

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

2026 IL App (4th) 260031-U
NO. 4-26-0031
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
October 16, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Peoria County
ONTARIO L. ALEXANDER,	)	No. 20CF663
Defendant-Appellant.	)	
	)	Honorable
	)	Katherine S. Gorman,
	)	Judge Presiding.

JUSTICE LANNERD delivered the judgment of the court.
Presiding Justice Steigmann and Justice Vancil concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed, holding the trial court conducted an adequate preliminary *Krankel* inquiry (see *People v. Krankel*, 102 Ill. 2d 181 (1984)).

¶ 2 In December 2021, the trial court sentenced defendant, Ontario L. Alexander, to an aggregate 52 years' imprisonment following his convictions for first degree murder (720 ILCS 5/9-1(a)(1) (West 2020)) and unlawful possession of a weapon by a felon (UPWF) (*id.* § 24-1.1(a)). On November 19, 2025, following a remand from the Appellate Court, Third District, for a preliminary *Krankel* inquiry (see *People v. Krankel*, 102 Ill. 2d 181 (1984)), the court found defendant was not entitled to the appointment of new counsel because his claims of ineffective assistance of counsel lacked merit. Defendant now appeals, arguing the court failed to conduct an adequate inquiry into his claims of ineffective assistance of counsel. We affirm.

¶ 3 I. BACKGROUND

¶ 4 At the outset, we note defendant’s sole contention on appeal relates to whether the trial court conducted a sufficient preliminary *Krankel* inquiry into two of his claims of ineffective assistance of counsel. Consequently, we have included only those facts necessary to address his argument. For a more detailed recitation of the factual background, see *People v. Alexander*, 2024 IL App (3d) 210575-U, and *People v. Alexander*, 2025 IL App (4th) 241450-U. Additionally, during defendant’s trial, there were references by multiple witnesses, including defendant, to two different vans: a Saturn Relay van and a Chrysler minivan. However, the witnesses sometimes referred to both vans as “the van.” For clarity, during our recitation of the facts, we will refer to the vans as the Relay van and the Chrysler minivan, regardless of how each witness identified the vans during their respective testimony. Lastly, during defendant’s interrogation, one of the officers made a reference to “Anthony Booker.” However, it is clear from the surrounding circumstances that the officer was referring to Anthony Brooks.

¶ 5 A. The Charges and Jury Trials

¶ 6 On November 18, 2020, the State charged defendant with first degree murder (count I) (720 ILCS 5/9-1(a)(1) (West 2020)). The information alleged that on November 15, 2020, defendant “shot Roosevelt Hunter ***, thereby causing the death of Roosevelt Hunter.” The State later filed a bill of indictment, which charged defendant with UPWF (count II) (*id.* § 24-1.1(a)). The trial court appointed Kevin Lowe to represent defendant.

¶ 7 1. *Defendant’s First Jury Trial*

¶ 8 Later in the proceedings, defendant waived his right to counsel, and he represented himself throughout a four-day jury trial in May 2021. By agreement of the parties, the jury trial was bifurcated. Following evidence and argument, the jury was unable to reach a unanimous verdict on count I, and, as result, the trial court declared a mistrial. The parties then immediately

proceeded to trial on count II, and the jury found defendant guilty. The State informed the court it intended to retry defendant on count I, and the court set defendant's retrial for August 2021.

¶ 9 *2. Defendant's Second Jury Trial*

¶ 10 Prior to defendant's retrial on count I, defendant requested the appointment of standby counsel. The trial court denied defendant's request but informed defendant it was willing to reappoint counsel to represent him. At defendant's next court appearance, he requested the reappointment of counsel, and the court reappointed Lowe to represent him.

¶ 11 The following is a summary of the evidence presented at defendant's retrial on count I. Around 11 p.m. on November 15, 2020, Sergeant Robert McMillen received a ShotSpotter report, which indicated gunshots had been fired at Landmark Apartments. When McMillen arrived at the Landmark Apartments complex, he found an individual, later identified as Hunter (also known as "Buddy"), lying at the base of a stairwell. Hunter appeared to have been shot in the face and did not have a pulse. McMillen did not see any other individuals in the area.

¶ 12 Sergeant David Buss with the Peoria Police Department's crime scene unit arrived on scene and began taking photographs and collecting evidence. Buss collected five cartridge cases located around Hunter's body, a "partial jacketing from a bullet," which was on Hunter's chest, and a "partial projectile" found underneath Hunter's body.

¶ 13 Detective Roberto Vasquez, with the assistance of other officers, obtained surveillance video from Landmark Apartments and a nearby Shell gas station from the night of the shooting. The surveillance video from the Shell gas station, which was admitted as State's exhibit No. 38, showed a silver Chrysler minivan arriving at the gas station at 10:41 p.m. and parking at one of the gas pumps. An individual in a white hooded sweatshirt and face mask, who Vasquez identified as Hunter, exits the front passenger's seat and enters the gas station. Hunter purchases

an item at the counter, exits the gas station, and reenters the Chrysler minivan. The Chrysler minivan then drives away from the gas station at 10:43 p.m.

¶ 14 Black and white surveillance video from Landmark Apartments, which was admitted as State's exhibit No. 13, showed a Saturn Relay van entering the parking lot of the Landmark Apartments complex at 11:01 p.m. The Relay van then backs into a parking space, and two individuals exit the Relay van. The driver appears to be wearing a light-colored hooded sweatshirt, and the passenger seems to be wearing a white hooded sweatshirt. The two individuals stand by the Relay van for a few moments and then begin walking toward the apartments to their right. According to Vasquez, the individuals are walking "toward where Mr. Hunter was murdered." The individual in the light-colored sweatshirt is walking behind the individual in the white hooded sweatshirt. As the pair continue walking, a flash of light can be seen between the two, and the individual in the white hooded sweatshirt falls to the ground. The individual in the light-colored sweatshirt runs back toward the Relay van and gets in the driver's seat. The Relay van then exits the Landmark Apartments complex at 11:04 p.m.

¶ 15 Vasquez reviewed the surveillance videos and a video from a license plate reader located at the entrance to the Landmark Apartments complex. Based on his review, he identified the following distinctive features of the Relay van: there was a "seven-day window sticker" on the rear window; there was a dent on the rear hatch; and the driver's side slider door "was partially ajar as if maybe it was broken." Vasquez also determined the Relay van in the surveillance video was registered to Anthony Brooks.

¶ 16 On November 16, 2020, officers performed a traffic stop on a silver Chrysler minivan registered to Brooks's girlfriend, Diana Herren. According to Vasquez, this was the same Chrysler minivan seen on the Shell gas station's surveillance video. When officers stopped the

Chrysler minivan, four individuals were located inside: Teotis Johnson, who was the driver; Brooks; Torrance Irving; and Troy Irving. Officers searched the Chrysler minivan and found an unfired 9-millimeter bullet in one of the compartments behind the front seats.

¶ 17 The next day, November 17, 2020, Officer Jacob Beck located the Relay van at a residence on West Augustana Street. After Beck located the Relay van, he observed defendant walking away from the residence. Defendant returned “a short time later” and entered the residence. After “approximately an hour,” defendant exited the residence, got into the driver’s seat of the Relay van, and drove away. Officers followed the Relay van to a residence on Millman Street. Defendant parked the Relay van in the backyard and entered the residence. While surveilling the residence, Officer Morris Franklin observed defendant and two other individuals exit the residence. When the three individuals exited the residence, defendant had two firearms. Defendant then walked to the driver’s side of the Relay van and “popped the hood.” Officers then “converged” on defendant and placed him under arrest. After defendant was arrested, Beck approached the Relay van and observed two firearms “in plain view inside the vehicle.” One of the firearms was a silver 9-millimeter pistol with an extended magazine.

¶ 18 Officers then executed a search warrant on the Millman Street residence. Detective Richard Linthicum collected a gray sweatshirt located in defendant’s bedroom.

¶ 19 Jason List, a forensic scientist with the Illinois State Police, examined the five cartridge cases collected from the scene and determined they were fired from the silver 9-millimeter pistol located in the Relay van. The parties then stipulated that the DNA samples collected from the handgrip and trigger of the silver 9-millimeter pistol were “inconclusive and unsuitable for comparison to any known standard.”

¶ 20 After defendant was arrested, Vasquez and another detective interviewed him at the

police station. A redacted version of defendant's interview was admitted as State's exhibit No. 29-A and played for the jury. During the interview, defendant stated he did not know who owned the Relay van but admitted it belonged to "somebody that I hang with" and that "everybody drives it." When Vasquez informed defendant that his mother stated he drove the Relay van "all the time," defendant responded, "Mmhmm. Yeah." Defendant told Vasquez he had the Relay van for the past three days. Vasquez then asked about the handguns found during defendant's arrest, and defendant acknowledged he had two handguns when he came out of his mother's house before he was arrested, but he insisted they did not belong to him. According to defendant, the handguns slid out from under the seats of the Relay van when he pressed the brakes hard. After defendant discovered the handguns, he took them inside his mother's house for safekeeping because the Relay van's door did not shut all the way and he wanted to ensure the handguns were returned to the owner.

¶ 21 When Vasquez asked defendant what he was doing on Sunday evening (the night of Hunter's murder), defendant stated he was drinking and hanging out with some friends. According to defendant, he and his friends drove to a friend of a friend's apartment for dinner. The apartment was in the Cityscape apartment complex. While at the Cityscape apartment, the group ate dinner, continued drinking, listened to music, and played cards. At some point, defendant left the apartment, and when he returned, Buddy was at the Cityscape apartment. Defendant explained that he was driving a Chrysler minivan that belonged to Brooks, and Brooks wanted the Chrysler minivan back. When defendant left to return the Chrysler minivan to Brooks, a few people asked him for rides, including Buddy, who asked for a ride to Landmark Apartments. Before defendant dropped Buddy off, he drove to his cousin's house near the Shell gas station because he had the Relay van parked there. Defendant and Buddy then got into the Relay van and drove off. According to defendant, the Relay van overheated easily. Therefore, after picking up the Relay van, defendant

told Buddy he could not take him all the way to Landmark Apartments because the Relay van would overheat. Defendant dropped Buddy off near Gateway because “he [would] have a straight shot to walk to Landmark.” After dropping Buddy off, defendant drove to his mother’s house on Millman Street. He sat in the Relay van for a bit to let it cool off and then he drove to his girlfriend’s house on Augustana Street. Defendant denied dropping Buddy off inside the Landmark Apartment complex.

¶ 22 During the interview, Vasquez asked defendant whether he and Buddy went to the Shell gas station around 10:40 p.m., and at first, defendant denied it, but when Vasquez told defendant there was surveillance video of Buddy in the Chrysler minivan at the Shell gas station, defendant then stated he could not remember whether they stopped at the gas station. A few minutes later, defendant told Vasquez that someone pulled a gun on Buddy at the gas station, and the man with the gun referenced a dispute involving defendant.

¶ 23 At trial, defendant testified on his own behalf. According to defendant, he and Hunter were “real close” and he “considered [Hunter] to be a brother.” Defendant asserted he did not kill Hunter. On November 15, 2020, defendant was “riding around drinking alcohol” with some friends. Sometime that evening, Torrance drove the group to an apartment in the Cityscape apartment complex. Torrance was driving a Chrysler minivan, which defendant believed belonged to Brooks’s girlfriend. Defendant and his friends continued to hang out and drink while at the Cityscape apartment. Eventually, defendant drove the Chrysler minivan to a liquor store, purchased more alcohol, and returned to the Cityscape apartment. Hunter was there when defendant returned. Later, Brooks called defendant’s friends, who were with defendant at the Cityscape apartment, to ask for the Chrysler minivan back. Defendant testified Brooks could not call him because his cell phone was “off” and only worked on Wi-Fi. When defendant left to return

the Chrysler minivan to Brooks, a few people asked defendant for rides. While defendant was giving rides, Brooks called an individual named Randyn Duncan, who was with defendant, and told Duncan he wanted the Chrysler minivan back now. Defendant dropped Duncan off and then dropped Hunter off “[b]y the Red Cross,” which was approximately a block away from the entrance to the Landmark Apartments complex, before meeting Brooks to return the Chrysler minivan. According to defendant, he was supposed to meet Brooks at an apartment across the street from the Shell gas station, but when defendant arrived, Brooks was not there, so defendant began to drive to a residence on Saratoga Street, where he and Brooks “always meet up at.” Before defendant arrived at the residence, he saw Brooks in a Suburban about a block away from the residence. Defendant then returned the Chrysler minivan to Brooks and walked the rest of the way to the residence on Saratoga Street, where the Relay van was parked. He got in the Relay van and drove it to his mother’s house on Millman Street. Defendant parked the Relay van in his mother’s driveway and smoked a few cigarettes. He then drove to his house on Augustana Street, went inside, and “passed out.” The next day, he drove the Relay van to his mother’s house, which is where he was arrested. Defendant had his cell phone in his possession when he was arrested, and it was seized by the officers.

¶ 24 On cross-examination, defendant acknowledged he dropped Hunter off after 10:43 p.m. but denied he was the one driving the Chrysler minivan when it pulled into the Shell gas station at 10:43 p.m. Defendant asserted he was not the only person who drove the Chrysler minivan that night, and other individuals had access to both the Chrysler minivan and Relay van. He acknowledged he had been driving the Relay van for the past three consecutive days and admitted the only time the Relay van was out of his possession was when it was parked at the residence on Saratoga Street. Defendant agreed the Relay van he had been driving was the same

Relay van on the surveillance video from the Landmark Apartments complex but insisted he was not driving the Relay van at that time.

¶ 25 The State presented the following information on rebuttal: “Judge, the rebuttal would be by way of a stipulation to the transcript from a hearing on May 26th of 2021, and the stipulation is that under oath the Defendant was asked this question: But you were driving that Chrysler all night, and his answer, yes, sir.”

¶ 26 Following closing arguments, the jury found defendant guilty of first degree murder, and it further found defendant personally discharged a firearm during the offense.

¶ 27 C. Sentencing and Direct Appeal

¶ 28 The trial court conducted defendant’s sentencing hearing on December 10, 2021. Defendant made a statement in allocution. During his statement, defendant maintained his innocence and raised multiple claims of ineffective assistance of counsel, including that his attorney withheld evidence from him. Following defendant’s statement, the court sentenced him to an aggregate 52 years’ imprisonment.

¶ 29 Defendant then filed a direct appeal, which raised multiple contentions of error. The Third District held the trial court erred by failing to conduct a preliminary *Krankel* inquiry following defendant’s statements at sentencing and remanded the case for a preliminary *Krankel* inquiry. *Alexander*, 2024 IL App (3d) 210575-U, ¶ 46.

¶ 30 D. Preliminary *Krankel* Hearing

¶ 31 On July 10, 2025, the trial court held a preliminary *Krankel* inquiry. At the outset, the following exchange occurred between Lowe, the court, and defendant:

“MR. LOWE: I guess as a preliminary matter just to make it clear on the record regarding the purpose and procedure of a *Krankel* inquiry, first of all, the

ultimate purpose is for the Court to determine whether or not my client's allegations show possible neglect of the case such that new counsel should be appointed to replace me and further investigate those claims, and as the Appellate Court decision on remand noted, that's a two-step process.

The initial process should be the Court making an inquiry of my client, talking to him about his claims. The State really should not participate or should show *de minimis* participation. I think their participation would be limited to very basic questions about procedural history and whatnot, but the opinion of the State doesn't matter in this type of a proceeding.

So, with that said, I believe the Court should initially inquire of [defendant] regarding his claims.

THE COURT: All right. So, [defendant], I actually have an independent recollection of you and of both trials, and you during your statement of allocution inquired about the public defender and the State's Attorney withholding evidence from you, and you also questioned a jury instruction.

So, I am—you just tell me what you'd like me to know about those two inquiries. Okay? And then I'm going to ask Mr. Lowe—I will let you tell me whatever it is that you think I need to know about that, and then I'm going to ask Mr. Lowe some questions. Okay?

[DEFENDANT]: Okay. Well, because I have like a full note here to put down everything in a professional manner. So, that's in here, and everything is specifically about my ineffective assistance of counsel that I'm claiming about him. So, you want me to just—

THE COURT: You just go—you can tell me whatever it is you think I need to know with respect to Mr. Lowe and his performance. Okay?”

¶ 32 Defendant then provided a lengthy statement to the trial court, in which he raised multiple claims. Relevant to this appeal, defendant alleged Lowe failed to subpoena (1) Herron to testify at his second jury trial and (2) defendant’s cell phone records. When discussing Herron, defendant stated:

“I requested Mr. Lowe *** subpoena Ms. Herron, the owner of the Chrysler [mini]van, because her interrogation fills in the blanks that were missing on timing and proves my innocence. His response was I want to keep it how you got it like anybody could have done it. Mr. Lowe failed to subpoena Ms. Herron for my defense violating 4-5.2 of the American Bar Association’s standards for criminal justice.

Had Mr. Lowe subpoenaed Ms. Herron in my defense, the jurors would have had somebody credible to rely on about—had Mr. Lowe subpoenaed Ms. Herron in my defense, the jurors would have had somebody credible to rely on about the defense of my innocence since I was impeached for prior convictions and in my—it may have helped them return a not guilty verdict, but therefore, Mr. Lowe was ineffective to that extent.”

With respect to the issue of defendant’s cell phone records, defendant alleged:

“[M]y cell[]phone records was [sic] part of my discovery which is used in some cases where the defendant’s whereabouts at the time of commission of the offense is an issue, and that’s the case here.

Had Mr. Lowe subpoenaed my phone records it would have proved my

testimony true that I never went to the Landmark Apartments that day at all and prove my innocence of the crime and also would have rendered a not guilty verdict.

Therefore, Mr. Lowe was ineffective to those extents.”

¶ 33 Following defendant’s statement, the trial court allowed Lowe to respond to the allegations raised by defendant. At the beginning of his response, Lowe stated: “There was a lot of information. I’ve taken certain notes. I’ll address what I can. If the Court needs some follow up or requests some additional details, I will certainly try to provide it.” Lowe then detailed the procedural history of his representation and addressed many of defendant’s contentions. However, Lowe failed to address defendant’s claims about subpoenaing Herron and defendant’s cell phone records.

¶ 34 After hearing Lowe’s response, the trial court indicated it was going to take the matter under advisement so it could “refresh [its] recollection on a few matters that would be contained within the record of the transcripts.”

¶ 35 On November 19, 2025, the trial court issued a three-page, handwritten order. The order recounted the procedural history of defendant’s case and provided an overview of what occurred at the preliminary *Krankel* hearing. The court’s order then stated:

“The Court has considered [defendant’s] testimony relating to his claims and Mr. Lowe’s testimony concerning his diligence and consideration of the facts of this case and the law. The Court finds that [defendant’s] claims lack merit and Mr. Lowe took adequate and appropriate steps in his defense of [defendant] and those issues where disagreement arose between the two related to matters of trial strategy.

Accordingly, the Defendant *** has failed to meet the threshold requirement of *Krankel* that would justify appointment of new counsel at this stage.”

¶ 36 Defendant filed a *pro se* notice of appeal on December 22, 2025, and the Office of the State Appellate Defender (OSAD) filed a motion for leave to file a late notice of appeal pursuant to Illinois Supreme Court Rule 303(b)(5), (d) (eff. July 1, 2017) and Illinois Supreme Court Rule 606(d) (eff. Apr. 15, 2024) on January 15, 2026. This court granted OSAD’s motion that same day.

¶ 37 This appeal followed.

¶ 38 II. ANALYSIS

¶ 39 On appeal, defendant argues the trial court failed to conduct an adequate inquiry into his claims of ineffective assistance of counsel. Defendant asserts the court did not sufficiently explore two of the posttrial claims he raised in his statement at the preliminary *Krankel* inquiry. Those two claims were that Lowe failed to subpoena (1) Herron as a witness for trial and (2) defendant’s cell phone records.

¶ 40 “A *pro se* posttrial claim alleging ineffective assistance of counsel is governed by the common-law procedure developed by the Illinois Supreme Court’s decision in *Krankel*.” *People v. Patton*, 2022 IL App (4th) 210561, ¶ 101. When a defendant makes a posttrial claim of ineffective assistance of counsel, “the [trial] court should first examine the factual basis of the defendant’s claim.” *People v. Roddis*, 2020 IL 124352, ¶ 35. If, after this examination, the court “determines that the claim lacks merit or pertains only to matters of trial strategy, then the court need not appoint new counsel and may deny the *pro se* motion. [Citation.] However, if the allegations show possible neglect of the case, new counsel should be appointed.” *Id.* This process

is often referred to as a “preliminary *Krankel* inquiry.” *People v. Jolly*, 2014 IL 117142, ¶ 30. Our supreme court has held:

“The goal of *Krankel* is to ‘facilitate the trial court’s full consideration of a defendant’s *pro se* claims of ineffective assistance of trial counsel and thereby potentially limit issues on appeal.’ [Citation.] Moreover, ‘[b]y initially evaluating the defendant’s claims in a preliminary *Krankel* inquiry, the circuit court will create the necessary record for any claims raised on appeal.’ ” *People v. Ayres*, 2017 IL 120071, ¶ 21 (quoting *Jolly*, 2014 IL 117142, ¶¶ 29, 38).

A preliminary *Krankel* inquiry “give[s] the defendant an opportunity to flesh out his claim of ineffective assistance so the court can determine whether appointment of new counsel is necessary.” *Id.* ¶ 20. “The trial court, most familiar with the proceedings at issue, remains best situated to serve the interests of judicial economy by extinguishing conclusory claims.” *Roddis*, 2020 IL 124352, ¶ 56.

¶ 41 “The issue of whether the circuit court properly conducted a preliminary *Krankel* inquiry presents a legal question that we review *de novo*.” *Jolly*, 2014 IL 117142, ¶ 28. In determining whether a trial court’s inquiry was sufficient, a reviewing court should consider the following three factors:

“(1) whether there was some interchange between the trial court and defense counsel regarding the facts and circumstances surrounding the allegedly ineffective representation, (2) the sufficiency of defendant’s *pro se* allegations of ineffective assistance, and (3) the trial court’s knowledge of defense counsel’s performance at trial and the sufficiency of the defendant’s allegations on their face.” *People v. Schnoor*, 2019 IL App (4th) 170571, ¶ 71.

However, “[n]one of these factors are mandatory, and no bright-line rule exists about what is a sufficient inquiry and what is not.” *Id.*

¶ 42 Before we begin our analysis, we note the parties disagree about the applicable standard of review in this case. The State asserts, because the trial court ruled that defendant’s posttrial claims of ineffective assistance of counsel lacked merit following the hearing, the applicable standard of review is for manifest error. See *People v. Jackson*, 2020 IL 124112, ¶ 98. However, in this case, on appeal defendant only challenges whether the court conducted an adequate preliminary *Krankel* inquiry and does not appeal the court’s ultimate finding that his claims lacked merit. Therefore, the applicable standard of review is *de novo*. *Id.*

¶ 43 In this case, defendant argues the trial court failed to conduct an adequate preliminary *Krankel* inquiry because, with respect to his specific allegations that Lowe failed to subpoena Herron and defendant’s cell phone records, “[d]efense counsel offered no response to these allegations, and the circuit court did not seek any clarification.” In support of this argument, defendant cites *People v. Wilhelm*, 2020 IL App (4th) 170008-U. Defendant asserts *Wilhelm* is “directly on point” to this case. However, *Wilhelm* is an unpublished order filed before January 1, 2021, and thus may not be cited, even for persuasive authority. See Illinois Supreme Court Rule 23(e)(1) (eff. Jun. 3, 2025). “The proper remedy for improper use of a nonprecedential case in an appellate brief is to strike the references to the case.” *Valenti v. Mitsubishi Motor Sales of America, Inc.*, 332 Ill. App. 3d 969, 972 (2002). Therefore, we strike reference to this case in defendant’s brief.

¶ 44 Based on our review of the record, we conclude the trial court conducted an adequate preliminary inquiry into defendant’s claims of ineffective assistance of counsel. We note that the court provided defendant an opportunity to discuss all his contentions of error and provided

Lowe an opportunity to respond. Defendant's statement to the court was lengthy, and he covered multiple claims of ineffective assistance of counsel. Similarly, Lowe provided a detailed statement, in which he recounted the procedural history of his representation and responded to almost all defendant's claims of ineffective assistance. Additionally, the judge who presided over the preliminary *Krankel* inquiry was the same judge who presided over both of defendant's jury trials in this case. Consequently, the court was exceptionally familiar with the facts and circumstances of defendant's case and defense counsel's performance at trial. In fact, the court noted multiple times during the preliminary *Krankel* hearing that it had "an independent recollection" of defendant's trials. Moreover, the court did not only rely on its own independent recollection but also took the matter under advisement so it could review the transcripts before issuing its ruling.

¶ 45 Defendant bases his claims on the assumption that because Lowe failed to respond to two of defendant's claims, "the court had no basis to find that counsel was not ineffective with regard to his decision not to call a potentially exculpatory witness, or procure potentially exculpatory phone records." According to defendant, Lowe's failure to respond automatically requires this court to remand for the trial court to make further inquiry. However, this assumption is incorrect because it fails to take into account that the court could also consider its knowledge of the facts from defendant's two jury trials and defense counsel's performance, as well as the sufficiency of defendant's claims. *Schnoor*, 2019 IL App (4th) 170571, ¶ 71.

¶ 46 The first claim defendant argues the trial court did not properly address was that Lowe was ineffective for failing to subpoena Herron because, according to defendant at the preliminary *Krankel* hearing, Herron's testimony "proves [his] innocence," and her testimony would "fill[] in the blanks that were missing on timing." However, we note defendant, in his statement at the preliminary *Krankel* hearing, asserted, when he discussed obtaining Herron's

testimony with Lowe, Lowe's response was, "I want to keep it how you got it like anybody could have done it." Therefore, any response by Lowe to this claim was unnecessary because, based on defendant's own statement, the court knew Lowe and defendant discussed the possibility of subpoenaing Herron, and Lowe determined Herron would not be a beneficial witness. Moreover, defendant did not claim Herron would be an alibi witness at the *Krankel* hearing; instead, he stated Herron's testimony would provide someone "credible" for the jury to rely on. " 'Whether to call certain witnesses and whether to present an alibi defense are matters of trial strategy, generally reserved to the discretion of trial counsel.' " *Jackson*, 2020 IL 124112, ¶ 106 (quoting *People v. Kidd*, 175 Ill. 2d 1, 45 (1996)). Because defendant's own statement at the preliminary *Krankel* inquiry provided enough information to demonstrate Lowe's decision not to subpoena Herron was trial strategy, there was sufficient information for the court to find there was no possible neglect of defendant's case with respect to this issue. See *id.* ¶ 101 ("If the trial court determines that the claim lacks merit *or pertains only to matters of trial strategy*, then the court need not appoint new counsel and may deny the *pro se* motion." (Emphasis added and internal quotation marks omitted.)).

¶ 47 Defendant also alleged Lowe failed to subpoena his cell phone records, which, according to defendant, "would have proved my testimony true that I never went to the Landmark Apartments that day at all and prove my innocence of the crime and also would have rendered a not guilty verdict." This statement by defendant is conclusory. Moreover, there was sufficient information in the record for the trial court to determine this claim did not show possible neglect of defendant's case. Notably, defendant testified at trial that his cell phone was shut off and only worked on Wi-Fi. Therefore, it is unlikely his cell phone records would have shown his location. Additionally, defendant's conclusory statement that his phone records would have "prove[d] his

innocence” discounts the other evidence linking him to the crime, such as the surveillance video and his possession of the firearm used to kill Hunter. Moreover, even assuming, *arguendo*, the records could establish the cell phone’s location was not at Landmark Apartments, that is not the equivalent of establishing without question defendant was not at that location. It does not take much to imagine the State arguing in response that defendant intentionally left his cell phone in a different location and highlighting that the other evidence linked defendant to the crime. (In fact, we note the State suggested the same during oral argument before this court.) Consequently, there was sufficient information in the record for the court, without further inquiry of Lowe or defendant, to determine this conclusory claim of ineffective assistance of counsel did not show possible neglect of the case and warrant the appointment of new counsel.

¶ 48 We find the purpose of a preliminary *Krankel* inquiry was satisfied in this case. Defendant had ample opportunity to present his claims of ineffective assistance of counsel to the trial court, and defense counsel provided a lengthy response, in which he addressed a number of defendant’s claims. While admittedly, during a preliminary *Krankel* hearing “some interchange between the trial court and trial counsel regarding the facts and circumstances surrounding the allegedly ineffective representation is permissible and *usually necessary*,” such was not required for defendant’s two claims under the circumstances in this case. *People v. Moore*, 207 Ill. 2d 68, 78 (2003). Although defense counsel did not specifically address the two claims defendant discussed on appeal, the trial court’s inquiry, coupled with the facts evident from the record, was sufficient to determine there was no “possible neglect” of defendant’s case. *Roddis*, 2020 IL 124352, ¶ 35. Consequently, we conclude although defense counsel did not specifically address the two claims defendant discusses on appeal, the court’s inquiry under the specific facts of this case was sufficient to determine there was no “possible neglect” of defendant’s case. *Id.*

