorandum of law, OSAD first discusses the constitutionality of the defendant's mandatory life sentence under the eighth amendment of the United States Constitution (U.S. Const., amend. VIII) and ultimately rejects this as a viable option for a facial challenge. We note, however, that an eighth amendment challenge to the statute was never raised before the trial court, either in the defendant's motion to withdraw his guilty plea or at the hearing on that motion. Pursuant to Illinois Supreme Court Rule 604(d), this issue is, therefore, waived and we need not consider it on appeal. See Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024) ("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 *People v. Ratliff*, 2024 IL 129356, ¶ 26 (while "forfeiture" is "a limitation on the parties" and not the court, "[w]aiver" is "an intentional relinquishment of a right," and an issue that is waived should not be considered on appeal).

¶ 124 As such, we turn to OSAD's discussion of the constitutionality of the defendant's sentence under the Illinois proportionate penalties clause. Ill. Const. 1970, art. I, § 11. That clause requires that all penalties "be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." *Id.* A sentence violates the proportionate penalties clause, when, *inter alia*, the penalty imposed is " 'cruel, degrading, or so wholly

disproportionate to the offense as to shock the "moral sense" of the community.' " *People v. Clark*, 2023 IL 127273, ¶ 51 (quoting *People v. Miller*, 202 Ill. 2d 328, 338 (2002)). "Cruel" and "degrading" have never been defined because " 'as our society evolves, so too do our concepts of elemental decency and fairness, which shape the "moral sense" of [our] community.' " *Id.* (quoting *Miller*, 202 Ill. 2d at 339). In determining whether a statute shocks the moral sense of the community, we review " 'the gravity of the defendant's offense in connection with the severity of the statutorily mandated sentence within our community's evolving standard of decency.' " *Hilliard*, 2023 IL 128186, ¶ 20 (quoting *Miller*, 202 Ill. 2d at 340); *People v. Spencer*, 2025 IL 130015, ¶ 42.

¶ 125 The defendant's facial challenge to the statute mandating his natural life sentence under the proportionate penalties clause is foreclosed by the decision in *People v. Johnson*, 2018 IL App (1st) 140725, ¶ 103. In that case, just as here, the defendant contended that because the statutory scheme mandating natural life imprisonment for the first degree murder of a peace officer precluded the consideration of mitigating factors, it did not conform with the rehabilitative goals of the proportionate penalties clause. *Id.* ¶¶ 97-103. The *Johnson* court disagreed and found no constitutional infirmity. *Id.*

¶ 126 The court explained that the legislature has " 'the power to prescribe penalties for defined offenses' " and that this power " 'necessarily includes the authority to prescribe mandatory sentences, even if such sentences restrict the judiciary's discretion in imposing sentences.' " *Id.* ¶ 102 (quoting *People v. Huddleston*, 212 Ill. 2d 107, 129 (2004)). Furthermore, the " 'rehabilitative objective' " of the proportionate penalties clause " 'does not prevent the legislature from fixing mandatory minimum penalties where it has been determined that no set of mitigating circumstances could allow a proper penalty of less than natural life.' " *Id.* ¶ 102 (quoting

People v. Taylor, 102 Ill. 2d 201, 206 (1984)); see also *Hilliard*, 2023 IL 128186, ¶ 40 (reaffirming that nothing in the proportionate penalties clause suggests that the legislature must give greater weight and consideration to the possibility of rehabilitating an offender than the seriousness of the offense when fixing penalties for the offense). The court explained that in determining that natural life imprisonment was the appropriate penalty for first degree murder of a police officer, the legislature had considered the vital role police officers play in our society, the potential danger they faced every day, and the need to deter and punish more severely those who unlawfully kill police officers in the line of duty. *Johnson*, 2018 IL App (1st) 140725, ¶ 103. Accordingly, *Johnson* concluded that the legislature appropriately "determined that the seriousness of the offense of murdering a police officer mandate[d] a sentence of natural life imprisonment, such that 'no set of mitigating circumstances' could properly allow for a lesser penalty." *Id.* (quoting *Taylor*, 102 Ill. 2d at 206).

¶ 127 We agree with OSAD that under the holding of *Johnson*, the defendant cannot succeed with a facial challenge to his mandatory natural life sentence. Turning to the defendant's as-applied challenge, we note that "[a] defendant bringing an as-applied challenge to a mandatory sentencing statute must ultimately overcome the presumption that the statute is constitutional by clearly establishing that the statute is invalid as applied to him." *Hilliard*, 2023 IL 128186, ¶ 21 (citing *People v. House*, 2021 IL 125124, ¶ 18). "All as-applied constitutional challenges are, by definition, reliant on the application of the law to the specific facts and circumstances alleged by the challenger." (Internal quotation marks omitted.) *Spencer*, 2025 IL 130015, ¶ 44. Accordingly, "it is paramount that the record be sufficiently developed in terms of those facts and circumstances for purposes of appellate review." (Internal quotation marks omitted.) *Id.* "A court is not capable

of making an 'as applied' determination of unconstitutionality where there has been no evidentiary hearing and no findings of fact." (Internal quotation marks omitted.) *Harris*, 2018 IL 121932, ¶ 39.

¶ 128 In the present case, in his motion to withdraw, the defendant solely alleged that his sentence violated the "rehabilitative clause of Ill. Const. 1970, art. I, § 11." The defendant did not elaborate on this claim, nor did he attempt to explain how his particular circumstances rendered the mandatory natural life sentence unconstitutional as applied to him. More importantly, the defendant failed to offer any evidence whatsoever regarding his rehabilitative potential. Similarly, during the sentencing hearing, the defendant instructed counsel not to offer any evidence in mitigation. While counsel, nonetheless, informed the court that the defendant had reported having been sexually abused as a child, the record was not developed as to this issue at all. Aside from this bare comment, the PSI additionally reflected that the defendant had obtained his GED as an adult and had heavily abused methamphetamine for about eight months prior to the instant crime. No other evidence at all supported the proposition that the defendant was entitled to leniency or that he was capable of rehabilitation.

¶ 129 As it stands, based on the record before us we find that the defendant's natural life sentence was not remotely close to being so disproportionate to his offense as to shock the moral sense of the community. The 41-year-old defendant here committed one of the most heinous crimes recognized under the law. He shot Deputy Riley in the face while the deputy was attempting to provide him with roadside assistance. After Deputy Riley was wounded, the defendant continued to shoot at him multiple times, delivering a final close contact shot to his head. The defendant subsequently rifled through the deputy's body, and stole his patrol car, before continuing on a multistate crime spree, involving several vehicular hijackings, the shooting of another victim, and taking hostages. The defendant also had a staggering criminal history including felony convictions

in three states, and outstanding warrants in Missouri and Indiana, the latter of which he was actively fleeing when he shot Deputy Riley. Even after his arrest, the defendant continued to flout the law and planned and nearly executed an escape involving firearms and a Sawzall. The defendant expressed no remorse for the victim or his family. Instead, in his "chirps" he expressed a desire to kill more police officers and Black people.

¶ 130 Given the gravity of the offense, the defendant's extensive and escalating criminal history, his violent conduct during flight, his continued dangerousness and escape planning while incarcerated, and his complete lack of genuine remorse, we agree with OSAD that the mandatory life sentence imposed here is not so disproportionate to the offense as to shock the moral sense of our community. Accordingly, we conclude that there is no viable as-applied proportionate penalties claim.

¶ 131 III. CONCLUSION

¶ 132 For all of the foregoing reasons, we conclude that there are no meritorious issues in this appeal. Accordingly, we grant OSAD's motion to withdraw and affirm the judgment of the circuit court.

¶ 133 Motion granted; judgment affirmed.