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) 251084-U

NO. 4-25-1084

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 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
JONATHAN CHAMBERS,	)	No. 24CF345
Defendant-Appellant.	)	
	)	Honorable
	)	Jennifer H. Bauknecht,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Justices Grischow and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court reversed and remanded, holding defendant demonstrated the record refutes defense counsel's facially sufficient certificate of compliance with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024).

¶ 2 On June 23, 2025, defendant, Jonathan Chambers, entered an open guilty plea to five drug-related charges. Thereafter, he filed a motion to withdraw his plea. The trial court denied the motion and sentenced defendant to 14 years' imprisonment. Defense counsel filed a motion to reconsider the sentence and filed a certificate stating her compliance with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024). The court denied the motion to reconsider.

¶ 3 On appeal, defendant contends, because counsel did not amend the motion to withdraw the guilty plea with an affidavit supporting defendant's contentions, the record refutes counsel's Rule 604(d) certificate. Because the record demonstrates defense counsel's failure to preserve the claim raised in the motion to withdraw the plea was inadvertent, the record refutes

counsel's Rule 604(d) certificate. We therefore reverse the denial of the postsentencing motion and remand for counsel to file a postsentencing motion consistent with Rule 604(d).

¶ 4 I. BACKGROUND

¶ 5 Defendant was charged by information with five offenses: (1) one count of delivery of 5 or more grams but less than 15 grams of methamphetamine (720 ILCS 646/55(a)(2)(B) (West 2024)) (a Class 1 felony); (2) two counts of delivery of less than 5 grams of methamphetamine (*id.* § 55(a)(2)(A)) (a Class 2 felony); and (3) two counts of unlawful possession of drug paraphernalia (720 ILCS 600/3.5(a) (West 2024)). At the final pretrial hearing, trial court advised defendant the maximum term for the most serious methamphetamine count was 15 years' imprisonment. On the other two methamphetamine counts, the maximum term was 14 years' imprisonment. The State indicated defendant was extended-term eligible on those counts. The court noted the sentence in this case might be consecutive to the sentence in another case, but it did not suggest the sentences in this case could be consecutive. The court also advised defendant it would "not take any agreed pleas" after that day.

¶ 6 Defendant's jury trial commenced on June 23, 2025. However, during the testimony of the State's first witness, defendant requested an off-the-record conference relating to the possibility of pleading guilty. On the record, the trial court advised defendant of the applicable sentences. It stated the maximum sentence for the most serious methamphetamine count was 15 years' imprisonment. It stated the maximum sentence for other two methamphetamine charges was 14 years' imprisonment on one count and 7 years' imprisonment one the other. The court did not address whether the sentences could be consecutive. Defense counsel acknowledged the court's prior statement it would not accept negotiated pleas after the last pretrial hearing and advised defendant was prepared to enter "an open plea" to "all five counts." The court accepted the plea.

¶ 7 On July 16, 2025, defense counsel filed a motion to withdraw defendant's pleas. The motion, which was amended August 15, 2025, asserted defendant "was suffering from acute anxiety at the time of his plea" and "felt undue pressure to plead guilty based on the presence of a law enforcement officer." Defense counsel filed a Rule 604(d) certificate that related to the amended motion. The certificate stated that counsel had (1) "consulted with the Defendant *** to ascertain the defendant's contentions of error in the entry of the plea of guilty," (2) "examined the trial court file and report of proceedings of the plea of guilty," and (3) "made any amendments to the motion necessary for the adequate presentation of any defects in that proceeding."

¶ 8 On August 19, 2025, the trial court denied defendant's motion to withdraw his plea. It then sentenced him to one term of 14 years' imprisonment and two terms of 12 years' imprisonment, with the terms to be served concurrently.

¶ 9 On September 8, 2025, defendant filed a motion to reconsider his sentence.

¶ 10 On October 7, 2025, defense counsel filed a second Rule 604(d) certificate. The trial court then heard and denied the motion to reconsider the sentence. Defense counsel asked the clerk to file a notice of appeal on defendant's behalf, requesting the Office of the State Appellate Defender (OSAD) be appointed regarding both the motion to withdraw the guilty plea and the motion to reconsider sentence.

¶ 11 This appeal followed.

¶ 12 II. ANALYSIS

¶ 13 On appeal, defendant concedes defense counsel filed a facially sufficient Rule 604(d) certificate in conjunction with the motion to reconsider the sentence. However, he argues the record refutes defense counsel's representations in that counsel failed to make two necessary amendments to his postsentencing motion. According to defendant, counsel should have renewed

the motion to withdraw the plea in the postsentencing motion and supported the motion to withdraw the plea with an affidavit.

¶ 14 In response, the State argues (1) remand is unnecessary because defendant's claims were rejected after a full and fair hearing and (2) we should dismiss the appeal because defendant waived "any issue regarding his guilty plea."

¶ 15 A. Applicable Principles of Law

¶ 16 Rule 604(d) provides the following:

> "No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment.
>
> ***
>
> *** The motion shall be presented promptly to the trial judge *by whom the defendant was sentenced* [if possible] ***. ***
>
> *** The defendant's attorney shall file with the trial court a certificate stating that the attorney has consulted with the defendant *** to ascertain defendant's contentions of error in the sentence and the entry of the plea of guilty, has examined the trial court file and both the report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing, and has made any amendments to the motion necessary for adequate presentation of any defects in those proceedings.
>
> *** Upon appeal any issue not raised by the defendant in the motion to

reconsider the sentence or withdraw the plea of guilty and vacate the judgment shall be deemed waived." (Emphasis added.) Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024).

Additionally, when "the motion is based on facts that do not appear of record," the rule requires the motion to be supported by appropriate affidavits or authorized alternatives. *Id.*

¶ 17 A facially sufficient Rule 604(d) certificate does not conclusively demonstrate counsel's compliance with Rule 604(d); a defendant can refute counsel's representations in the certificate by showing the record is inconsistent with counsel's certifications. *People v. Higgins*, 2023 IL App (4th) 220837, ¶ 53; see *People v. Curtis*, 2021 IL App (4th) 190658, ¶ 36 (collecting cases holding a defendant may "refute" a facially sufficient Rule 604(d) certificate by showing the record is inconsistent with the contents of the certificate). However, "to prevail on such a claim, a defendant must *actually show* the record refutes the certificate." (Emphasis added.) *Higgins*, 2023 IL App (4th) 220837, ¶ 53. A mere absence of evidence counsel complied with the rule is insufficient to show a lack of compliance. *Id.* "Whether counsel complied with Rule 604(d) is a legal question that we review *de novo*." *People v. Gorss*, 2022 IL 126464, ¶ 10.

¶ 18 Rule 604(d) requires a motion to be filed after sentencing. See, *e.g.*, *People v. Marquez*, 2012 IL App (2d) 110475, ¶ 4 ("[A] motion filed prior to sentencing does not comply with Rule 604(d) and will not give rise to a right to appeal from the judgment."); *People v. Ramage*, 229 Ill. App. 3d 1027, 1031 (1992) (holding a motion filed before sentencing is premature and "does not satisfy Rule 604(d) for purposes of an appeal").

¶ 19 B. This Case

¶ 20 1. *The Parties' Arguments*

¶ 21 On appeal, defendant concedes defense counsel filed a facially sufficient Rule 604(d) certificate in conjunction with his motion to reconsider the sentence. However, he argues

the record refutes defense counsel's representations in the certificate in two ways. Specifically, defendant contends counsel failed to support the claims in the motion to withdraw the plea with an appropriate affidavit. Defendant also maintains, because the motion to withdraw the plea was premature, as it was filed prior to sentencing, defense counsel failed to fulfil her obligations under Rule 604(d) by failing to renew the motion after he was sentenced. In other words, he suggests counsel had a duty to preserve the claim he raised in the premature motion.

¶ 22 We understand defendant seeks to refute defense counsel's representations in the *postsentencing* Rule 604(d) certificate because (1) defendant's statement of facts refers only to counsel's second Rule 604(d) certificate, *i.e.*, the certificate filed with the postsentencing motion and (2) his arguments consistently discuss the "facially compliant" Rule 604(d) certificate. As we noted, defense counsel must certify they "ascertain[ed] defendant's contentions of error in the sentence" and "examined *** the report of proceedings in the sentencing hearing." Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). In the certificate defense counsel filed with the motion to withdraw the plea, counsel did not and could not represent she had taken any action relating to the sentencing proceeding, making the presentencing certificate facially insufficient.

¶ 23 The State responds with two arguments: (1) "Any defects in the pleadings[, here, the lack of an affidavit,] do not justify remand where defendant's claims were deemed meritless following a full and fair hearing;" and (2) "Defendant's appeal should be dismissed as he has ultimately waived any issue regarding his guilty plea"—in other words, he waived the guilty plea issues by failing to raise them in the postsentencing motion. The State further claims defense counsel "did not err in [not] renewing the [guilty plea] motion as it was already denied by the trial court and renewing or amending [the] motion filed prior to sentencing would be futile as defendant's claim[s] were rendered meritless." In support of its second argument, it cites this

court's decision in *People v. Ivy*, 313 Ill. App. 3d 1011, 1018 (2000), which holds, "An attorney is not required to make futile motions to avoid charges of ineffective assistance of counsel."

¶ 24 The State's second argument appears to misunderstand the nature of defendant's claim on appeal. Defendant is not attempting to argue the trial court should have granted his motion to withdraw his plea; such a claim would indeed be waived under Rule 604(d). Instead, defendant is arguing counsel did not comply with Rule 604(d) when, *inter alia*, she failed to preserve the claim in the motion to withdraw the plea. Nevertheless, we address the State's contention we should presume counsel deliberately abandoned the guilty plea claim as a matter of strategy. If the State is correct, defense counsel's Rule 604(d) certificate pertains only to the motion to withdraw the plea. If so, both of defendant's arguments must necessarily fail.

¶ 25 In reply, defendant argues we should not view defense counsel's failure to preserve the claim in the motion to withdraw the plea as a matter of strategy. He implies a distinguishing characteristic of this case is his plea did not involve any concessions by the State. We understand him to suggest, under the circumstances, abandoning the motion to withdraw the plea had no plausible strategic basis.

¶ 26 2. *Defense Counsel's Abandonment of the Motion to Withdraw the Guilty Plea*

¶ 27 Our review of the record reveals defense counsel could not have had a strategic reason for abandoning the motion to withdraw the plea by failing to renew it in her postsentencing motion. Indeed, the record shows the abandonment was inadvertent. Thus, the record refutes defense counsel's representation in her postsentencing Rule 604(d) certificate she made any necessary amendments to the postsentencing motion.

¶ 28 The 14-year sentence defendant received was just 1 year short of the maximum the trial court advised him he might receive when it admonished him prior to trial and again when he

asked to plead guilty. The maximum nonextended-term sentence for a Class 1 offense without an extended sentencing range is 15 years. 730 ILCS 5/5-4.5-30(a) (West 2024). Thus, defendant had very little to lose by attempting to withdraw the plea. This fact alone is arguably enough to conclude counsel failed to fulfil her duties under Rule 604(d) when she failed to draft the postsentencing motion to preserve the claim defendant raised in the motion to withdraw his guilty plea.

¶ 29 However, defendant does not need to rely on an inference based on the sentence length to show defense counsel inadvertently failed to preserve the claim in the motion to withdraw the guilty plea. The record positively demonstrates the abandonment of the withdrawal motion was inadvertent. Defense counsel told the trial court she was requesting "that [OSAD] be appointed on both my client's motion to withdraw guilty plea and the motion to reconsider sentence." This phrasing directly shows counsel believed she had preserved the claim in the motion to withdraw the guilty plea. Her failure to do so was thus inadvertent. Affirmative evidence the failure to preserve a claim was inadvertent refutes a certification counsel made all necessary amendments to avoid a claim's waiver. See *People v. Ratliff*, 2024 IL 129356, ¶ 26 ("Waiver *** is never inadvertent because it is an intentional relinquishment of a right.").

¶ 30 For the reasons stated, we conclude the record refutes defense counsel's representation in her Rule 604(d) certificate as to the adequacy of the postsentencing motion. This is a sufficient basis for remand. However, because counsel intended the representations in her postsentencing Rule 604(d) certificate to relate to the preserved claims in the motion to withdraw the plea, we also address whether the record refutes those representations.

¶ 31 3. *The Motion to Withdraw the Guilty Plea*

¶ 32 Defendant asserts counsel's representation on his motion to withdraw his guilty

plea was deficient in that she did not support the motion with an affidavit supplying the nonrecord facts alleged, notably, defendant's allegation he suffered an acute anxiety attack during his trial. The State agrees Rule 604(d) required the motion to be supported by an affidavit. See Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024) ("When the motion is based on facts that do not appear of record it shall be supported by affidavit."). However, the State argues, relying principally on the rule in *People v. Brown*, 2023 IL App (4th) 220573, remand here is unnecessary because defendant had a full and fair hearing on his motion.

¶ 33 In *Brown*, postplea counsel adopted a motion filed by guilty plea counsel in which the defendant sought withdrawal of his guilty plea due to ineffective assistance of guilty plea counsel. *Id.* ¶¶ 13-14. Defendant claimed guilty plea counsel led him to believe he would get probation. *Id.* ¶ 13. Postplea counsel also filed a facially sufficient Rule 604(d) certificate. *Id.* ¶ 15. The motion received an evidentiary hearing, at which guilty plea counsel testified for the State. *Id.* ¶¶ 18-21. The trial court denied the motion. *Id.* ¶ 22. It took note of what it had observed at the hearing, and it found "defendant's professed belief that he could plead guilty and then have a trial if he did not get probation 'doesn't make sense.' The court noted that defendant was 'not new to the criminal justice system' and had entered pleas in other cases." *Id.* ¶ 22.

¶ 34 On appeal, the defendant claimed the record refuted the Rule 604(d) certificate because postplea counsel should have amended the motion to state a " 'legally cognizable claim. '" *Id.* ¶ 25. This court held, "Where postplea counsel files a facially compliant Rule 604(d) certificate and the trial court determines after a full and fair hearing that the defendant's claims are meritless, defects in the pleadings do not justify a remand for further proceedings." *Id.* ¶ 50. It endorsed the reasoning that, "where a defendant receives a full and fair hearing on his or her claims," "postplea counsel's failure to file an affidavit in support of defendant's claims constitutes a technical rather

than a substantive error." (Internal quotation marks omitted.) *Id.* ¶ 44.

¶ 35 Here, the omission of affidavits was not merely technical error. The idea at work in *Brown* is that a defect in the pleadings can be cured by evidence introduced in a later hearing. At the hearing on his motion to withdraw his plea, defendant did *not* introduce the needed evidence of his state of mind when he entered his guilty plea. Thus, the facts of this case make the rule in *Brown* inapplicable.

¶ 36 The result here is consistent with our holding in *People v. Cline*, 2023 IL App (4th) 220471-U, ¶ 23. In *Cline*, this court rejected the following argument from the State:

> "[T]he State first contends [the] defendant has waived [his argument that postplea counsel failed to introduce certain evidence] because [those] arguments 'draw upon issues or claims not raised before the trial court and in his motion to withdraw guilty plea or reconsider sentence.' However, [the] defendant's argument on appeal is that [postplea counsel]—*through his noncompliance with Rule 604(d)*—failed to present these arguments to the court. According to [the] defendant, the failure to strictly comply with Rule 604(d) and set forth a legally recognized basis for [him] to withdraw his guilty plea is the reason the record is devoid of these arguments. Similarly, in response to the State's next argument that [the] defendant's contentions are rebutted by the record due to a lack of evidence, the record fails to support [the] defendant's contentions because [postplea counsel] failed to set forth a legally recognized basis for the withdrawal of [the] defendant's guilty plea and any evidence to support that contention." (Emphasis in original.) *Id.*

We concluded, "[W]hile [postplea counsel's] certificate was facially valid, the record rebuts his suggestion that he 'made any amendments to the motion necessary for adequate presentation of

any defects in [the] proceedings.' " *Id.* ¶ 22. Here, as in *Cline*, we will not place defendant in a catch-22 situation where counsel's failure to comply with Rule 604(d) prevents him from asserting counsel failed to comply with Rule 604(d).

¶ 37 In sum, the record shows defense counsel inadvertently abandoned the claim in defendant's motion to withdraw his plea. This refutes counsel's sole facially sufficient Rule 604(d) certificate. It also allows us to address whether counsel's failure to support the motion to withdraw the plea with an affidavit violated Rule 604(d). An affidavit was required, and the hearing on the motion was not a substitute for the affidavit. Thus, the matter should be remanded for counsel to file a new Rule 604(d) certificate.

¶ 38 III. CONCLUSION

¶ 39 For the reasons stated, we reverse the trial court's denial of defendant's postsentencing motion and remand the matter for defense counsel to file a postsentencing motion in compliance with Rule 604(d).

¶ 40 Reversed and remanded.