

NOTICE

Decision filed 10/21/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 240775-U

NOS. 5-24-0775, 5-25-0333, cons.

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Coles County.
	)	
v.	)	No. 23-CF-84
	)	
JOSEPH M. FINLEY,	)	Honorable
	)	Brian L. Bowers,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Justices Vaughan and Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The trial court did not err in denying defendant's motion to suppress; (2) defendant failed to establish that the unlawful possession of a weapon by a felon statute is unconstitutional; and (3) the trial court's order denying defendant's motion to withdraw his guilty plea is reversed, and the cause is remanded for strict compliance with Illinois Supreme Court Rule 604(d).

¶ 2 Defendant, Joseph M. Finley, was charged with unlawful possession of a weapon by a felon and unlawful possession of firearm ammunition by a felon (UPWF) (720 ILCS 5/24-1.1(a) (West 2022)) and possession with intent to deliver methamphetamine (720 ILCS 646/55(a)(1) (West 2022)). Before trial, the UPWF charges were severed from the methamphetamine charge. Following a jury trial in the circuit court of Coles County on the UPWF charges, defendant was found guilty of both offenses. Defendant subsequently pleaded guilty to possession with intent to deliver methamphetamine. He was sentenced to 10 years in prison on each offense, to be served

concurrently, followed by 18 months of mandatory supervised release. Defendant appeals, arguing (1) the trial court erred in denying his motion to suppress evidence; (2) subsection (a) of section 24-1.1 of the Criminal Code of 2012 (Criminal Code) (720 ILCS 5/24-1.1(a) (West 2022)) is unconstitutional, both facially and as applied to him; and (3) post-plea counsel failed to strictly comply with the requirements of Illinois Supreme Court Rule 604(d) (eff. April 15, 2024). For the following reasons, we affirm defendant's UPWF convictions and remand the drug possession case for further proceedings.

¶ 3

I. BACKGROUND

¶ 4 On February 27, 2023, the State charged defendant with unlawful possession of a weapon by a felon and unlawful possession of firearm ammunition by a felon (720 ILCS 5/24-1.1(a) (West 2022)), based on his alleged possession of a revolver and firearm ammunition, as well as possession with intent to deliver methamphetamine (720 ILCS 646/55(a)(1) (West 2022)).

¶ 5 On April 18, 2023, defendant filed a motion to suppress evidence, arguing that police unlawfully entered and searched his residence without a warrant and that his mother lacked authority to consent to the entry.

¶ 6 On May 31, 2023, the trial court conducted a hearing on the defendant's motion to suppress. The following facts were adduced at the hearing on defendant's motion to suppress, including through the officers' body-worn-camera footage.

¶ 7 On February 24, 2023, Charleston police officers Brandon Spindler and Seth Brewer responded to a report of "possible shots fired." A motorist, Kevin McGee, reported that defendant had argued with him, gone to a garage residence, and returned with a pellet gun. According to McGee, defendant then shot at McGee's vehicle, damaging its mirror and window. McGee identified defendant as the shooter and reported that defendant had fled toward the garage area

behind a residence in Charleston, Illinois. Police knew that defendant and his mother, Teresa Eastep,¹ resided at the residence McGee identified. Before arriving at the property, the officers also knew that defendant was staying in the detached garage on Eastep's property. The officers therefore approached the detached garage to make contact with defendant.

¶ 8 Upon arriving at the detached garage, Brewer knocked on the side of the garage and called, "Hey Joey, Charleston police." While the officers were knocking, Eastep, who was inside her home, told them through the window that she believed defendant was not at home. Brewer informed Eastep that "there was an altercation that had taken place outside" and that the officers were trying to determine what had occurred. Eastep then exited her home and walked toward the garage, stating, "I'll knock on the door, but like I said, I thought he was gone." Brewer followed several feet behind her. Eastep knocked on the garage door and immediately opened the unlocked door by turning the doorknob. She entered the garage and told Brewer, "You can look, he's not in here." Brewer remained several feet behind Eastep. Eastep then waved to the officers and stated, "you can come on in." Brewer stepped into the room next to Eastep and verbally noted the presence of a BB gun on the floor.

¶ 9 The body-worn camera footage further showed an officer standing just outside the threshold of the doorway stating, "Get a case number, grab some photos." Brewer then exited the garage. He returned to his squad car, telling another officer on the way that defendant was not inside his residence, and retrieved a digital camera to document the damage to McGee's vehicle. As Brewer returned to the residence, another officer told him that the officers were going to obtain a search warrant.

¹Teresa Eastep was referred to as "Teresa Mitchell" at the motion to suppress hearing but clarified at trial her last name is "Eastep."

¶ 10 Less than two hours later, police obtained a search warrant based on their earlier observations of the garage. Pursuant to the warrant, officers searched the detached garage and seized multiple items, including several rounds of ammunition, a revolver-style firearm with a broken handle, a pellet gun, and suspected methamphetamine contained in multiple bags. Defendant returned to the residence later that same night and was arrested. He was subsequently charged with possession of methamphetamine with intent to deliver and two counts of unlawful possession of a weapon by a felon based on his alleged possession of the revolver and handgun ammunition.

¶ 11 Thereafter, defendant filed a motion to suppress, arguing that police initially entered and searched his garage residence without a warrant and that Eastep lacked authority to consent to the entry in his absence. At the suppression hearing, the State presented testimony from Officers Brewer and Spindler.

¶ 12 Spindler testified regarding the layout of the property. According to Spindler, the garage was approximately four feet from the primary residence. Spindler testified that he and other officers knew defendant resided in the garage at his mother's residence at this property and had prior contact with both of them on numerous occasions. He also recalled seeing Eastep open the door to the detached garage for Brewer.

¶ 13 Spindler testified that he observed Brewer step inside the garage and verify that defendant was not present. Brewer remained inside for a brief period. From his own position, Spindler was also able to see that defendant was not inside the garage. While Brewer was inside, Spindler observed what he believed to be contraband in the apartment. Specifically, he described a pellet gun and "a large bag of what [he] believed to be crystal methamphetamine, a scale directly next to

it and then a smoking pipe commonly used to ingest methamphetamine on a toolbox in close proximity to both those items.”

¶ 14 Spindler further testified that Eastep gave the officers consent to enter the premises and recover contraband relevant to their investigation. Nevertheless, because defendant was not present, Spindler believed it was best to obtain a search warrant before conducting a full search of the garage and recovering the suspected contraband.

¶ 15 Brewer also testified for the State. He recalled walking towards the garage, where he knew defendant was staying. As he made his way to the door, Eastep started speaking to him through the window of the residence. He testified that, without asking, Eastep opened the door to the garage and told him, “Come on in.” Brewer entered the garage, which he described as a 10-by-12-foot, single-room space that was “disheveled,” with items scattered throughout. He described the space as a “typical garage,” noting a dirt bike hanging on the wall, multiple Airsoft rifles, tools, and a mat on the floor. Brewer observed a black-and-blue pellet gun on the floor next to the mat and a clear plastic bag containing a white crystalline substance.

¶ 16 Brewer testified that he was approximately two steps inside the doorway and remained there for approximately 10 seconds. He believed Eastep was the property owner and had authority to grant him entry into the garage because it was located on her property and her primary residence was at the same address. Brewer’s body-worn camera footage was admitted into evidence, and he testified that the footage accurately depicted the events that occurred that evening.

¶ 17 The trial court denied defendant’s motion to suppress, finding that Eastep had both actual and apparent authority to consent to the officers’ entry into the detached garage. Relying on *People v. Stacey*, 58 Ill. 2d 83 (1974) and *United States v. Matlock*, 415 U.S. 164 (1974), the court explained that common authority depends not on property law, but on mutual use of the property

by persons generally having joint access or control. The court found actual common authority based on the circumstances demonstrating common use, common control, and common access to the garage. In reaching that conclusion, the court noted that the garage contained items commonly associated with a garage and that Eastep owned the property, while the evidence did not establish who had keys to the garage or who otherwise controlled access to it. The court also noted that the garage was unlocked.

¶ 18 The trial court further found that Eastep had apparent authority. The court emphasized that the garage was a detached structure without running water, located on property owned by Eastep, and that Eastep invited the officers to enter after telling them that defendant was not inside. The court rejected any suggestion that Eastep's act of knocking before opening the garage door demonstrated a lack of authority, reasoning that knocking was consistent with common courtesy and was particularly reasonable given that the officers were investigating a report involving a gun. Relying on *Illinois v. Rodriguez*, 497 U.S. 177 (1990), the court concluded that, even if Eastep lacked actual authority, the officers reasonably believed that she possessed common authority to consent to their entry. Finally, the court found that the officers' decision to obtain a search warrant after discovering that defendant was not present and observing items they were not initially seeking did not undermine the lawfulness of the initial entry.

¶ 19 At defendant's request, the UPWF charges were severed from the drug-possession charges into two separate cases before trial. Defendant proceeded *pro se* to a jury trial on the UPWF charges on July 11, 2023. At trial, Brewer testified consistently with his testimony at the suppression hearing.

¶ 20 Eastep also testified for the State at the jury trial. She testified that defendant resided with her on February 24, 2023, as well as for approximately one year preceding that date. According to

Eastep, “He stayed in my sunroom out by the garage.” Eastep described the property as consisting of a main house and a garage. She explained that the sunroom was part of the garage building but was separated from the remainder of the garage by a wall.

¶ 21 Eastep testified that defendant was living in the sunroom and sleeping on a mat on the floor after his wife, Bethany, moved to Florida. The sunroom had no running water. Defendant ate dinner with Eastep and her family and used the facilities in the main house to shower and do his laundry. Eastep recalled speaking with police on February 24, 2023, and telling them that the sunroom was defendant’s living quarters. Before the officers entered, she knocked on the door and opened it because she felt she needed to show them that defendant was not inside. Eastep testified that she had only briefly entered the sunroom a couple of times in the weeks before the incident. She stated that defendant was the only person who had a key to the room and that the door had a hook for an outside padlock. When asked if she had a key to the room, she stated, “At one time I did. And then [defendant] lost [his] and [he] took it, took mine, and I never had one after that.” Eastep believed the room was locked and had told defendant and Bethany that she would not allow anyone into the room. She also testified to having no ownership interest as to the items inside the room.

¶ 22 Detective Kirk Kepley, the officer that obtained the search warrant, testified that, on February 24, 2023, he was contacted at approximately 7 p.m. to prepare a search warrant for the residence. Based on information provided by Spindler, Kepley obtained a warrant authorizing a search of all buildings on the property. The search focused on a separate 10-by-10-foot room within the detached garage that had its own entrance. Kepley also searched the main residence and the remainder of the garage but found no contraband there. In the separate room, he photographed the area and recovered ammunition, a firearm, and a green metal ammunition can containing an

estimated 650 to 700 rounds. He also recovered additional ammunition from a clear bag inside a toolbox where the firearm was located. The State subsequently established defendant's prior felony conviction for obstruction of justice at the trial.

¶ 23 Spindler testified for the defense that he and Brewer knew the garage area was defendant's living quarters before entering it, but believed Eastep to own the entire property. He acknowledged that he did not ask Eastep whether she had a key to the garage area and was unaware of any lease agreement.

¶ 24 Defendant testified that several individuals stored belongings in the room, including his wife, sister, his sister's boyfriend, his mother's friend and her boyfriend. He stated that the room contained numerous items and that he had cleared a space on the floor where he could sleep. He further testified that he was merely a guest and intended to return to Florida. Defendant denied owning the firearm and stated that his mother had a lease agreement with his wife for the garage. He testified that he had slept on the floor in the room for approximately four months before the search and had kept only a few personal belongings there. He characterized the room primarily as a place to sleep and stated that it contained tools and materials belonging to multiple individuals. Defendant testified that he did not know who owned the toolbox in which the firearm was found, but stated that it did not belong to him, his sister, or his wife. He further stated that the other belongings were already in the room when he moved in. Although he testified that his mother did not have a key to the room, he believed that his wife and possibly another individual had keys.

¶ 25 After deliberations, the jury found defendant guilty of unlawful possession of a firearm by a felon and unlawful possession of firearm ammunition by a felon.

¶ 26 Following the jury trial, the trial court ordered a presentence investigation and appointed Assistant Public Defender Duane Deters to represent defendant at sentencing. Defendant continued

to proceed *pro se* on the severed drug charge. On August 2 and August 10, 2023, defendant timely filed *pro se* motions for a new trial in the UPWF case, and the trial court reserved ruling on those motions.

¶ 27 On November 30, 2023, represented by Attorney Deters, defendant pleaded guilty to possession with intent to deliver 15 to 100 grams of methamphetamine. At the plea hearing, Deters represented that, pursuant to the agreement, defendant would receive a 10-year sentence on the drug possession charge, to run concurrently with the sentences imposed on his UPWF convictions, and that the State would dismiss a pending drug charge. During the plea hearing, defendant expressed concern about the agreement and specifically asked whether pleading guilty would affect his ability to appeal the suppression ruling. The trial court explained that defendant retained the right to appeal his UPWF convictions, including the suppression ruling, but that any successful appeal of those convictions would not affect the concurrent sentence imposed on the drug possession charge unless defendant also sought to vacate his guilty plea and appeal that conviction. Defendant then confirmed that he wished to proceed with the agreement.

¶ 28 The trial court accepted defendant's plea and subsequently sentenced him to 10 years' imprisonment on the drug possession charge, to run concurrently with the 10-year sentences imposed on each of his UPWF convictions.

¶ 29 On December 11, 2023, the trial court addressed defendant's pending motions for a new trial. Because the motions alleged ineffective assistance by Attorney Deters, the court vacated Attorney Deters's appointment and appointed Attorney Sean Britton to represent defendant on his posttrial claims. On December 18, 2023, defendant filed a *pro se* motion to withdraw guilty plea. Attorney Britton later stood on defendant's *pro se* motion to withdraw his guilty plea, which alleged, among other things, that defendant wished to withdraw his plea based on the allegedly

unlawful entry into and search of his living quarters and the trial court's denial of his motion to suppress.

¶ 30 At a June 24, 2024, hearing, Attorney Britton argued that defendant had not been advised that his guilty plea could jeopardize his ability to pursue his fourth amendment claims concerning the search. The State opposed the motion, and the court found that defendant had received the proper admonishments and denied the motion to withdraw his guilty plea. At the court's direction, counsel filed a notice of appeal that same day, initiating appeal No. 5-24-0775. On June 28, 2024, Attorney Britton filed a certificate pursuant to Illinois Supreme Court Rule 604(d).

¶ 31 The trial court later addressed defendant's previously filed *pro se* motions for a new trial on March 26, 2025, and denied the motions without additional argument from counsel. Defendant filed a second notice of appeal on April 21, 2025, initiating appeal No. 5-25-0333. This court subsequently consolidated the two appeals.

¶ 32 II. ANALYSIS

¶ 33 On appeal, defendant challenges (1) the denial of his motion to suppress; (2) the constitutionality of section 24-1.1(a) of the Criminal Code (720 ILCS 5/24-1.1(a) (West 2022)); and (3) post-plea counsel's compliance with Illinois Supreme Court Rule 604(d) (eff. April 15, 2024). Defendant seeks suppression of the evidence recovered from the search, reversal of the UPWF convictions, and remand for new post-plea proceedings on the possession conviction.

¶ 34 The State confesses error on defendant's assertion that post-plea counsel failed to comply with Rule 604(d), asserting that post-plea counsel's Rule 604(d) certificate was filed after the notice of appeal, rendering it untimely and void because jurisdiction had shifted. The State requests affirmance of the UPWF convictions but a remand of the possession case for strict compliance with Rule 604(d), allowing a new post-plea motion and hearing.

¶ 36 A trial court's ruling on a motion to suppress presents mixed questions of law and fact. *People v. Manzo*, 2018 IL 122761, ¶ 25. We afford deference to the trial court's factual findings and will reverse those findings only if they are against the manifest weight of the evidence. *Id.* We review *de novo*, however, the ultimate question of whether suppression was warranted under those facts. *Id.*

¶ 37 The fourth amendment generally prohibits warrantless entry into a person's home absent exigent circumstances. *Payton v. New York*, 445 U.S. 573, 590 (1980). Consent is an established exception to the warrant requirement. *Id.* Consent to enter may be given by the person whose rights are implicated or by a third party who possesses common authority over the premises. *People v. Simpson*, 172 Ill. 2d 117, 144 (1996); *Matlock*, 415 U.S. at 171. Common authority exists where there is "mutual use of the property by persons generally having joint access or control for most purposes." *Id.* at 171 n.7. "Warrantless entry is also valid where police are given consent to enter by one the police reasonably believes has authority to consent," commonly known as apparent authority. *Simpson*, 172 Ill. 2d at 144 (citing *Rodriguez*, 497 U.S. at 186).

¶ 38 Here, the trial court found that Eastep possessed common authority over the garage and could consent to the officers' entry. We cannot say that finding was manifestly erroneous. Eastep owned and lived at the residence, which included the detached garage. Although defendant used the sunroom as a place to sleep, the evidence did not establish that the area was exclusively controlled by defendant. Defendant entered the main residence to eat, use the bathroom, shower, and do laundry. The sunroom itself contained garage-type items rather than ordinary bedroom furnishings, and there was no furniture in the garage. Defendant also acknowledged that several

other people stored belongings in the room, including his sister, her boyfriend, and others. Thus, the evidence showed that the space was not used exclusively by defendant.

¶ 39 The circumstances surrounding the entry further support the trial court's finding. When Eastep accompanied the officers to the garage, she opened the door without difficulty. The door was not locked, and the doorknob turned readily when she opened it. Eastep did not wait for defendant to answer after knocking. Instead, she immediately opened the door and entered, consistent with her testimony that she routinely knocked before entering. Knocking, under these circumstances, does not establish that defendant exercised exclusive possession over the room. Rather, it was a matter of courtesy and an alert to defendant that Eastep was entering. The fact that Eastep could freely open the door and enter the room without a key or other impediment was evidence the trial court could consider in determining the extent of her access and control.

¶ 40 Defendant's assertion that he was the only person with a key does not establish that Eastep lacked authority. Eastep testified that she originally possessed the key but defendant took hers after he lost his own key. Defendant never replaced the key he had lost, leaving Eastep without a key. Thus, defendant's possession of the key at the time of the incident did not necessarily demonstrate that Eastep had relinquished her authority over the space.

¶ 41 Defendant relies on *People v. Bochniak*, 93 Ill. App. 3d 575 (1981), but that case is distinguishable. There, the defendant and his brother rented a garage from their mother for \$20 per month. *Id.* at 576. The mother testified that she never entered the garage and had no reason to do so. *Id.* at 577. Thus, although she owned the garage and retained a key, the garage was used exclusively by the defendant and his brother. *Id.* The appellate court concluded that the mother did not have common authority over the premises and, therefore, could not validly consent to the search. *Id.* Here, in contrast, the evidence did not establish that Eastep had completely relinquished

access to or control over the garage. Eastep lived on the property, defendant regularly entered the main residence to eat and use the bathroom and Eastep demonstrated that she retained access to the garage by entering the sunroom herself. On the night of the incident, she freely opened the unlocked door to the sunroom and entered without a key or other impediment. The sunroom also contained garage-type items and property belonging to multiple people. Thus, unlike the mother in *Bochniak*, Eastep’s ownership was accompanied by demonstrated access to the premises, and the evidence did not establish that defendant exercised exclusive control over the area.

¶ 42 Most importantly, Eastep did not merely acquiesce when the officers entered. After officers told her they were looking for defendant, she told them that he was not home and voluntarily led them to the garage. She then opened the door herself and told the officers, “You can look, he’s not in here.” When Brewer remained outside the threshold, Eastep expressly invited him inside by stating, “you can come on in.” The officers entered only briefly, did not manipulate or move any property, and did no more than Eastep’s consent permitted. Under these circumstances, the trial court could reasonably find that Eastep exercised sufficient access and control over the garage to consent to the officers’ limited entry.

¶ 43 Even assuming, however, that Eastep lacked actual common authority over defendant’s living quarters, the entry was valid under the doctrine of apparent authority. A warrantless entry is permissible when the facts available to the officers at the time of entry would warrant a person of reasonable caution in believing that the consenting party had authority over the premises. *Rodriguez*, 497 U.S. at 188; *People v. James*, 163 Ill. 2d 302, 309 (1994). The inquiry is objective and focuses on the information known to the officers when they entered, not on whether the consenting party actually possessed the authority later attributed to her. *Rodriguez*, 497 U.S. at 185.

¶ 44 The officers' belief that Eastep had authority to consent was objectively reasonable under the circumstances known to them at the time. The officers knew that Eastep owned and lived at the residence and that defendant lived somewhere on the property. Eastep personally led them to the detached garage, opened the unlocked door, entered without hesitation, and affirmatively invited Brewer to enter. Nothing about her conduct at the time of entry suggested that she lacked authority to permit the officers to enter or that defendant exercised exclusive control over the room. Thus, the officers were not confronted with an ambiguity that required them to make further inquiry before relying on Eastep's consent. To the contrary, she acted as though she possessed authority to access and control the space.

¶ 45 The physical characteristics of the premises also supported the officers' reasonable belief. The area was a detached garage containing garage-type items, rather than a conventional bedroom or separately established apartment. The sunroom had no running water, and there was no furniture in the garage. Defendant used the space to sleep, but he also used the main residence for meals, bathing, and other ordinary household activities. Further, defendant acknowledged that multiple other people stored belongings in the room. These circumstances did not clearly communicate to the officers that defendant exercised exclusive control over a separate dwelling.

¶ 46 Defendant also relies on *People v. Huffar*, 313 Ill. App. 3d 593 (2000), but that case is distinguishable. There, the defendant rented the second-floor apartment of a two-unit building from his grandmother, while the grandmother lived in a separate first-floor apartment. *Id.* at 594. The attic was included in the defendant's rented premises and could be accessed only by passing through the defendant's separate living quarters. *Id.* Although the grandmother owned the building, had personal property in the attic, and had accessed the attic earlier that day, the officers learned upon reaching the second floor that they could reach the attic only by entering the defendant's

independent living space. *Id.* at 595. The court held that this circumstance created an ambiguity concerning the grandmother's authority and that the officers should have made further inquiry before relying on her consent. *Id.* at 598.

¶ 47 Here, by contrast, the officers did not encounter a separate apartment with its own independent living quarters through which they had to pass to reach another area. Rather, Eastep herself led the officers to the detached garage, opened the unlocked door to the sunroom, entered the room, and expressly invited the officers inside. Although Eastep knocked before entering, she did not wait for a response and instead immediately opened the door and entered. Nor did the officers observe any indication that Eastep was unable to access the room. The sunroom was part of the garage on Eastep's property, contained garage-type items, and had no running water. More importantly, the officers did not discover any new circumstance upon reaching the sunroom that made Eastep's authority ambiguous. The circumstances they observed were consistent with the authority Eastep had demonstrated by opening the door, entering the room, and inviting them inside. Thus, unlike in *Huffar*, the officers had no apparent-authority warning sign that required further inquiry before accepting Eastep's consent.

¶ 48 The limited nature of the officers' conduct also supports the reasonableness of the entry. The officers told Eastep that they were looking for defendant and that an altercation had occurred. Eastep responded that defendant was not home and immediately offered to show them that he was not inside. Brewer stepped only a short distance into the room and remained there for approximately 10 seconds. The officers did not open containers, move property, or conduct a search of the room. While lawfully inside, however, Brewer observed a pellet gun and a clear plastic bag containing a substance he believed to be methamphetamine, both in plain view. These observations resulted from the officers' limited entry to determine whether defendant was present,

rather than from any manipulation or search of the area. Once they confirmed that defendant was not present, Brewer left. The officers subsequently obtained a warrant based, in part, on the observations made during that lawful entry. Because those observations were lawful, they provided a lawful basis for the probable cause supporting the warrant, and the subsequent search was not tainted by the initial entry.

¶ 49 Accordingly, the trial court’s finding that Eastep had actual common authority to consent to the officers’ entry was not against the manifest weight of the evidence. Alternatively, even if Eastep lacked actual common authority over defendant’s living quarters, the officers reasonably relied on her apparent authority to consent. The warrantless entry therefore did not violate defendant’s fourth amendment rights, and the trial court properly denied defendant’s motion to suppress.

¶ 50 Because we conclude that the officers’ entry was valid based on Eastep’s actual and apparent authority to consent, we need not address the State’s alternative argument that exigent circumstances justified the warrantless entry.

¶ 51 2. Second Amendment Claim

¶ 52 Defendant next challenges the constitutionality of his conviction following the United States Supreme Court’s decision in *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. 1 (2022). Defendant contends that section 24-1.1(a) of the UPWF statute is facially unconstitutional under the second amendment and unconstitutional as applied to him under *Bruen*. We disagree.

¶ 53 In *Bruen*, the United States Supreme Court set out the following two-part test for determining whether laws regulating conduct protected by the second amendment are valid under the constitution:

“When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’ ” *Bruen*, 597 U.S. at 15 (quoting *Konigsberg v. State Bar*, 366 U.S. 36, 50 n.10 (1961)).

¶ 54 Illinois courts have concluded that “the two-part process requires us to determine (1) whether defendant’s conduct falls within the plain text of the second amendment and, if so, (2) whether there is a justification for the regulation rooted in history and tradition.” *People v. Travis*, 2024 IL App (3d) 230113, ¶ 24.

¶ 55 Defendant, here, was charged with UPWF, based on his simultaneous possession of a firearm and firearm ammunition. The UPWF statute provides:

“It is unlawful for a person to knowingly possess on or about his person or on his land or in his own abode or fixed place of business any weapon prohibited under Section 24-1 of this Act or any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction.” 720 ILCS 5/24-1.1(a) (West 2022).

¶ 56 The statute therefore prohibits a convicted felon from knowingly possessing either a firearm or firearm ammunition. Defendant’s convictions were based on his possession of both a firearm and firearm ammunition.

¶ 57 Many Illinois Appellate Courts, including this court, have rejected facial constitutional challenges to statutes prohibiting felons from possessing firearms based on the conclusion that felons are not protected under the second amendment. See *People v. Smith*, 2025 IL App (5th)

230656, ¶ 25 (holding that “a defendant who is in the process of committing a felony while possessing an operational firearm does not fall into the category of ‘the people’ protected by the second amendment.”); *People v. Burns*, 2024 IL App (4th) 230428, ¶¶ 21-22 (rejecting the defendant’s argument that the UPWF statute violates the second amendment on its face where *Bruen* did not apply to the defendant who was a felon and, thus, not a law-abiding citizen); *People v. Welch*, 2025 IL App (1st) 231116, ¶ 57 (“Because the second amendment only protects the rights of law-abiding citizens to bear arms, the *Bruen* analytical framework does not apply to the [offense of] UPWF.”); *People v. Cadengo*, 2025 IL App (4th) 240568, ¶ 72 (“Because of defendant’s felony conviction, she is not a ‘law-abiding citizen,’ so the second amendment’s guarantees do not apply to her.”); *People v. Boyce*, 2023 IL App (4th) 221113-U, ¶ 16 (upholding the UPWF statute and concluding that *Bruen* “does not apply to felons.”).

¶ 58 Following this line of cases, we conclude that defendant does not fall within the category of “the people” protected by the second amendment. It is undisputed that, when defendant possessed the firearm and ammunition, he was a convicted felon and, therefore, was not a law-abiding citizen. Section 24-1.1(a) expressly prohibits a convicted felon from knowingly possessing either a firearm or firearm ammunition. 720 ILCS 5/24-1.1(a) (West 2022). Because defendant’s conduct falls outside the second amendment’s protection, we need not address the second step of the *Bruen* analysis, which considers whether the regulation is consistent with this nation’s historical tradition of firearm regulation. Accordingly, we reject defendant’s argument that the UPWF statute is facially unconstitutional under the second amendment.

¶ 59 We next address defendant’s as-applied constitutional challenge to the UPWF statute. Defendant claims that he is a nonviolent felon, whose prior felony conviction was for obstruction of justice in 2018. Defendant maintains that the State “cannot show any historical traditions of

prohibiting a non-dangerous person who has been convicted of a prior non-violent felony from possessing a gun inside his home.” As noted, “an as-applied challenge depends on the particular facts and circumstances of the party.” *Burns*, 2024 IL App (4th) 230428, ¶ 11 (citing *Rizzo v. Goode*, 2016 IL 118599, ¶ 24).

¶ 60 Defendant’s as-applied challenge fails for the same reason as his facial challenge. That is, *Bruen* applies to laws regulating the possession of firearms by law-abiding citizens, not convicted felons. See *People v. Baker*, 2023 IL App (1st) 220328, ¶ 37 (“The *Bruen* Court could not have been more clear that its newly announced test applied only to laws that attempted to regulate the gun possession of ‘law-abiding citizens,’ and not felons like defendant.”); *Welch*, 2025 IL App (1st) 231116, ¶ 60 (rejecting the defendant’s as-applied challenge on the basis that “*Bruen* does not apply to felons”); *People v. Lopez*, 2025 IL App (1st) 232120, ¶ 26 (rejecting a challenge that sought to create a distinction between “violent” felons and “nonviolent” felons for purposes of *Bruen* and the second amendment). Because defendant’s prior felony conviction places him outside the category of law-abiding citizens protected by the second amendment, the fact that his prior offense was “nonviolent” does not alter the analysis. Accordingly, we reject defendant’s as-applied constitutional challenge to the UPWF statute.

¶ 61 3. Illinois Supreme Court Rule 604(d)

¶ 62 Defendant next raises three claims of error concerning post-plea counsel. First, he argues that counsel failed to strictly comply with Illinois Supreme Court Rule 604(d) (eff. April 15, 2024), because counsel filed the Rule 604(d) certificate after the notice of appeal. Second, he argues that counsel raised an issue at the hearing that was not included in the written motion to withdraw his guilty plea. Third, he argues that counsel failed to attach an affidavit supporting a claim raised in the motion.

¶ 63 The record establishes that the trial court held a hearing on defendant’s motion to withdraw his guilty plea on June 24, 2024. After the court denied the motion, defendant stated that he wanted to file a notice of appeal “immediately.” Defendant’s notice of appeal was filed that same day. Post-plea counsel then informed the court that a Rule 604(d) certificate also needed to be filed and represented that counsel would file the certificate within seven days. Counsel filed the Rule 604(d) certificate four days after defendant filed his notice of appeal.

¶ 64 Rule 604(d) requires strict compliance with its certification requirement. *In re H.L.*, 2015 IL 118529, ¶ 8. Although the supreme court stated in *People v. Shirley*, 181 Ill. 2d 359, 371 (1998), that the filing of the certificate should precede or be simultaneous with the hearing on the post-plea motion, the supreme court subsequently clarified in *In re H.L.* that *Shirley* did not impose a mandatory requirement that the certificate be filed before or at the hearing. *In re H.L.*, 2015 IL 118529, ¶ 19. Rather, strict compliance requires counsel to prepare a certificate satisfying Rule 604(d)’s substantive requirements and file it “with the trial court,” which means before the filing of a notice of appeal. *Id.* ¶ 25.

¶ 65 Counsel did not comply with that requirement here. The notice of appeal was filed on June 24, 2024, and counsel did not file the Rule 604(d) certificate until four days later. Once the notice of appeal was filed, the trial court was divested of jurisdiction over the case and could no longer accept a valid Rule 604(d) certificate. See *People v. Hodson*, 2025 IL App (5th) 231076-U, ¶¶ 13-15. Accordingly, the certificate filed after the notice of appeal was untimely and void. The State concedes as much.

¶ 66 Counsel’s failure to strictly comply with Rule 604(d) requires a remand for the filing of a new motion to withdraw the guilty plea and a new hearing on that motion. See *In re H.L.*, 2015 IL 118529, ¶ 27; *People v. Janes*, 158 Ill. 2d 27, 33-35 (1994). The purpose of this remedy is to ensure

that defendant receives the assistance required by Rule 604(d) before the circuit court considers the motion and that the circuit court has the opportunity to address the allegations supporting withdrawal of the plea. See *In re H.L.*, 2015 IL 118529, ¶¶ 9-10.

¶ 67 Because defendant will receive a new opportunity to file and litigate a motion to withdraw his guilty plea, his remaining claims concerning the contents of the existing motion and counsel's presentation at the prior hearing need not be addressed. Those claims concern a motion and hearing that will be superseded by the proceedings on remand. See *People v. Braden*, 2018 IL App (1st) 152295, ¶ 39. Thus, the remaining claims are moot.

¶ 68 Accordingly, we affirm defendant's convictions for unlawful possession of a weapon by a felon. As to the conviction entered on defendant's guilty plea to possession with intent to deliver methamphetamine, we reverse the trial court's order denying defendant's motion to withdraw his guilty plea and remand for strict compliance with Rule 604(d). On remand, defendant shall have the opportunity to file a new motion to withdraw his guilty plea, counsel shall file a valid Rule 604(d) certificate with the trial court before any notice of appeal is filed, and the trial court shall conduct a new hearing on the motion. See *Hodson*, 2025 IL App (5th) 231076-U, ¶ 21.

¶ 69 III. CONCLUSION

¶ 70 In sum, the trial court properly denied defendant's motion to suppress because the officers' entry was supported by Eastep's actual or apparent authority to consent to the entry. We likewise reject defendant's facial and as-applied constitutional challenges to the UPWF statute. However, because post-plea counsel failed to strictly comply with Illinois Supreme Court Rule 604(d), defendant is entitled to a remand for strict compliance with the rule and a new opportunity to litigate his motion to withdraw his guilty plea. Accordingly, we affirm defendant's UPWF convictions and remand the drug possession case for further proceedings consistent with this order.

¶ 71 No. 5-25-0333, Affirmed.

¶ 72 No. 5-24-0775, Reversed and remanded.