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) 260074-U

NO. 4-26-0074

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 2, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Tazewell County
AARON TAGHAN,	)	No. 24CF438
Defendant-Appellant.	)	
	)	Honorable
	)	Christopher R. Doscotch,
	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Vancil and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Defendant failed to establish that the trial court improperly resentenced him after the revocation of his probation based upon other crimes and misconduct rather than for the underlying offense.

(2) Defendant failed to establish that the trial court improperly considered unreliable evidence at his resentencing.

(3) Defendant's challenge to the trial court's imposition of court assessments must first be raised with the trial court in a motion filed pursuant to Illinois Supreme Court Rule 472 (eff. Feb. 1, 2024) and not for the first time on appeal.

¶ 2 Defendant, Aaron Taghan, pleaded guilty to unlawful possession of methamphetamine (720 ILCS 646/60(a) (West 2024)) and was sentenced to 24 months' probation. He later admitted to violating his probation, and the trial court resentenced him to seven years in prison. Defendant appeals, arguing (1) the court improperly resentenced him based upon his conduct while on probation rather than for the underlying offense, (2) the court improperly

considered unreliable evidence of "other purported offenses" at his resentencing, and (3) his counsel provided ineffective assistance by failing to obtain a waiver of court assessments. We affirm the court's judgment and remand so that defendant may file a motion pursuant to Illinois Supreme Court Rule 472 (eff. Feb. 1, 2024) and raise his assessment waiver sentencing claim with the trial court.

¶ 3 I. BACKGROUND

¶ 4 In June 2024, the State charged defendant with unlawful possession of less than five grams of a substance containing methamphetamine (720 ILCS 646/60(a) (West 2024)), a Class 3 felony. In November 2024, he pleaded guilty to that offense in exchange for a sentence of 24 months' probation. At defendant's guilty plea hearing, the State's presented a factual basis, showing that in June 2024, the police responded to a call about "a bag that was found to have drugs in it." The "complainant" reported to the police that the bag belonged to defendant and, inside the bag, an officer located a wallet with defendant's identification card and a metal tin that contained suspected methamphetamine. Defendant later admitted that both the bag and drugs were his. Additionally, "the suspected methamphetamine was tested and confirmed to be a substance containing methamphetamine with a weight of 0.4 grams."

¶ 5 In July 2025, the State filed a first amended petition to revoke defendant's probation. It alleged he violated the conditions of his probation by (1) failing to report or appear "as required by Probation" in January, April, and July 2025, (2) failing to complete substance abuse treatment, and (3) using or consuming methamphetamine and amphetamine in February 2025. The following month, defendant admitted the allegations of the State's amended petition. In exchange for defendant's admission, the State agreed to a continuance to allow defendant "an opportunity to get into inpatient" treatment prior to his sentencing.

¶ 6 The trial court conducted defendant's sentencing hearing on two separate days in October 2025 and January 2026. The record reflects defendant faced an extended-term sentencing range of 2 to 10 years in prison but was also eligible for probation.

¶ 7 Defendant's presentence investigation report (PSI) showed that he was 40 years old. His criminal history included felony convictions for armed robbery in 2015, resulting in a nine-year prison sentence, and burglary in 2005, resulting in a sentence of four years' probation. He also had several convictions for misdemeanor offenses, including convictions for driving under the influence, possession of cannabis, and theft, as well as several convictions for traffic-related offenses and ordinance violations.

¶ 8 According to the PSI, defendant reported having a "supportive" relationship with his parents and siblings. He was unmarried but had been in a dating relationship for three years, which he described as " 'toxic' " and involving physical and psychological abuse. Defendant had a daughter but did not have contact with her "due to personal reasons." He also reported having "a lot of associates," the majority of whom were "involved in criminal behavior."

¶ 9 With respect to defendant's education and employment, the PSI showed that he completed high school through the tenth grade and later obtained his GED. His work history included both full- and part-time employment at various businesses; however, he had been unemployed since January 2021. Defendant identified his only sources of income as being from public-assistance benefits and "doing odd end jobs for cash." According to the PSI, defendant also lacked a stable residence.

¶ 10 Defendant acknowledged having substance abuse issues and reported daily use of methamphetamine. He asserted that he first used the drug at the age of 20 and that his use became more frequent in approximately 2020, after the death of his brother. In February 2025, while on

probation, defendant completed half of his recommended substance abuse treatment but did not "go back" as required to complete the rest. In August 2025, he obtained "an assessment through Gateway" and received a recommendation for inpatient treatment. Defendant reported that "he was going to go into treatment" but "his ride was unavailable to take him."

¶ 11 In a section of the PSI entitled "Attitudes/Values," defendant was noted as stating that he felt the charge against him was " 'unjust' " and the result of a "set up." The PSI further stated as follows:

> "The defendant made comments about how it is a 'personal choice of what is put in the body.' When asked how he feels about crime[,] the defendant stated[:] 'don't believe crime is right' and 'sometimes you have to do things you don't want to.' While on probation[,] the defendant has made comments about wanting to stop using Methamphetamine, however, [he] has stated he wants to do it on his own terms and not be forced to do it. The defendant has had opportunities to get enrolled in treatment and as of the filing date he has not engaged in treatment. Throughout the defendant's time on probation[,] he has always been honest about his substance use."

¶ 12 Attachments to defendant's PSI included letters written on defendant's behalf and police reports pertaining to defendant's underlying offense and other incidents of police involvement that occurred thereafter.

¶ 13 In aggravation at sentencing, the State presented testimony from two witnesses, Ronald Higgins and Justin Fitzgerald. Higgins testified that he was 77 years old and had met defendant through a friend. In February 2023, Higgins allowed defendant to move into his home "basically rent free." He stated that defendant lived with him for approximately two or two and a

half years, although there was a period when defendant moved out for at least a month. Higgins testified that other people also stayed at his residence during the time that defendant lived with him.

¶ 14 After moving in, defendant helped Higgins "organize clutter" in his home. Higgins stated he had a coin collection worth "several hundreds of dollars" that he offered to split with defendant. Defendant took the coins to a "change machine *** to be turned in for cash." He told Higgins that his half of the money was around $60 "and that he was going to use that to help him with something financially." Higgins believed that defendant would pay him back but, defendant never did.

¶ 15 Higgins testified that defendant took other items from him and stole money from his checking account. He asserted that he questioned defendant after noticing that "everything in [his] checking account had been taken out" and that defendant ultimately admitted "that he had done it." Higgins spoke with the police and provided them with a bank statement, which he asserted contained transactions that he did not make. He believed defendant had used his debit card without his authorization. He also stated that defendant helped him install and set up "Cash App" on his cell phone and that some of the unauthorized transactions were to Cash App accounts used by defendant. Higgins acknowledged that defendant sometimes did chores or repair work at his home, but he asserted that he always paid defendant in cash for his work. Higgins maintained that he did not authorize any of the Cash App transactions that went to defendant. Higgins also identified e-mails sent from his e-mail account to his bank, which stated that he had authorized the transactions made to defendant. However, Higgins denied that he was the person who sent the e-mails. He testified that defendant had access to his e-mail account and that defendant had helped him "set up" his computer.

¶ 16 Higgins acknowledged that he also reported to the police that fraudulent automated teller machine (ATM) withdrawals had been made from his bank account. However, he later learned through the police investigation that the ATM withdrawals were actually ones that he had made. Higgins explained that he had been unsure about the ATM transactions because, at that point, "there was so much being taken out" of his accounts.

¶ 17 Higgins further testified regarding an occasion when "stacks of tenderloins" were delivered to his home and an individual named Amanda stated that she had bought them. He later learned the tenderloins were purchased for $197 with one of his personal checks. Higgins testified that he believed defendant was responsible for the purchase of the tenderloins "because it looked like it could have been his writing on the check." However, he also acknowledged telling the police that he suspected the check was written by Amanda.

¶ 18 Higgins asserted that while living together, he and defendant both used methamphetamine, and he first started using methamphetamine "about that time." Although it was someone other than defendant who first introduced him to the drug, defendant did provide him with methamphetamine. Higgins stated that he would give defendant money to get the drug but "would not get back what [he] should have gotten back."

¶ 19 Higgins maintained that his mental health deteriorated while living with defendant and noted occasions when he and defendant argued and defendant became violent. Specifically, Higgins asserted that defendant had headbutted him, pushed him down, and spit on him. Higgins testified that he had physical problems, including a degenerative back condition and "white matter disease" of the brain that primarily affected "motor things." Ultimately, Higgins had to obtain an order of protection against defendant to get him to leave his residence.

¶ 20 Fitzgerald testified that he was a detective with the Pekin Police Department and

investigated Higgins's claim of theft against defendant. Higgins provided copies of his bank records and asserted that defendant was living with him and taking his money. Fitzgerald investigated two ATM transactions that Higgins claimed defendant was responsible for but learned from video footage at the bank that the transactions were made by Higgins. Fitzgerald also investigated "Cash App" transactions shown on Higgins's bank statements and confirmed that the transactions were associated with Cash App accounts linked to defendant. Over a period of seven days in March 2025, a total of $2,276 was sent through Cash App to defendant's accounts.

¶ 21 During his investigation, Fitzgerald obtained and searched defendant's cell phone and found photographs of (1) Higgins's driver's license, (2) Higgins's bank account information, and (3) a bill addressed to Higgins at his home address. He testified that Higgins's bank provided him with e-mails it purportedly received from Higgins. Fitzgerald testified the bank forwarded the e-mails to him "because [it] did not think it was *** Higgins sending them." Fitzgerald also found evidence on defendant's cell phone that he had access to Higgins's e-mail account. Specifically, he stated he found multiple e-mail accounts on defendant's phone with Higgins's name on them and with the passwords for the accounts saved on the phone.

¶ 22 Fitzgerald interviewed defendant around the time that he lived with Higgins. Defendant admitted to consistently using methamphetamine and to providing the drug to Higgins. Defendant stated that he knew Higgins was in his seventies and that he suffered from "white matter brain disease" and "would get confused sometimes." Defendant did not admit to stealing from Higgins.

¶ 23 Fitzgerald testified that after leaving Higgins's residence, defendant began living with Larry Neiser. Fitzgerald stated he was familiar with Neiser through Neiser's work and routinely communicated with him. He described Neiser as a "normal, sane, coherent individual."

After defendant began living with Neiser, the police were called to Neiser's house for "multiple disputes," and on one occasion, Neiser "turned over 17.0 grams of methamphetamine" that he stated belonged to defendant and that defendant had left at his house. Fitzgerald testified he spoke with Neiser, who told him that defendant was living in his garage and "was the first person who had ever given him methamphetamine." Fitzgerald also stated that methamphetamine affected Neiser's mental state. He reported having conversations with Neiser when he was "lucid and coherent" and others "where he's been hallucinating." Fitzgerald testified Neiser was admitted to the hospital, and his subpoenaed medical records "stated that methamphetamine use was one of the causes" of his hallucinations.

¶ 24 As part of its evidence, the State presented exhibits containing (1) Higgins's bank statements (People's exhibit No. 1); (2) a bank document related to a Cash App transaction from Higgins to defendant (People's exhibit No. 2); (3) records obtained from Cash App that included a photograph of defendant's face and his state identification card (People's exhibit Nos. 3 and 4); (4) images taken from defendant's cell phone (People's exhibit Nos. 7, 8, 9, 10, and 11), and (5) e-mails Fitzgerald obtained from Higgins's bank (People's exhibit Nos. 5 and 6). Defendant did not present any evidence.

¶ 25 In its argument to the trial court, the State asked the court to impose a prison sentence "in the extended term." It maintained that defendant's probation violations established that another sentence of probation was not appropriate and asked that the court consider defendant's criminal history and the need for deterrence as factors in aggravation. The State further commented on information contained in defendant's PSI, including defendant's lack of a stable residence or reliable source of income, admitted association with individuals involved in criminal behavior, and comments about drug use.

¶ 26 Finally, the State discussed the witness testimony presented at sentencing, arguing the evidence showed that defendant took advantage of Higgins and stole money from him. It argued that defendant's conduct caused financial and emotional harm to Higgins and stated as follows: "Those offenses were committed against a person that was 60 years of age or older, which is a factor in aggravation, although not for *** the offense that he's being sentenced [for] here today." The State argued that through the witness testimony it presented, it "proved up criminal conduct that did occur while defendant was on probation," including theft and financial exploitation. It also argued that its evidence established that defendant "introduced" Neiser to methamphetamine and that he provided the drug to both Higgins and Neiser.

¶ 27 Defendant's counsel asked the trial court to impose a term of "high-risk probation" or, alternatively, a prison sentence "on the lower end of the range, closer to two years." Counsel noted that defendant had a long history of drug use and that he had been honest about his past and current substance abuse issues. He argued such circumstances suggested that defendant's character and attitudes were such that he deserved a second chance at probation.

¶ 28 Regarding the evidence related to defendant's relationships with Higgins and Neiser, counsel pointed out that neither relationship resulted in the filing of criminal charges against defendant. He further argued as follows:

> "So given that situation, I realize the State used it in aggravation in this case and even highlighted that the victim, this Mr. Higgins, is over 65 years of age. I—inviting the Court to use that as a factor in aggravation, which I believe statutorily the Court is not allowed to do that. I do think that's inappropriate."

Counsel emphasized that the offense for which defendant was being sentenced was "purely a meth possession case" and "not a financial exploitation case." Additionally, he argued that the trial court

should not find the evidence related to Higgins and Neiser to be an aggravating factor in the present case because the underlying charged offense did not "carry a victim other than [defendant] himself, who used the meth and *** poisoned his own body." Counsel also asserted that defendant's conduct related to the charged offense did not cause or threaten physical harm to another, nor did defendant contemplate that his conduct in possessing methamphetamine would cause such harm to another.

¶ 29 The trial court sentenced defendant to seven years in prison, finding that imprisonment was necessary for the protection for the public and that a probation sentence would deprecate the seriousness of the offense and be inconsistent with the ends of justice. In setting forth its decision, the court noted the yearly cost of imprisonment and that any prison sentence it imposed "would be at a day-for-day rate." Further, the court determined that the evidence in mitigation included that defendant's conduct did not "cause[ ] or threaten[ ] serious harm or contemplate harm to another for the offense that's charged."

¶ 30 In discussing its other sentencing considerations, the trial court stated that defendant did not have "the worst criminal history" but noted that he had a recent "more serious case," for which he was sentenced to prison and "would have been out and released not too long before" the underlying offense. It found that defendant had substance abuse issues "for a long time" but determined that such circumstances "cut[ ] both ways" and stated defendant had not availed himself of services while on probation and had also not followed through with substance abuse treatment. Further, the court noted the need for deterrence, as well as defendant's comments in the "Attitudes/Values" section of his PSI, including comments that the underlying charge was unjust, drug use was a " 'personal choice,' " and he did not want to be forced to stop using.

¶ 31 Finally, the trial court also addressed the testimony from Higgins and Fitzgerald,

stating that it found both witnesses credible. The court characterized the "situation with Neiser and Higgins" as "not good." It noted that the State did not have to prove beyond a reasonable doubt that defendant "did any of those things" that were the subject of the witnesses' testimony but that it did have to find the information was relevant and reliable. The court determined that Higgins had a physical disability, was naïve, and had acknowledged giving defendant access to certain things. Nevertheless, the court found that defendant had taken advantage of Higgins, stating it "didn't fall off a turnip truck yesterday with either" situation. It referenced the various Cash App transactions made from Higgins's account to accounts linked to defendant and noted that defendant had images of Higgins's driver's license and bank account information on his cell phone. After defendant interjected, commenting that the transactions were made by a different individual, the court stated as follows:

> "And—and you keep protesting, which is consistent with your attitude and values, but nobody could read any of that stuff in there and think that it's a normal thing with a guy with that disability, talking [*sic*] advantage of him on meth. Let alone introducing these older people for [*sic*] meth. That is the very definition of 'exploitation,' when you do something else unfairly for your own advantage. And maybe you did do things to help them, but they were clearly people that are targeted and susceptible, okay?"

¶ 32 When defendant tried to interject again, the trial court commented that defendant was "not accepting anything," that the evidence supported its findings, and that it was "only scratching the surface of what was going on with [Higgins and Neiser.]" The court then continued, addressing, in part, the arguments made by defendant's counsel:

> "And that—so no, maybe not aggravation, but, [defense counsel], it goes

> directly to his history and character and it goes directly to this factor in aggravation. Your addiction is more of an aggravating factor than a mitigating factor because if that's why you're doing it, you're not just hurting yourself, you're taking advantage of Higgins and you're taking advantage of Neiser. And that is a serious problem for your history and character."

¶ 33 On January 20, 2026, defendant filed a motion to reconsider his sentence. He argued his sentence was excessive and that the trial court "failed to properly consider, weigh, or balance all factors in mitigation and aggravation." Defendant also argued that the court "impermissibly considered as aggravation certain unreliable evidence of uncharged conduct, *i.e.*[,] alleged financial exploitation of an elderly person." Following a hearing, the court denied the motion, stating that it had considered all factors in mitigation and aggravation and reiterating that it found the testimony from the State's witnesses was credible.

¶ 34 This appeal followed.

¶ 35 II. ANALYSIS

¶ 36 A. Other Crimes and Misconduct

¶ 37 On appeal, defendant first argues that the trial court erred by resentencing him to seven years in prison based upon his conduct while on probation. Specifically, he contends his resentencing hearing was "turned into a mini-trial on purported other offenses and misconduct that was unrelated to his original possession conviction" and that the court improperly penalized him based on such evidence rather than for his underlying methamphetamine-possession offense.

¶ 38 Initially, the parties dispute whether defendant forfeited this sentencing issue by failing to include it in his motion to reconsider. The State argues that any challenge to the correctness of a sentence must be raised in a motion to reconsider sentence to preserve the

challenge for appellate review. See 730 ILCS 5/5-4.5-50(d) (West 2024) ("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 with the circuit court clerk within 30 days following the imposition of sentence."). Defendant disagrees, and, citing *People v. Rodriguez*, 2025 IL App (4th) 250108-U, argues that when a defendant is sentenced after having his probation revoked, he is not required to file a postsentencing motion to reconsider to preserve sentencing issues for appeal. Alternatively, he contends that if his claim was not properly preserved, it may be reviewed as claim of ineffective assistance of counsel.

¶ 39 In *Rodriguez*, the defendant raised the same sentencing challenge as presented in this appeal, arguing that after her probation was revoked, the trial court improperly resentenced her for her conduct while on probation. *Id.* ¶ 23. Initially, this court considered whether the defendant forfeited her sentencing claim by failing to first include it within a written motion to reconsider her sentence. *Id.* ¶¶ 26-30. We concluded that the defendant was not required to file a motion to reconsider as a prerequisite to appealing her sentence and that we would review the merits of her claim. *Id.* ¶ 30.

¶ 40 In so holding, we relied on the supreme court's decision in *People v. Tufte*, 165 Ill. 2d 66, 78 (1995), and stated the follows:

> "[T]he [supreme] court determined that revocation of a defendant's sentence of conditional discharge, even where it was admitted by the defendant, was not to be treated identically to proceedings in which a defendant had been found guilty based on a guilty plea. [Citation.] It concluded, 'If the defendant does not file a motion to vacate or reconsider, but rather seeks an immediate appeal, the reviewing court may consider the defendant's argument on its merits.' " *Rodriguez*, 2025 IL App (4th)

250108-U, ¶ 29.

We noted that we had subsequently followed *Tufte* in other cases and declined to find the issue forfeited. *Id.* ¶ 30; see *In re J.E.M.Y.*, 289 Ill. App. 3d 389, 391 (1997) (finding "the logic and analysis in *Tufte* to be equally applicable to probation revocation hearings"); see also *People v. Lappin*, 335 Ill. App. 3d 418, 420 (2002) (stating that following probation revocation and resentencing, the defendant did not have to file a motion to reconsider for this court to address the merits of his sentencing argument).

¶ 41 Under the circumstances presented, we agree with defendant that he was not required to include his claim of sentencing error in a motion to reconsider to preserve it for appellate review. Accordingly, we consider the merits of his argument that the trial court improperly punished him for his conduct while on probation.

¶ 42 Here, defendant pleaded guilty to a Class 3 felony offense. See 720 ILCS 646/60(b)(1) (West 2024). There is no dispute that he was eligible for an extended-term sentence and that, as a result, he faced a sentencing range of 2 to 10 years in prison. 730 ILCS 5/5-4.5-40(a) (West 2024). The trial court sentenced him to seven years in prison.

¶ 43 The Illinois Constitution states that "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. "The trial court has broad discretionary powers in imposing a sentence, and its sentencing decisions are entitled to great deference." *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). "The court must base its sentencing determination on the particular circumstances of each case, considering such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age." *People v. Fern*, 189 Ill. 2d 48, 53 (1999). Generally, an abuse of discretion occurs "where the sentence is

greatly at variance with the spirit and purpose of the law[ ] or manifestly disproportionate to the nature of the offense." (Internal quotation marks omitted.) *People v. Snyder*, 2011 IL 111382, ¶ 36.

¶ 44 When a defendant's probation is revoked, the trial court resentences him to a sentence that would have been appropriate for the original, underlying offense. *People v. Pina*, 2019 IL App (4th) 170614, ¶ 30. The sentence imposed may not constitute a punishment for the defendant's conduct on probation. *People v. Turner*, 233 Ill. App. 3d 449, 456 (1992). However, the court may consider such conduct in assessing the defendant's potential for rehabilitation. *Id.*; see *People v. Palmer*, 352 Ill. App. 3d 891, 895 (2004) ("[C]onduct while on probation is evidence of [a defendant's] rehabilitative potential."). "[I]t is appropriate for a defendant who conducts himself poorly while on probation to receive a more severe sentence than he originally received." *Palmer*, 352 Ill. App. 3d at 895.

¶ 45 Additionally, as the State argues, evidence of other crimes and misconduct may generally be presented at sentencing and is relevant to issues of a defendant's history, character, propensities, and likelihood of rehabilitation. *People v. Jackson*, 149 Ill. 2d 540, 552-53 (1992); see *People v. Young*, 138 Ill. App. 3d 130, 142 (1985) ("Misdeeds occurring up to the time of sentencing, whether before the finding of guilty or subsequent, are relevant ***, as they go to the defendant's 'history and character.' "). Such is true whether the evidence is based on pending criminal charges (*Jackson*, 149 Ill. 2d at 552) or even uncharged criminal conduct (*People v. Ivy*, 313 Ill. App. 3d 1011, 1019 (2000)).

¶ 46 "[T]he trial court is presumed to know the law and to follow it unless the record affirmatively indicates the contrary." *People v. Miller*, 2021 IL App (2d) 190093, ¶ 22. This court has held that a sentence that is within the applicable statutory range "will not be set aside on review *unless* the reviewing court is 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.) *Young*, 138 Ill. App. 3d at 142. When making such a determination, we may consider the trial court's remarks at sentencing. *People v. Varghese*, 391 Ill. App. 3d 866, 876 (2009). The court's remarks "must be taken in context, and read in their entirety, including arguments of counsel." *Young*, 138 Ill. App. 3d at 142.

¶ 47 Further, "reviewing courts have concluded that the record must clearly show that the court considered the original offense." (Internal quotation marks omitted.) *Varghese*, 391 Ill. App. 3d at 876. Notably, a trial court may "consider an original offense by implication." *Miller*, 2021 IL App (2d) 190093, ¶ 27. "What matters is that the record *** clearly demonstrate[s] that the trial court considered [the] defendant's original offense when fashioning his sentence" and not a "mechanical counting of 'mentions' " of that original offense. (Internal quotation marks omitted.) *Id.*

¶ 48 As stated, defendant argues the trial court improperly resentenced him based upon evidence of his conduct while on probation. He contends such a conclusion is evident from the record, given the State's focus on uncharged offenses and misconduct and the court's detailed and extensive commentary on that same evidence. We disagree.

¶ 49 Initially, as the State points out, the conduct that defendant argues he was improperly sentenced for was not conduct that served as the basis for the revocation of his probation. That conduct included failing to report or appear as required by his probation officer in January, April, and July 2025; failing to complete his substance abuse treatment; and testing positive for methamphetamine and amphetamine in February 2025. The record shows the trial court considered such conduct at defendant's sentencing and recognized that it was not the conduct for which defendant was being sentenced. The court stated as follows:

> "So we look at someone who's not availed themselves of the services in probation, not followed through with treatment. And you don't get punished for that, but I get to look at those issues when looking at whether probation is going to be ordered again. Just completely resistant to whether either getting help for yourself, or wanting to do it, or being told what to do."

¶ 50 Additionally, although defendant frames the issue on appeal as involving the trial court's improper reliance on other offenses and misconduct that occurred while he was on probation, the record reflects that some of the conduct at issue predated even the underlying charged offense. Specifically, the evidence at issue concerned defendant's actions while living, at different times, with Higgins and Neiser. At sentencing, Higgins testified that defendant began living with him around February 2023 and continued to reside with him for two to two and a half years. Defendant was not charged with the underlying offense until June 2024, and police reports attached to his PSI indicate that the methamphetamine that formed the basis for his underlying possession charge was found at Higgins's residence. Defendant was also not sentenced to probation for the underlying offense until November 2024. Accordingly, it appears that some of defendant's alleged misconduct related to Higgins necessarily occurred before defendant was originally sentenced to probation.

¶ 51 However, we find that no matter the timing of the alleged other offenses and misconduct or whether such conduct served as the basis for the revocation of defendant's probation, our considerations are the same. It is improper for a trial court to punish a defendant for other crimes and misconduct rather than for his underlying offense. Ultimately, to set aside defendant's sentence, we must be strongly persuaded that the court, in fact, sentenced him for the other offenses and misconduct and not for his original offense. See *Young*, 138 Ill. App. 3d at 142.

We are not so strongly persuaded by the facts of the present case.

¶ 52 The State presented evidence that both Higgins and Neiser allowed defendant to live in their homes. Its evidence indicated that defendant took advantage of Higgins and stole money from him, provided methamphetamine to both Higgins and Nieser, and introduced Neiser to using methamphetamine. The record demonstrates that the trial court considered such evidence both as being relevant to issues of defendant's history and character and in determining that defendant's drug addiction was an aggravating, rather than mitigating, factor for purposes of sentencing. See *People v. Sturgeon*, 2019 IL App (4th) 170035, ¶ 105 (stating that drug addiction is not an explicit statutory factor in mitigation or aggravation, and "a history of substance abuse is a 'double-edged sword' that the trial court may view as a mitigating or aggravating factor").

¶ 53 Specifically, the record shows the trial court initially commented that when considering the issue of defendant's substance abuse, it looked to the witness testimony from Higgins and Fitzgerald, stating: "Then you look at the addiction part of it and I look at the testimony of Fitzgerald and Higgins." The court went on to find that the witnesses were credible and that defendant had taken advantage of Higgins and Neiser. The court then concluded its comments with respect to such evidence by stating as follows:

> "[The evidence] goes directly to [defendant's] history and character and it goes directly to this factor in aggravation. Your addiction is more of an aggravating factor than a mitigating factor because if that's why you're doing it, you're not just hurting yourself, you're taking advantage of Higgins and you're taking advantage of Neiser. And that is a serious problem for your history and character."

¶ 54 The trial court's explicit comments demonstrate the purpose for which it considered the challenged evidence, which related to the harm defendant's conduct inflicted upon Higgins

and Neiser. Such considerations were relevant to defendant's "general moral character" and not improper. *Fern*, 189 Ill. 2d at 53.

¶ 55 As stated, defendant contends that the State and the trial court excessively focused on the other crimes and misconduct evidence, warranting a finding that he was punished for that conduct rather than for the underlying offense. However, we note that some of the court's commentary on the challenged evidence was prompted by defendant's interjections as the court was setting forth its rationale. Additionally, when viewing the court's comments in context and as a whole, the record establishes its consideration of many relevant sentencing factors, including the circumstances of the underlying offense.

¶ 56 Specifically, the record shows that the trial court considered the contents of defendant's PSI, which included information relevant to the underlying offense; defendant's statement in allocution; the arguments of counsel, which included defense counsel's argument that defendant was being sentenced for "purely a meth possession case"; statutory and nonstatutory factors in aggravation and mitigation; and the seriousness of the offense. The court accepted defense counsel's argument that applicable mitigating factors included that defendant's conduct in committing the underlying offense did not cause or threaten serious harm and that defendant did not contemplate that his conduct would cause harm. Application of those mitigating factors clearly demonstrates the court's consideration of the circumstances of the original methamphetamine-possession charge. The court also explicitly commented on defendant's criminal history, the need for deterrence, defendant's personal relationships with people the court described as "not prosocial," defendant's prior opportunity at probation, defendant's substance abuse issues, and comments defendant made that demonstrated an unrepentant attitude toward the underlying offense and crime in general.

¶ 57 When viewed in their entirety, the trial court's comments show its consideration of appropriate sentencing factors and evidence. We find the cases defendant cites in support of his arguments are factually distinguishable. Accordingly, the record demonstrates no error.

¶ 58 B. Reliability of Evidence

¶ 59 Defendant also argues that the evidence pertaining to his relationships with Higgins and Neiser was unreliable. He contends that because the trial court based its sentencing decision on unreliable information, its judgment should be reversed and the matter remanded for a new sentencing hearing.

¶ 60 Again, defendant asserts that he properly preserved this issue for appellate review but, in the event that we find that it was not preserved, it may be reviewed as a claim of ineffective assistance of counsel. Notably, the State does not argue that defendant forfeited this issue. See *People v. Hancock*, 2014 IL App (4th) 131069, ¶ 124 (finding the State forfeited a forfeiture argument by not raising it on appeal). Accordingly, we address the merits of defendant's claim.

¶ 61 "The ordinary rules of evidence governing a trial are relaxed at the sentencing hearing." *People v. Williams*, 2018 IL App (4th) 150759, ¶ 17. The sentencing court has "broad discretionary power to consider various sources and types of information so that [the court] can make a sentencing determination within the parameters outlined by the legislature." (Internal quotation marks omitted.) *Id.* Additionally, "[t]he trial court *** is in a better position than a reviewing court to assess the credibility of witnesses and to weigh the evidence presented at a sentencing hearing." *People v. Williams*, 303 Ill. App. 3d 264, 268 (1999). Evidence is admissible at a sentencing hearing when it is relevant and reliable. *Williams*, 2018 IL App (4th) 150759, ¶ 17.

¶ 62 Further, testimony that contains hearsay is not *per se* unreliable and inadmissible. *People v. Cunningham*, 2018 Il App (4th) 150395, ¶ 31. Rather, such circumstances go to the

weight of the evidence and not its admissibility. *Id.* Also, "uncorroborated hearsay 'is not inherently unreliable,' particularly when the information was compiled during the course of an official investigation and where the evidence was never directly challenged." *Id.* "It is for the trial court, in its sound discretion, to ultimately determine if *** testimony is reliable." *People v. Harris*, 375 Ill. App. 3d 398, 410 (2007).

¶ 63 Defendant first contends that the evidence related to Neiser was unreliable because it was based on Neiser's hearsay statements, presented through Fitzgerald's testimony, that defendant lived in Neiser's garage, gave Neiser methamphetamine, and introduced Neiser to using methamphetamine. He argues that aside from being hearsay, Neiser's statements were unreliable because police reports attached to his PSI indicated that Neiser was hallucinating at the time his statements were made. Defendant contends that no other evidence corroborated Neiser's alleged statements and that he never admitted to providing Neiser with methamphetamine.

¶ 64 With respect to Higgins, defendant argues there was no evidence that he introduced Higgins to methamphetamine and, thus, "no reliable evidence *** that [he] targeted Higgins to introduce him to methamphetamine so that he could exploit him." He also contends Higgins provided statements that contradicted his assertions that defendant stole from him. He notes testimony from Higgins that he gave defendant money to perform work around his home and to provide him with methamphetamine. Defendant also asserts that the evidence showed Higgins blamed him for (1) bank withdrawals that Higgins made himself and (2) forging a check that Higgins reported to the police was forged by another individual.

¶ 65 Here, we find that defendant's complaints go to the weight of the evidence rather than to its admissibility. The trial court determined that the testimony from Higgins and Fitzgerald was credible and showed that defendant took advantage of Higgins and Nieser and that Higgins,

in particular, had a physical disability and was naïve. The court also found that defendant had introduced the men to using methamphetamine for his own benefit. The record contains support for the court's findings, and we find no error in its consideration of the evidence at defendant's sentencing.

¶ 66 Fitzgerald's testimony indicated that he investigated defendant's relationships with Higgins and Neiser. He stated that he was familiar with Neiser through Neiser's work and that he noticed a change in Neiser's mental state after Neiser became involved with defendant. According to Fitzgerald, the police were called to Neiser's home for "multiple disputes" after defendant began residing there. Neiser reported to the police that defendant lived in his garage, left methamphetamine in his home, and "was the first person who had ever given him methamphetamine." Although the evidence indicated Neiser's methamphetamine use caused him to hallucinate, Fitzgerald also testified that he had conversations with Neiser when he was "lucid and coherent." Additionally, both Fitzgerald's testimony and the police reports attached to defendant's PSI suggest that Fitzgerald obtained information regarding Neiser and defendant's relationship over time through his police investigation rather than from one single encounter that occurred while Neiser was reported to be hallucinating.

¶ 67 Higgins's testimony showed that he began using methamphetamine around the same time that defendant began living with him. Although defendant was not the first person to introduce him to methamphetamine, defendant did provide him with the drug. Higgins testified that defendant stole money from his bank account and testified to unauthorized transactions made from his account to accounts linked to defendant. Fitzgerald's investigation corroborated Higgins's claims. Specifically, personal information related to Higgins was found on defendant's cell phone, including photographs of Higgins's driver's license and bank information. Information obtained

from defendant's cell phone also showed that he had access to Higgins's e-mail accounts. Additionally, Fitzgerald testified that defendant admitted to using methamphetamine and providing it to Higgins and that Higgins suffered from "white matter brain disease" and "would get confused sometimes."

¶ 68 As stated, the trial court was in the best position to determine witness credibility and weigh the evidence presented. The record reflects no abuse of the court's discretion.

¶ 69 C. Financial Assessments

¶ 70 Finally, on appeal, defendant argues that his counsel was ineffective for failing to file a certification under Illinois Supreme Court Rule 404(e) (eff. Sept. 1, 2023) for the waiver of court assessments as defined in section 124A-20(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/124A-20(a) (West 2024)). He contends that because he was represented by a public defender in the proceedings below, he was entitled to such a waiver. The State concedes that an error occurred.

¶ 71 Recently, in *People v. Nibbelin*, 2026 IL 131825, ¶ 27, the supreme court addressed the same issue as presented here and held that, "when a defendant alleges that he was erroneously charged assessments despite being entitled to an assessment waiver under Rule 404(e), [his] claim must be raised for the first time in the trial court via a motion under Rule 472" and that "[s]uch an argument may not be framed as ineffective assistance of counsel and raised for the first time on appeal." Notably, Illinois Supreme Court Rule 472 (eff. Feb. 1, 2024) extends the trial court's jurisdiction to address certain sentencing errors following the court's judgment. The supreme court held that Rule 472 "was adopted to address the problem of fine and fee assessments being raised for the first time on appeal," including claims such as the defendant's. *Nibbelin*, 2026 IL 131825, ¶¶ 17, 22. The defendant's case was remanded so that he could file a Rule 472 motion. *Id.* ¶ 27;

see Ill. S. Ct. R. 472(e) (stating that when a party attempts "to raise sentencing errors covered by th[e] rule for the first time on appeal, the reviewing court shall remand to the circuit court to allow the party to file a motion pursuant to th[e] rule").

¶ 72 The same circumstances are present here. Defendant alleges that he was erroneously charged assessments despite being entitled to a waiver under Rule 404(e). Like in *Nibbelin*, we remand defendant's case to allow for the filing of a Rule 472 motion that raises his assessment waiver claim.

¶ 73 III. CONCLUSION

¶ 74 For the reasons stated, we affirm the trial court's judgment and remand the matter so that defendant may file a Rule 472 motion.

¶ 75 Affirmed; cause remanded with directions.