

NOTICE
This Order was filed under
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2026 IL App (4th) 250747-U

NO. 4-25-0747

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 23, 2026

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Livingston County
CHARLES D. WILSON,	)	No. 21CF198
Defendant-Appellant.	)	
	)	Honorable
	)	Jennifer H. Bauknecht,
	)	Judge Presiding.

JUSTICE LANNERD delivered the judgment of the court.
Justices Zenoff and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, finding (1) defendant's five year sentence was not excessive, (2) defendant forfeited his argument that the trial court improperly punished him for his conduct on probation rather than for his conduct giving rise to the original offense, and (3) defense counsel was not ineffective for failing to object to the court's consideration of defendant's conduct on probation at defendant's resentencing and failing to raise the issue in a postsentencing motion.

¶ 2 Defendant, Charles D. Wilson, pleaded guilty to possession of a stolen firearm (720 ILCS 5/24-3.8(a) (West 2020)), and the trial court sentenced him to 24 months' probation. In June 2025, the court revoked defendant's probation and resentenced him to five years' imprisonment. Defendant appeals, arguing (1) his five year sentence was excessive, (2) the court erred because it punished him for his conduct while on probation rather than the conduct giving rise to the underlying offense, and (3) defense counsel was ineffective for failing to object to the court's consideration of defendant's conduct on probation at defendant's resentencing and failing to raise

the issue in a postsentencing motion. We affirm.

¶ 3

I. BACKGROUND

¶ 4

A. Original Charges and Guilty Pleas

¶ 5

On July 20, 2021, the State charged defendant with possession of a stolen firearm (*id.*) (count I) and aggravated unlawful use of a weapon (*id.* § 24-1.6(a)(1), (a)(3)(C)) (count II). In June 2023, defendant entered open guilty pleas to both counts. The State proffered the following factual basis for defendant's pleas:

“Your Honor, were this case to go to hearing, the State would present in the form of testimony of deputies with the Livingston County Sheriff's Department that back on July 19th of 2021, Officer Haley stopped the vehicle being driven by the Defendant ***. He was traveling 78 in a 55 mile an hour zone. Subsequent to the stop, he had cause to search the vehicle. During the course of the search of the vehicle, inside a suitcase the officer found a .9 millimeter GLOCK 17 Gen4 pistol which subsequently was determined to be stolen. These things occurring in Livingston County.”

The trial court then set the matter for a sentencing hearing.

¶ 6

Defendant's case was initially set for sentencing on July 1, 2023. However, on that date, the trial court indicated it had not admonished defendant that count II was nonprobationable. Based on this deficiency, the case was continued to August 2, 2023, so defendant could have time to speak with his attorney and determine whether he wished to move forward with sentencing or file a motion to withdraw his guilty pleas.

¶ 7

B. Sentencing

¶ 8

On August 2, 2023, defense counsel informed the trial court that defendant wished

to move forward with sentencing despite the prior incorrect admonishments. The court then had a discussion with defendant and advised him that he had a right to withdraw his prior guilty pleas based on the incorrect admonishments. Following this discussion, defendant asserted he did not wish to withdraw his prior guilty pleas, and he “want[ed] to get sentenced.”

¶ 9 The State requested the trial court sentence defendant to three years’ imprisonment on each count, to run concurrently. Defense counsel requested the court sentence defendant to the mandatory minimum, one year of imprisonment, on count II, and probation on count I. According to defense counsel, defendant had accumulated enough presentence credit that it “would pretty much just be an in-and-out sentence in the Department of Corrections on Count 2.” During defendant’s statement of allocution, he asserted,

“I believe I’ve changed and, I’ve changed. So, now I’m becoming a man; and I don’t want to live this lifestyle that, the lifestyle I’m headed. I want to get another chance in life and on probation and be there for my mom ***. So, I’m really trying to get back home and focus, and I’m asking that the Judge, can she only give me one year and probation, and I’m not going to mess it up. And I’ll always call in for probation, whatever I’ve got to do, I’m not going to get in trouble, never going to touch a gun again.”

Following defendant’s statement of allocution, the court sentenced defendant to 1 year of imprisonment on count II and 24 months’ probation on count I. In addition to the standard terms of probation, the court ordered defendant to “complete 40 hours of community service within the next year” and “obtain steady employment or pursue [his] education” as part of his probation.

¶ 10 C. Petitions to Revoke Probation

¶ 11 On October 16, 2024, the State filed a petition to revoke defendant’s probation,

alleging defendant violated his probation by “commit[ing] the Class 2 Felony offense of Unlawful Possession of Weapon by a Convicted Felon (case # 24CF1335) in Sangamon County, IL on 10-06-24.” The State then filed a second petition to revoke probation on November 19, 2024, which alleged defendant violated his probation when he “left the State of Illinois and traveled to Missouri without the consent of the Court or Probation, on or around 11-12-2024.” Defendant failed to appear at the first appearance on the petitions, and a warrant was issued for his arrest.)

¶ 12 Defendant was subsequently arrested on the warrant and appeared in court on December 16, 2024. The State did not file a verified petition to deny defendant pretrial release and instead requested the trial court place defendant on pretrial release and impose four mandatory release conditions. See 725 ILCS 5/110-10(a) (West 2024). The court acquiesced and placed defendant on pretrial release and imposed four mandatory conditions.

¶ 13 On January 21, 2025, defendant appeared before the trial court with counsel, and the court arraigned him on the two petitions to revoke his probation. The case was then continued so defense counsel could determine the status of the Sangamon County case, which was the basis for the first petition to revoke.

¶ 14 The State then filed a third petition to revoke defendant’s probation on March 6, 2025. This petition alleged defendant violated his probation in the following ways:

“1. That said defendant left the State of Illinois and traveled to Missouri without the consent of the Court or Probation, on 11-18-2024.

2. That said defendant left the State of Illinois and traveled to Wisconsin without the consent of the Court or Probation, on or around 12-22-2024.

3. That said defendant failed to complete 40 hours of community service by the court ordered date of 08-02-24. Said defendant was then offered a sanction by

probation to complete 20 additional hours of community service, with all 60 hours total being due by 01-01-25. No completed community service hours have been provided to probation.”

¶ 15 On March 25, 2025, the trial court arraigned defendant on the third petition to revoke his probation. That same day, the State filed an amended second petition to revoke defendant’s probation. (We note the amended petition was filed to correct a scrivener’s error in the original petition and did not change the alleged violations of probation.) The parties then indicated defendant would admit the allegations in the amended second petition to revoke probation and the third petition to revoke probation. In exchange for his admission, the State would dismiss the first petition to revoke probation, but there would be no agreement as to sentencing. Prior to accepting defendant’s admission, the court admonished him on the allegations, his right to a hearing on the petitions, and the possible penalties at resentencing. The court then confirmed defendant had not been forced or threatened to admit to the allegations in the petitions. Defense counsel then stipulated to the factual bases as set forth in the petitions and defendant admitted to the allegations in the amended second petition to revoke and the third petition to revoke. The court accepted defendant’s admissions as knowingly and voluntarily made and set the case for resentencing.

¶ 16 D. Resentencing

¶ 17 At defendant’s resentencing hearing, the trial court inquired whether the parties had any additions or corrections to the presentence investigation report (PSI). In response, the State informed the court that defendant’s Sangamon County case had been set for trial the previous day and there had been “seven pretrial violations filed in the month of May and one pretrial violation filed in the month of June” in that case. However, the State did not have any additional information

about the status of the Sangamon County case or the pretrial violations. The parties then indicated they had no objection to the admission of the PSI.

¶ 18 The PSI showed defendant was 26 years old, had dropped out of high school during his senior year, and did not have steady employment. Defendant's criminal history included convictions for possession of a machine gun, resisting law enforcement, and leaving the scene of an accident. He also had a pending charge for unlawful possession of a weapon by a felon in Sangamon County. The PSI also included a two-page narrative of the circumstances surrounding defendant's conviction for possession of a stolen firearm.

¶ 19 Defense counsel then offered two letters written on defendant's behalf into evidence, without objection. One of the letters was written by defendant's girlfriend, who was present in the courtroom during the resentencing hearing. Following the admission of the two letters, defense counsel read the following statement, which was written by defendant:

"I am currently facing charges for multiple violations of my probation. Within my time on probation, I left the state without permission more than once, nor did I complete the community service as permitted [sic]. I did not think about how my actions not only affected me but will affect the people around me if I'm violated and sent to prison.

I realize the seriousness of my offense, that getting probation was a good thing for me, and I took advantage. There was times where I just gave up on myself and didn't want to hear anything anyone had to say, not my family or probation officers. I had an excuse for everything and a finger to blame. I realize I was the problem despite all the excuses. I've had time to think and reflect on my past and the mistakes I've made. I realize I want more for myself and for my family.

If given a second chance, I won't let the Court or my family down. I have persevered through a lot, and I will abide by the rules of the court and continue to do my part on becoming a better person. I will abide by curfews and get my community service done in a timely manner as I've reached out to several resources centers over the weeks prior.

I thank you kindly for hearing everything I have to say. I want to apologize to you, Judge, and to everyone I've hurt in this process. I promise to make change and to prove that I am better than the decisions I've made."

¶ 20 The State requested the trial court resentence defendant to six years' imprisonment. In support of this request, the State highlighted defendant's conduct on probation, his criminal history, and the circumstances surrounding the original offense. Defense counsel requested the court resentence defendant to another term of probation. According to defense counsel, defendant had matured and, if given another opportunity, he would demonstrate that he could be responsible, comply with the terms of probation, and successfully complete probation. Defendant then made the following statement in allocution:

"I want to say sorry to my family in the courtroom and the stuff I did. And if I do get sentenced today, I'm going to be better, I'm going to do better when I get back, when I get back. I'm never going to be in this courtroom again. I'm going to stop doing whatever I was doing, going to get me a job and move out of Illinois, is my main goal."

¶ 21 Following defendant's statement in allocution, the trial court resentenced defendant to five years' imprisonment. (Because one of defendant's arguments focuses on the court's considerations at resentencing, we find it important to quote the court's statements in their

entirety.) In pronouncing the sentence, the court stated:

“Well, the conviction’s already been entered on the class 2 felony possession of a stolen firearm. And as the, as the State pointed out, this was a very unique sentence when it was originally imposed.

The defendant talks the talk but doesn’t walk the walk, I think is, unfortunately, the way this is going to be summed up. And because of the defendant’s ability to say the right words, the Court gave him an opportunity at probation even though there was a Department of Corrections sentence on one of the counts; it was a very short sentence, and I think the defendant was basically in and out of DOC in a very short period of time and placed on parole, but also probation. And the purpose of placing the defendant on probation was twofold. First of all, it is the preferred disposition in the State of Illinois; and I made a finding, based upon everything presented to me at the original sentencing hearing, that it was an appropriate disposition in connection with the possession of a stolen firearm charge. And the reason for that, not only because the statute directs the Court first consider probation, but, more importantly, because the defendant at that time had basically said the same things that I’m hearing here today, that he was, accepted responsibility for what he had done, he just wanted to do better and needed an opportunity to do that, he was going to start making better decisions, *et cetera*, *et cetera*. Well, talk is cheap and actions speak louder than words; and, unfortunately, [defendant], even though you say you want to do the right thing, your actions indicate otherwise, particularly, not just with regards to your current term of probation, but also with this pending case in Sangamon County. There have been

multiple violations of your pretrial release in that case. I did not get an update from [defense counsel] concerning what happened yesterday, nor did I get an update concerning all these violations. So, we know that they exist, I don't know what they are, but they're out there. So, you're on pretrial release and you're on probation in this case, and you are not doing the things that you're supposed to do.

In addition, here in this case, not only were you given the opportunity at probation, but then probation gave you an opportunity by giving you sanctions in connection with your probation. There's not a whole lot else that this community can do for you. At some point, you're going to have to take responsibility and you're going to have to do it yourself. It's easy to say you want to do it, but it's a whole different ball game to then actually do it, and you're not getting to the second half. You're saying the right things, but you're not doing the right things. I don't know what it's going to take.

I understand your attorney's argument that you want to be a role model for your family. I think you need to be focused right now on you, what do you need to do to be a better person. You're not going to be a role model for anybody until you figure out you, and you're having a hard time doing it; in fact, you're doing the complete opposite. This isn't a one-time situation when you were on probation and, you know, you screwed up by not doing community service; there have been multiple violations of your probation, multiple opportunities for you to do the right thing and multiple times that you have disregarded the Court's probation order, not to mention the charges in Sangamon County, which I understand you're presumed innocent of those charges, but I am very concerned about the pretrial violations. So,

you know, you were given an opportunity to better yourself and to do that with our probation department, but you did not take advantage of that opportunity and, more importantly, you continued to violate, not only my order, but the orders out of Sangamon County.

So, in this particular case, there is a lot of aggravation. Deterrence is an aggravating factor, your prior record is an aggravating factor. What is, unfortunately, previously, you know, I thought that you were you in a state of mind that you were going to make better choices, but I don't really find a lot of mitigating factors in this case and none that outweigh the aggravating factors.

Having been given a chance at probation and having essentially failed at probation, I am going to revoke your probation and I am going to sentence you to the Illinois Department of Corrections for a period of five years."

¶ 22 Defendant filed a motion to reconsider sentence on June 27, 2025, which alleged the five year sentence was "unduly harsh" and excessive. Following a hearing on defendant's motion, the trial court denied the motion. In its oral ruling, the court stated,

"Well, I did consider all the evidence that was tendered to me in aggravation as well as mitigation. No one factor carries more weight than any other, but I am required to weigh those factors and make my decision. I did weigh those factors, made my decision; it's well within the range as prescribed by statute, I think the decision is appropriate, and, therefore, the motion to reconsider is denied."

¶ 23 This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 On appeal, defendant argues (1) his five year sentence was excessive, (2) the trial

court erred because it punished him for his conduct while on probation rather than the conduct giving rise to the underlying offense, and (3) defense counsel was ineffective for failing to object to the court's consideration of defendant's conduct on probation at defendant's resentencing and failing to raise the issue in a postsentencing motion.

¶ 26

A. Excessive Sentence

¶ 27

“The legislature sets forth by statute the range of permissible sentences for each class of criminal offense.” *People v. Fern*, 189 Ill. 2d 48, 53 (1999). At sentencing, the trial court has broad discretion in selecting an appropriate sentence within the statutory range. *People v. Garcia*, 2018 IL App (4th) 170339, ¶ 37. However, “[t]he trial court’s sentence must be based upon the particular circumstances of the case, including (1) the defendant’s history, character, and rehabilitative potential; (2) the seriousness of the offense; (3) the need to protect society; and (4) the need for punishment and deterrence.” *People v. Sturgeon*, 2019 IL App (4th) 170035, ¶ 102. Additionally, sections 5-5-3.1 and 5-5-3.2 of the Unified Code of Corrections (730 ILCS 5/5-5-3.1, 5-5-3.2 (West 2024)) set forth statutory factors in aggravation and mitigation the trial court must consider when sentencing a defendant. Although the trial court must consider these factors when fashioning a sentence, “[t]he weight to be given to any proper factor *** is left to the sound discretion of the trial court.” (Emphasis omitted.) *Sturgeon*, 2019 IL App (4th) 170035, ¶ 104. Moreover, “[a] reviewing court gives great deference to the trial court’s judgment regarding sentencing because the trial judge, having observed the defendant and the proceedings, has a far better opportunity to consider these factors than the reviewing court, which must rely on the ‘cold’ record.” *Fern*, 189 Ill. 2d at 53. Consequently, this court will not disturb a sentence within the statutory range absent an abuse of discretion. *People v. Stacey*, 193 Ill. 2d 203, 209-10 (2000).

¶ 28

In this case, defendant was resentenced for the offense of possession of stolen

firearm, a Class 2 felony. The possible penalties for this offense include between 3 to 7 years' imprisonment or probation up to 48 months. 730 ILCS 5/5-4.5-35(a), (d) (West 2024). Although defendant acknowledges his sentence of five years' imprisonment falls within the statutory range, he asserts the sentence "was excessive and manifestly disproportionate to the seriousness of the underlying offense." In support of this assertion, defendant contends the trial court did not adequately consider the seriousness of the offense when imposing the sentence. Defendant argues his conduct in merely possessing a stolen firearm "was no more serious than the minimal conduct necessary to sustain the offense," and the court did not give this factor its proper weight in determining his sentence. We disagree.

¶ 29 A review of the record in this case demonstrates the trial court adequately considered the seriousness of the offense when imposing defendant's sentence. Although this court has determined the seriousness of the offense is the most important factor a court must consider when determining a sentence, it is not the *only* factor the court must consider. *People v. Aquisto*, 2022 IL App (4th) 200081, ¶ 112. When pronouncing defendant's sentence, the court specifically noted it considered both factors in aggravation and mitigation when determining the proper sentence, stating:

"So, in this particular case, there is a lot of aggravation. Deterrence is an aggravating factor, your prior record is an aggravating factor. What is, unfortunately, previously, you know, I thought that you were you in a state of mind that you were going to make better choices, but I don't really find a lot of mitigating factors in this case and none that outweigh the aggravating factors."

Although the court did not specifically list all the factors it considered, it is not required to do so. See *People v. Harris*, 2015 IL App (4th) 140696, ¶ 57 ("A court is not required to expressly outline

every factor it considers for sentencing and we presume the court considered all mitigating factors on the record in the absence of explicit evidence to the contrary.”). It is clear from the record that the court adequately considered the seriousness of the offense and balanced its consideration of that factor against the other relevant factors, including defendant’s history, character, and rehabilitative potential; the need to protect society; and the need for punishment and deterrence. See *Sturgeon*, 2019 IL App (4th) 170035, ¶ 102.

¶ 30 In his brief, defendant cited multiple cases involving other defendants charged with possession of a stolen firearm. However, each of the cases cited by defendant involve a defendant charged with numerous additional offenses along with the offense of possession of a stolen firearm. Consequently, they are not analogous to defendant’s situation. Moreover, to the extent defendant cited these cases in an attempt to compare his sentence to that of the other defendants in the cases he cited, this comparison is improper. Our supreme court has held:

“The propriety of the sentence imposed in a particular case cannot properly be judged by the sentence imposed in another, unrelated case. Simply because a lesser sentence was imposed in another case does not lead to the conclusion that the more severe sentence imposed in the case at hand is excessive.” *Fern*, 189 Ill. 2d at 56.

(We note defendant asserts this was not his intent when citing the cases.) Nevertheless, because these cases are not analogous to defendant’s situation, we need not consider them further.

¶ 31 Lastly, defendant argues the trial court failed to consider certain statutory and nonstatutory mitigating factors, such as his potential for rehabilitation; the circumstances of the offense; his employment; the fact he “did not contemplate that his criminal conduct would cause or threaten serious physical harm to another;” and that he took responsibility for his actions by

pleading guilty. See 730 ILCS 5/5-5-3.1(a) (West 2024). However, as noted above, “ ‘[t]he trial court is not required to expressly indicate its consideration of all mitigating factors and what weight each factor should be assigned.’ ” *People v. Halerewicz*, 2013 IL App (4th) 120388, ¶ 43 (quoting *People v. Kyse*, 220 Ill. App. 3d 971, 975 (1991)). “Instead, it is presumed a trial court considered all relevant mitigating and aggravating factors in fashioning a sentence, and that presumption will not be overcome absent explicit evidence from the record that the trial court failed to consider mitigating factors.” *Id.* In this case, the court specifically noted it had considered factors in aggravation and mitigation and determined the factors in aggravation outweighed the factors in mitigation. Moreover, all the factors defendant asserts the court failed to consider were before the court at his resentencing. The PSI included (1) a lengthy section that discussed the circumstances of the offense, (2) a discussion of defendant’s education and employment, (3) the fact defendant pleaded guilty on June 5, 2023, and (4) defendant’s statement, in which he stated “he did not threaten or hurt anyone.” Defendant’s argument essentially requests this court reweigh the factors in aggravation and mitigation which were before the court at defendant’s resentencing, and we will not do so.

¶ 32 Based on our review of the record, we find the trial court did not abuse its discretion in resentencing defendant to five years’ imprisonment.

¶ 33 B. Defendant’s Conduct on Probation

¶ 34 Next, defendant argues the trial court erred because it punished him for his conduct while on probation rather than the conduct giving rise to the underlying offense. Defendant acknowledges he forfeited this argument by failing to raise the same in a postsentencing motion. *People v. Martin*, 119 Ill. 2d 453, 458 (1988). Nevertheless, defendant requests this court review his contentions of error pursuant to the plain-error doctrine. See Ill. S. Ct. R. 615(a) (eff. Jan. 1,

1967).

¶ 35 Under the plain-error doctrine, this court may review unpreserved issues on appeal when “(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.” *People v. Hillier*, 237 Ill. 2d 539, 545 (2010). The first step in this analysis is to determine whether a clear or obvious error occurred. *Id.* Accordingly, we will first determine whether there was a clear or obvious error.

¶ 36 When a defendant’s probation is revoked, the trial court may resentence him to any sentence “ ‘that would have been appropriate for the original offense.’ ” *People v. Pina*, 2019 IL App (4th) 170614, ¶ 30 (quoting *People v. Palmer*, 352 Ill. App. 3d 891, 895 (2004)); 730 ILCS 5/5-6-4(e) (West 2024). “Although the sentence imposed after revocation of probation may not constitute punishment for conduct which was the basis of revocation, the defendant’s conduct on probation is to be considered by the trial court in assessing the defendant’s potential for rehabilitation.” *People v. Turner*, 233 Ill. App. 3d 449, 456 (1992). Consequently, “when a defendant conducts herself poorly on probation, a trial court may appropriately impose a harsher sentence than originally imposed or a different sentence than it would have imposed had probation not been granted.” *Pina*, 2019 IL App (4th) 170614, ¶ 33. On review, this court will not set aside a sentence within the statutory range imposed at resentencing unless we are “strongly persuaded that the sentence imposed after revocation of probation was *in fact* imposed as a penalty for the conduct which was the basis of revocation, and *not* for the original offense.” (Emphases in original.) *People v. Young*, 138 Ill. App. 3d 130, 142 (1985). Additionally, when reviewing a trial court’s sentencing decision, “[t]he remarks of the trial court at sentencing must be taken in context, and read in their entirety, including arguments of counsel.” *Id.* Moreover, this court “presumes a trial court knows the law, properly applied the law, and imposed a proper sentence absent an

affirmative showing of error.” *People v. Irby*, 2026 IL App (4th) 241389, ¶ 127.

¶ 37 Defendant asserts the trial court improperly sentenced him based on his conduct on probation, rather than the circumstances of the original offense. In support of this assertion, defendant argues, when the court pronounced defendant’s sentence, it “barely mentioned the underlying conduct, and instead focused almost exclusively on [defendant’s] probation performance.” Although defendant acknowledges the court may consider a defendant’s conduct while on probation with respect to the defendant’s potential for rehabilitation, defendant asserts this is not what occurred here. According to defendant, “the circuit court in this case did not once mention [defendant’s] rehabilitative potential when discussing his probation performance.” Defendant contends his case is analogous to *People v. Varghese*, 391 Ill. App. 3d 866 (2009), and *People v. Gansz*, 2024 IL App (4th) 230243-U. We find these cases distinguishable.

¶ 38 First, in *Varghese*, 391 Ill. App. 3d at 868-71, the State presented testimony at the defendant’s resentencing hearing from multiple witnesses about the defendant sending online messages to an underage female and attempting to meet her while on probation for aggravated criminal sexual abuse. The defendant had not yet been charged with any offenses related to this conduct. *Id.* at 874. When the trial court pronounced the defendant’s sentence, it repeatedly “chastised [the] defendant for the reprehensible nature of his conduct while on probation.” *Id.* at 877. The court specifically stated, “ ‘The bottom line is, we’re here because of the conduct of the defendant ***. *** This conduct is intolerable. This conduct is dangerous, and I’m going to order that he serve 7 years in the Illinois Department of Corrections.’ ” *Id.* at 872. The Appellate Court, Second District, found the trial court had improperly sentenced the defendant for his conduct while on probation, rather than for the original offense. *Id.* at 875. In so holding, the Second District noted the court’s “lengthy discussion about the certainty of the uncharged conduct strongly

indicates that [the] defendant was sentenced for such particular ‘dangerous’ and ‘intolerable’ uncharged conduct.” *Id.* at 877.

¶ 39 Next, in *Gansz*, 2024 IL App (4th) 230243-U, ¶ 26, the State specifically requested a longer prison sentence for the defendant because he “incurred new charges while on conditional discharge.” Moreover, when pronouncing the defendant’s sentence, the trial court specifically noted “ ‘What’s most disturbing or what is most aggravating, I should say, in terms of an aggravating factor for this Court is the level of criminality that has taken place since [defendant] had [pleaded] guilty to these charges of domestic battery.’ ” *Id.* ¶ 27. This court found

“the combination of the trial court’s comments in this case that (1) defendant’s ‘level of criminality’ was the most ‘aggravating factor’ it considered, (2) defendant had never been sentenced to IDOC, and (3) it was ‘time for [defendant] to take responsibility and be accountable for his actions’ strongly persuade this court defendant was being punished for his conduct while on conditional discharge instead of the underlying offenses.” *Id.* ¶ 38.

¶ 40 In this case, unlike *Varghese* and *Gansz*, both the State and the trial court clearly related defendant’s conduct on probation to his rehabilitative potential and utilized it as a rationale for why another term of probation would not be an appropriate sentence. Specifically, the State noted,

“[W]hat we have before us essentially is no indication whatsoever that, if this Court were to give this defendant another chance at probation, he would be successful in any way.

Given all of the information that the Court has before it, with the multiple violations and just a lack of regard for probation whatsoever, the State does believe

that a sentence to the Department of Corrections is appropriate.”

The court, in pronouncing its sentence, admonished defendant, “[Y]ou know, you were given an opportunity to better yourself and to do that with our probation department, but you did not take advantage of that opportunity and, more importantly, you continued to violate, not only my order, but the orders out of Sangamon County.” Based on the arguments of counsel and the court’s ruling in its entirety, it is apparent the court utilized defendant’s conduct on probation in determining his lack of rehabilitative potential and his likeliness to succeed on another term of probation. This is especially evident given both defendant and defense counsel requested defendant be resentenced to another term of probation.

¶ 41 Unlike in *Varghese* and *Gansz*, there is nothing in the record that strongly persuades this court that “the sentence imposed after revocation of probation was *in fact* imposed as a penalty for the conduct which was the basis of revocation, and *not* for the original offense.” (Emphases in original.) *Young*, 138 Ill. App. 3d at 142. In fact, during the trial court’s ruling, it noted, “I did not get an update from [defense counsel] concerning what happened yesterday, nor did I get an update concerning all these violations. So, we know that they exist, I don’t know what they are, but they’re out there.” Moreover, the court noted, with respect to the Sangamon County case, defendant was “presumed innocent of those charges.” While the court certainly could have considered the existence of the pretrial violations as they related to defendant’s rehabilitative potential, it seems unlikely the court punished defendant for these violations when it did not know any of the specifics. Based on the record before us, we find the court did not punish defendant for his conduct on probation. Accordingly, defendant has failed to establish any error occurred for the purposes of his plain error argument.

¶ 42 C. Ineffective Assistance of Counsel

¶ 43 Alternatively, defendant contends defense counsel was ineffective for failing to object to the trial court's consideration of defendant's conduct on probation at his resentencing and failing to raise the issue in a postsentencing motion.

¶ 44 A defendant's claim of ineffective assistance of counsel is analyzed under the two-pronged test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Veach*, 2017 IL 120649, ¶ 29. To prevail on such a claim, "a defendant must show both that counsel's performance was deficient and that the deficient performance prejudiced the defendant." *People v. Petrenko*, 237 Ill. 2d 490, 496 (2010). To establish deficient performance, the defendant must show "counsel's performance 'fell below an objective standard of reasonableness.'" *People v. Valdez*, 2016 IL 119860, ¶ 14 (quoting *Strickland*, 466 U.S. at 688). Prejudice is established when a reasonable probability exists that, but for counsel's unprofessional errors, the result of the proceeding would have been different. See *People v. Evans*, 209 Ill. 2d 194, 219-20 (2004). A defendant must satisfy both prongs of the *Strickland* standard, and the failure to satisfy either prong precludes a finding of ineffective assistance of counsel. See *People v. Clendenin*, 238 Ill. 2d 302, 317-18 (2010).

¶ 45 In this case, because we have concluded the trial court did not err in considering defendant's conduct while on probation at his resentencing, defendant cannot establish either prong of his ineffective-assistance-of-counsel claim. Accordingly, defense counsel was not ineffective for failing to object to the court's consideration of defendant's conduct on probation at defendant's resentencing or failing to raise the issue in a postsentencing motion.

¶ 46 Although we have determined no error occurred in this case, we would be remiss if we did not remind the trial court that it is the best practice to be specific in its oral ruling at resentencing. The court should discuss the original offense, which the defendant is to be

resentenced on, and expressly note when it considers the defendant's conduct while on probation in relation to the defendant's rehabilitative potential.

¶ 47

III. CONCLUSION

¶ 48

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

¶ 49

Affirmed.