

2026 IL App (2d) 250466-U
No. 2-25-0466
Order filed October 30, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

FARID S. RAKIN, Defendant-Appellant.

Appeal from the Circuit Court of Lake County.
Honorable George D. Strickland, Judge, Presiding.
No. 17-CF-1574

JUSTICE SCHOSTOK delivered the judgment of the court.
Justice Jorgensen concurred in the judgment.
Justice McLaren specially concurred.

ORDER

¶ 1 *Held:* The trial court did not err by referring to defendant’s previous drug-related convictions as “drug trafficking” during defendant’s sentencing hearing. Therefore, there was no first-prong plain error and defendant’s trial counsel was not ineffective for failing to object.

¶ 2 In 2020, defendant, Farid S. Rakin, was convicted by a Lake County jury of first-degree murder (720 ILCS 5/9-1(a)(1) (West 2016)) for the 2017 shooting death of Ciera Davis. On appeal, this court affirmed defendant’s conviction but vacated his 60-year sentence and remanded for resentencing. *People v. Rakin*, 2022 IL App (2d) 200712-U, ¶ 87. On remand, defendant was sentenced to 55 years’ imprisonment. Defendant appeals that sentence. For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4 The evidence presented at trial established that defendant and Davis attended a birthday party in Waukegan on the night of June 4, 2017. Defendant and Davis had long been friends, but they recently ended a brief sexual relationship. Also at the party was defendant's girlfriend, Nicole Maise. Davis was kicked out of the party in the early morning hours of June 5 after she and Maise got into a fight. Davis then hit defendant's car with a stick, poured gasoline on it, and began to ram his car with her own car. Defendant shot Davis while she was in her car. She was later pronounced dead in the hospital.

¶ 5 The jury found defendant guilty of first-degree murder and that defendant fired the gun that caused Davis's death. The trial court sentenced defendant to 60 years' imprisonment. On appeal, this court affirmed defendant's conviction but vacated his sentence. *Id.* We determined that the trial court improperly considered the fact that defendant caused serious physical harm as an aggravating factor because that fact is inherent in first-degree murder. See *id.* ¶¶ 77-84. We therefore remanded for resentencing before a new trial judge. *Id.* ¶ 85.

¶ 6 Defendant's presentence investigation report (PSI) listed the following convictions: in 1988, defendant pleaded guilty to resisting a peace officer and was sentenced to one year of supervision; in 1989, defendant pleaded guilty to unlawful possession of a firearm and sentenced to 10 days in jail and 1 year of probation, and separately pleaded guilty to battery on a law enforcement officer and sentenced to two and a half years in prison; in 1990, defendant pleaded guilty to two counts of manufacture or delivery of a controlled substance and sentenced to five years in prison on one count and six years of probation on the second count; in 1993, defendant pleaded guilty to unlawful possession of a firearm and was sentenced to 10 days in jail, and separately pleaded guilty to manufacture or delivery of cocaine and sentenced to 6 years in prison;

in 1997, defendant was convicted of unlawful possession of a weapon by a felon and sentenced to five years in prison, and separately convicted of manufacture or delivery of cocaine and sentenced to four years in prison; in 1999, defendant pleaded guilty to obstruction of justice and sentenced to two years in prison; in 2005, defendant pleaded guilty to possession of a controlled substance and sentenced to 6 months in jail and 24 months of probation; in 2006, defendant pleaded guilty to manufacture or delivery of cocaine and sentenced to six months in jail and two years of probation; in 2007, defendant was convicted of unlawful possession of a controlled substance and sentenced to three years in prison, and was also convicted of unlawful possession of a weapon by a felon and possession of a controlled substance and sentenced to three years in prison; and in 2015, defendant pleaded guilty to possession of a controlled substance and sentenced to four years in prison. The PSI concluded that “defendant has a long history of aggressive behavior, weapons possession and drug possession and delivery.”

¶ 7 An updated PSI discussing defendant’s time in prison was also submitted to the trial court. The PSI stated that defendant had been cited for two disciplinary infractions since his prison term began in 2022. The first was a minor infraction for refusing to return to his cell at the end of the day, for which defendant admitted responsibility. The second was for refusing to go to an assigned job. Defendant, however, claimed that he had not been assigned a job. He later completed a job assignment and stated that it was “good therapy” for him. Defendant also participated in an educational program, attended occasional support groups with other inmates, and practiced his religion.

¶ 8 At the resentencing hearing, the State read letters from three of Davis’s family members. In mitigation, defendant presented three letters from his family members, an educational transcript, and two certificates of completion for Islamic studies courses. Defendant also presented testimony

from his brother and daughter, who testified about their relationships with defendant. Defendant declined to give a statement in allocution. (Defendant gave a statement in allocution at his initial sentencing hearing where he apologized to Davis’s family).

¶ 9 The State argued that defendant could not be a law-abiding citizen out of custody, as evidenced by his lengthy criminal history, and that no mitigating factors applied. Therefore, the State asked for a sentence between 55 and 60 years. Defendant argued that his criminal history had no correlation to the crime, that several statutory mitigating factors—including that he was acting under strong provocation and that the crime was unlikely to recur—were applicable, and that his age—57 years old at the time of resentencing—supported a shorter sentence. Defendant thus requested the statutory minimum sentence of 45 years. See 730 ILCS 5/5-4.5-20(a) (West 2024); *id.* § 5-8-1(a)(1)(d)(iii).

¶ 10 The trial court began its sentencing by stating that it “will not and does not consider any factor or element of the indictment an additional aggravation in this case.” The trial court determined that there was no need for deterrence, as it believed the people in Waukegan “who are out there in the streets at night doing what they do” would not learn of defendant’s sentence.

¶ 11 The trial court then recounted defendant’s life and criminal history, noting that early on defendant’s “life was looking pretty good. He was pursuing education.” But then from “1989 until his incarceration in this case, years and years and years of criminality.” The court recited defendant’s 1989 and 1993 convictions for the manufacture or delivery of controlled substances, which it said began “a series of many arrests for manufacture/delivery of cocaine.” The court then found “that it appears that [defendant] definitely had a drug problem. But I draw a huge line between possessing drugs and possessing—and trafficking in drugs. In almost all the charges I see [in the PSI] involving drugs involved the trafficking or attempted trafficking of drugs.” The

court also noted the “horrible effects that drugs have on our society. And people who profit from that are endangering society in a very selfish fashion.”

¶ 12 The trial court continued reviewing defendant’s criminal history, including the 1996 convictions for possession of a weapon by a felon and manufacture or delivery of a controlled substance, “[i]n 2006, another delivery of a controlled substance,” and in 2007 “armed violence and manufacture/delivery of a—once again, cocaine. While armed with a .25 caliber pistol, he was in possession of a controlled substance with intent to deliver. Pleaded guilty to that.” The court then said that “this is, once again, trafficking in narcotics, dangerous narcotics, and possessing a deadly weapon.” The trial court then stated that in 2014, “he was charged with manufacture/delivery of cocaine again. *** Armed habitual criminal. *** Manufacture/delivery of heroin near a school. Manufacture/delivery of cocaine near a school. Pleaded guilty to unlawful possession of a controlled substance.” The trial court concluded: “So, his criminal history is replete with, I find, somewhat violent offenses. Some of these are clearly violent. The possession of weapons charges threaten violence in some ways. *** Possessing those weapons while trafficking in controlled substances threaten the public.” The trial court noted that defendant possessed a gun on the night of the murder, which “in and of itself that night would have been very illegal.” The possession of that gun, the trial court said, allowed defendant to “execute, basically” Davis. “And the criminal history led up to this.”

¶ 13 Next, the trial court discussed the mitigating factors. It found that there was some provocation from Davis’s attempted destruction of defendant’s car, but that no other mitigating factors applied. The court found that while the specific circumstances of the crime are unlikely to recur, it was likely that someone would anger defendant again and that he would commit another crime with a firearm because “this crime [was] a culmination of [his] criminal history.” The trial

court also determined that defendant's disciplinary infractions in prison were "bordering on irrelevant" and would not affect the sentence. The trial court then sentenced defendant to 55 years' imprisonment.

¶ 14 On September 10, 2025, defendant filed a motion to reconsider his sentence. He argued that the trial court should have considered his efforts at rehabilitation in prison, and that the trial court erred in categorizing his gun possession convictions as being violent. The trial court denied the motion, finding that it placed the proper weight on the aggravating and mitigating factors. It noted that the sentence it imposed "was substantially closer to the minimum sentence than it was to the maximum sentence, substantially." As to defendant's criminal history, the trial court stated that "it's important to note the way that I evaluated the prior weapons offenses given the fact that this is a case where he discharged a firearm." Because one of the statutory mitigating factors was whether defendant's conduct was likely to recur, the trial court "had to look at whether or not he has a history of resorting to firearms." Since defendant's criminal history showed that he resorted to firearms, the trial court concluded that it correctly considered the nature of his firearms offenses at sentencing. Defendant timely appealed.

¶ 15

II. ANALYSIS

¶ 16 On appeal, defendant argues that the trial court mischaracterized his criminal record by referring to his drug-related convictions as drug trafficking and relying in aggravation on offenses for which he was not convicted. Defendant contends that his sentence was therefore based on "materially untrue" information and violated his due process rights.

¶ 17 At the outset, we note that defendant did not raise this argument in the trial court. The Unified Code of Corrections (Code) requires that a "defendant's challenge to the correctness of a sentence or to any aspect of the sentencing hearing shall be made by a written motion filed ***

within 30 days following the imposition of the sentence.” 730 ILCS 5/5-4.5-50(d) (West 2024). Likewise, our supreme court has held that the Code requires a written post-sentencing motion to preserve sentencing errors for appellate review. See *People v. Reed*, 177 Ill. 2d 389, 394 (1997); see also *People v. Russell*, 2022 IL App (2d) 190733, ¶ 49. Here, while defendant filed a post-sentencing motion in the trial court, he did not argue in his motion that the trial court wrongly misstated the offenses for which he was convicted.

¶ 18 Defendant acknowledges that he forfeited the issue by failing to raise it below but argues that it is reversible error under the plain error doctrine. The plain error doctrine is a “narrow and limited exception” to forfeiture. *People v. Hillier*, 237 Ill. 2d 539, 545 (2010); see Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967). While the plain error rule “is not a constitutional doctrine, it ‘has roots in the same soil as due process.’ ” *People v. Moon*, 2022 IL 125959, ¶ 19 (quoting *People v. Herron*, 215 Ill. 2d 167, 177 (2005)). To obtain relief, a defendant must first show that a clear or obvious error occurred. *Hillier*, 237 Ill. 2d at 545. “In the sentencing context, a defendant must then show either that (1) the evidence at the sentencing hearing was closely balanced, or (2) the error was so egregious as to deny the defendant a fair sentencing hearing.” *Id.* The defendant bears the burden of persuasion, and if that burden is not met, the procedural default will be honored. *Id.* Our supreme court recently clarified that second-prong plain errors at sentencing are only those “structural errors [that] affect the very framework within which the sentencing hearing proceeds, rather than mere errors in the sentencing process itself,” meaning that “a structural error at sentencing is an error that renders the sentencing hearing itself an unreliable means of implementing” the balance between mitigating and aggravating factors. *People v. Johnson*, 2024 IL 130191, ¶ 89. Thus, defendant argues that the trial court’s error was first-prong plain error.

¶ 19 In the alternative, defendant argues that his trial counsel was ineffective for failing to raise the argument in the trial court. Under the familiar *Strickland* test, a defendant arguing ineffective assistance must show that “(1) his counsel’s performance *** fell below an objective standard of reasonableness, and (2) *** but for counsel’s deficient performance, there is a reasonable probability that the result of the proceeding would have been different.” *People v. Houston*, 226 Ill. 2d 135, 144 (2007); see *Strickland v. Washington*, 466 U.S. 668 (1984). Our supreme court has held that the analysis for prejudice under the first prong of plain error is similar to the analysis for prejudice in a claim for ineffective assistance of counsel. *People v. White*, 2011 IL 109689, ¶¶ 132-34; see *People v. Williams*, 2022 IL App (2d) 200455, ¶ 122.

¶ 20 We begin by considering whether an error occurred. See *People v. Moeller*, 2024 IL App (2d) 230043, ¶ 143. “It is well settled that the trial court has broad discretionary powers in imposing a sentence, and the trial court’s sentencing decision is entitled to great deference.” *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). A trial court has wide latitude to sentence a defendant to any term within the statutory range prescribed for the offense, provided it does not consider incompetent evidence, rely on improper aggravating factors, or disregard pertinent mitigating factors. *People v. Hernandez*, 204 Ill. App. 3d 732, 740 (1990). Moreover, “a defendant has a right not to be sentenced based upon improper factors in aggravation, and a trial judge’s reliance upon an improper factor in sentencing impinges upon a defendant’s ‘fundamental right to liberty.’ ” *People v. Whitney*, 297 Ill. App. 3d 965, 969 (1998) (quoting *People v. Martin*, 119 Ill. 2d 453, 458 (1988)). Although a trial court may consider nonstatutory aggravating factors when imposing a sentence, it may consider only competent and reliable evidence and must not base its sentencing decision on “prejudice, speculation, and conjecture.” *People v. Dempsey*, 242 Ill. App. 3d 568, 597-98 (1993).

¶ 21 Nonetheless, a trial court's reliance on an improper aggravating factor does not require remand where the weight placed on the improper factor is so insignificant that it did not result in a greater sentence. *People v. Conover*, 84 Ill. 2d 400, 405 (1981); *People v. Bourke*, 96 Ill. 2d 327, 332 (1983). "Courts of review have found the following considerations to be helpful in determining whether trial courts have afforded significant weight to improper factors such that remand would be required: (1) whether the trial court made any dismissive or emphatic comments in reciting its consideration of the improper factor; and (2) whether the sentence received was substantially less than the maximum." *People v. Dowding*, 388 Ill. App. 3d 936, 945 (2009). If the reviewing court cannot determine how much weight the trial court placed on the improper factor, remand is required. *Bourke*, 96 Ill. 2d at 332.

¶ 22 There is a strong presumption that the trial court based its sentencing determination on proper legal reasoning. *Dowding*, 388 Ill. App. 3d at 942-43. In determining whether the trial court relied on proper aggravating and mitigating factors, a reviewing court must consider the record as a whole rather than focusing on isolated words or statements by the trial court. *Id.* at 943. Whether a trial court relied on an improper factor in imposing sentence presents a question of law, which this court reviews *de novo*. *People v. Abdelhadi*, 2012 IL App (2d) 111053, ¶ 8.

¶ 23 In this case, defendant first argues that the trial court erred by improperly referring to his drug-related convictions as being for drug trafficking. Under the Controlled Substances Act (Act) (720 ILCS 570/100 *et seq.* (West 2024)), manufacture or delivery of a controlled substance and controlled substance trafficking are separate crimes. Though manufacture or delivery is an element of drug trafficking, drug trafficking also requires that the defendant brings the drugs into Illinois. Compare *id.* § 401 (manufacture or delivery of a controlled substance), with *id.* § 401.1(a) (controlled substance trafficking). Drug trafficking carries a minimum sentence of not less than

twice the minimum sentence of manufacture or delivery and a maximum sentence of not more than twice the maximum for manufacture or delivery, depending on the type and quantity of the substance. *Id.* § 401.1(b); see *id.* § 401(a) (listing sentencing ranges for manufacture or delivery based on type and quantity of the substance). According to the PSI, defendant had several convictions for possession and manufacture or delivery of a controlled substance, but he was never charged with nor convicted for drug trafficking. He therefore argues that the trial court relied on “materially untrue” information which resulted in an erroneous sentence.

¶ 24 We disagree with defendant that an error occurred. In reviewing the totality of the record, as we must, it is clear that the trial court properly considered only the offenses for which defendant was convicted. When discussing defendant’s criminal history, the trial court correctly recited defendant’s several convictions for drug possession and manufacture or delivery. The trial court at times summarized the nature of defendant’s drug-related crimes and referred to them as involving drug trafficking. Contrary to defendant’s assertions, the trial court’s references to drug trafficking were not related to any specific convictions or charges and it did not state that defendant had been convicted of or charged with drug trafficking. Instead, the trial court referred to drug trafficking in a generic sense, which is “[t]rading or dealing in certain goods and commonly used in connection with illegal narcotics sales.” Black’s Law Dictionary 1340 (5th ed. 1979); see *People v. Fullwiley*, 2015 IL App (2d) 130312-U, ¶ 31.¹ It is not uncommon for judges and lawyers to generically refer to crimes involving drug dealing as drug trafficking. See, e.g., *United States v. Harris*, 2025 WL 586834, *1 (7th Cir. 2025) (unpublished order) (referring to defendant’s

¹We may rely on the reasoning of a nonprecedential decision under Illinois Supreme Court Rule 23 (eff. June 3, 2025). *Zhao v. State Farm Fire & Casualty Co.*, 2025 IL App (2d) 240723, ¶ 30; *People v. Ingram*, 2020 IL App (2d) 180353, ¶ 21 n.1.

previous convictions for possession of PCP with intent to deliver under the Act as “trafficking PCP”); *People v. Newton*, 2018 IL 122958, ¶ 43 (quoting *People v. Falbe*, 189 Ill. 2d 635, 643 (2000)) (Burke, J., dissenting, joined by Neville, J.) (referring to the Act’s prohibition on delivery of a controlled substance within 1000 feet of a church as a protection from drug trafficking); *People v. Harth*, 339 Ill. App. 3d 712, 716 (2003) (referring to a defendant convicted of unlawful possession of a controlled substance with intent to deliver as “a sophisticated and unrepentant drug trafficker”); *People v. McCain*, 248 Ill. App. 3d 844, 851-52 (1993) (referring to a defendant convicted of possession of cocaine with intent to deliver as “trafficking cocaine” and holding that “[i]t is not improper *per se* for a sentencing court to refer to the significant harm inflicted upon society by drug trafficking”). The record makes clear that the trial court’s uses of “drug trafficking” were in reference the general nature of defendant’s criminal history, which included offenses related to the delivery of controlled substances.

¶ 25 Analogous situations happened in *Fullwiley* and *People v. Wade*, 2025 IL App (2d) 231683. In *Fulwiley*, the defendant was found guilty of unlawful possession of cannabis and cocaine with intent to deliver. 2015 IL App (2d) 130312-U, ¶ 2. On appeal, the defendant argued that his trial counsel was ineffective for failing to object to the prosecutor’s use of “narcotics trafficking” and “narcotics trafficker” throughout the trial. *Id.* He believed that the use of this terminology was “inflammatory language” because it would “have the jury believe that the defendant was guilty of conduct much more serious than that charged.” *Id.* ¶ 28. This court determined that it was “apparent that the prosecutor construed the terms ‘narcotics trafficking’ and ‘narcotics trafficker’ as synonymous with ‘illegal drug dealing.’ ” *Id.* ¶ 33. Based on the prosecutor’s generic use of the phrases and that the jury was properly instructed on the defendant’s charges, we held that there was no error. *Id.* ¶ 34.

¶ 26 In *Wade*, the defendant was convicted of unlawful possession of a weapon by a felon and for being an armed habitual criminal. 2025 IL App (1st) 231683, ¶ 11. When sentencing the defendant, the trial court relied heavily on the defendant's criminal history, including making a reference to a 2018 conviction for "Harass Witness/Fam Membr" as defendant's "first foray into the felony realm." *Id.* ¶ 59. However, the conviction was a misdemeanor, not a felony. *Id.* While on probation for that conviction, the defendant was charged with several other misdemeanors. *Id.* When discussing those misdemeanors, the trial court repeatedly made mention of the defendant being on "felony probation" when they occurred. *Id.*

¶ 27 On appeal, the defendant argued that these statements by the trial court, which stemmed from an incorrect PSI, were improper and plain error. *Id.* ¶ 55. The appellate court disagreed. It determined that "the trial court's comments [made] clear that it was relying on defendant's continuous course of criminal activity, beginning from his first conviction in 2018." *Id.* ¶ 60. Further, "there [was] no indication that the trial court treated it any differently due to its character as a felony, as opposed to a misdemeanor." *Id.* The appellate court therefore concluded that there was no plain error. *Id.*

¶ 28 Here, similar to the prosecutor's comments in *Fullwiley*, the trial court's use of "trafficking" was generic. The trial court never stated that defendant was charged with or convicted of drug trafficking. Rather, the trial court correctly recounted defendant's history of various drug-related convictions and later generically referred to them as involving drug trafficking, meaning that defendant was involved in the distribution of drugs. Defendant's convictions fall squarely within the common generic definition of "drug trafficking." Like the trial court in *Wade*, the totality of the trial court's comments here makes clear that it was relying on defendant's criminal history as a whole, which included repeated drug and firearms offenses, rather

than the nature of any specific conviction. There is no indication that the trial court treated any of defendant's convictions as a more serious conviction when crafting its sentence. Moreover, the record makes clear that the trial court relied on the PSI, which accurately reflected defendant's convictions. Therefore, we cannot say that the trial court's comments constituted error.

¶ 29 In so holding, we are unpersuaded by defendant's reliance on *People v. Holloman*, 304 Ill. App. 3d 177 (1999). In that case, the defendant was convicted of possession of cannabis with intent to deliver and was sentenced to 10 years' imprisonment. *Id.* at 178. The defendant's PSI listed a previous conviction for possession with intent to deliver as "cont. sub. trafficking." *Id.* at 185. At sentencing, the trial court stated that the defendant had "three prior felony convictions, two of them are drug charges. The last was a controlled substance trafficking charge [for] which he received three years [in prison.]" *Id.* The trial court then stated that in order to rid the community of drugs, it needed "to take the dealers off the street for as long as [it] possibly can to keep the individual himself from dealing and to hopefully send a message that drug dealers are going to go away for as long as they can go away in this community." *Id.* The State argued that the error was immaterial because the trial court would have reached the same conclusion. *Id.* The appellate court reversed, determining that it could not "conclude that the trial court's consideration of the trafficking conviction was insignificant" based on the trial court's specific reference to the erroneous trafficking conviction. *Id.* The appellate court therefore remanded for resentencing. *Id.*

¶ 30 Here, however, the trial court correctly recited defendant's drug-related criminal charges before summarizing the crimes as involving drug trafficking. While the *Holloman* court could not determine the weight given by the trial court to the incorrect recitation of the conviction because the PSI was incorrect, the PSI here correctly listed defendant's convictions and the trial court correctly recited those drug convictions. As previously stated, the trial court considered the general

nature of defendant's criminal history and not any specific conviction, nor did it state that defendant had been convicted of drug trafficking. Therefore, we find *Holloman* distinguishable and conclude that the trial court here did not err by referencing drug trafficking.²

¶ 31 Even if the trial court's references to drug trafficking were erroneous, the record does not show that defendant suffered prejudice. The record shows that the trial court weighed the totality of defendant's criminal history, rather than any specific crime. The trial court carefully balanced the aggravating factors—such as defendant's criminal history—against the mitigating factors—such as its belief that defendant acted under some provocation. This resulted in a 55-year sentence, which is below both the maximum sentence of life imprisonment and the initial 60-year sentence. *Cf. People v. Raya*, 267 Ill. App. 3d 705, 709 (1994) (the trial court is not required to impose a lesser sentence on remand for resentencing). Thus, the record is clear that the references to drug trafficking, even if erroneous, played an insignificant role in fashioning defendant's sentence.

¶ 32 Finally, defendant argues that the trial court erred by misstating that he was convicted in 2007 for delivery of a controlled substance and mentioning an armed violence charge in 2007 when he was actually convicted of lesser offenses. Again, however, the trial court's recitation of defendant's drug- and gun-related offenses was for their general nature, not for the nature of any specific offense. The PSI correctly reflects defendant's convictions and the trial court relied on the PSI when fashioning its sentence. Therefore, the record makes clear that the trial court's misstatements about defendant's previous convictions did not result in an improper sentence.

²Although we hold that the trial court did not err by referencing drug trafficking under the facts of this case, we urge trial courts and litigants to be more careful in their terminology when the generic and statutory meanings of terms differ.

¶ 33 Therefore, because there was no reversible error, there can be no plain error, and defendant's trial counsel cannot be deficient for failing to object or raise the argument in a post-sentence motion. See *People v. Johnson*, 218 Ill. 2d 125, 139 (2005). Accordingly, we hold defendant to the forfeiture of his argument and affirm the trial court. See *Hillier*, 237 Ill. 2d at 545.

¶ 34 III. CONCLUSION

¶ 35 For the reasons stated, we affirm the judgment of the circuit court of Lake County.

¶ 36 Affirmed.

¶ 37 JUSTICE McLAREN, specially concurring:

¶ 38 I question the footnote in paragraph 30 unless it will be included in future cases where procedural defaults are used to preclude a simple clarification despite the fact that the record does not reflect any ambiguity. The reference to drug trafficking did not involve the more serious crime because there was nothing in the record to support the false assumption that the criminal charge was ever charged let alone supported by anything in the record. I submit there was no objection below because it was fairly obvious that that the claim we address has no foundation in the context of this sentence.