

2026 IL App (2d) 250305-U
No. 2-25-0305
Order filed October 1, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

GEORGE SEABERRY, Defendant-Appellant.

Appeal from the Circuit Court of Kane County.
Honorable Bianca Camargo, Judge, Presiding.
No. 24-CF-234

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices McLaren and Jorgensen concurred in the judgment.

ORDER

- ¶ 1 *Held:* Defense counsel was not ineffective for failing to pursue the affirmative defense of insanity at defendant's discharge hearing; thus, we affirm.
- ¶ 2 Defendant, George Seaberry, appeals from the judgment entered at his discharge hearing finding him "not not guilty" of one count of aggravated battery and extending his placement in the Illinois Department of Human Services (DHS) (725 ILCS 5/104-23 (West 2022)). Because defense counsel was not ineffective for failing to raise the affirmative defense of insanity at defendant's discharge hearing, we affirm.

¶ 3

I. BACKGROUND

¶ 4 In July 2024, defendant was charged with three counts of aggravated battery for striking his social worker, Carol Borsinger, in the head on February 2, 2024. Count I alleged aggravated battery to a State of Illinois Employee (insulting/provoking); count II alleged aggravated battery to a State of Illinois employee (bodily harm); and count III alleged aggravated battery (great bodily harm). See 720 ILCS 12-3.05(a)(1), (d)(6) (West 2022).

¶ 5

A. Fitness Hearing

¶ 6 After defense counsel was appointed to represent defendant, counsel raised a *bona fide* doubt about defendant's fitness to stand trial on August 29, 2024. The trial court ordered a fitness evaluation, and a fitness hearing was conducted on January 8, 2025. At this hearing, the parties stipulated that if called to testify, Dr. Melissa Lancaster and Dr. Michael Oliverio would be qualified as experts in the fields of psychology and fitness examination and would testify consistently with the contents of their fitness evaluation reports. The reports, State exhibits 1 through 3, were admitted without objection.

¶ 7 State's exhibit 1 was a report prepared by Lancaster on October 29, 2024. Lancaster concluded that defendant was fit to stand trial, because he was able to understand the nature of the proceedings against him and assist in his defense. Lancaster's report stated as follows.

¶ 8 Defendant's primary diagnosis was schizoaffective disorder, bipolar type. Throughout Lancaster's interview of defendant, he presented as "grandiose and suspicious of others" and displayed limited insight. At the time of the incident, defendant was in DHS custody at Elgin Mental Health Center (health center), having been adjudicated not guilty by reason of insanity in a 2021 aggravated battery case. Defendant stated that prior to the 2021 case, he owned his own company, had a good business, except someone kept "messing it up." Defendant's description of

the 2021 case was that he was in the library when the “security guard got jealous,” and that the security guards “plot on [him] all day, haters.” Defendant had been “framed” in the 2021 case, and the trial court judge told defendant that he was innocent. Defendant claimed that a psychiatrist also said that he had been framed and that the video recording of the 2021 incident had been faked.

¶ 9 Lancaster’s report indicated that prior to the instant offense, defendant’s aggression had escalated over time, and he had become fixated on his “*Thiem* date,” which is the date set by the trial court ending the maximum period of involuntary commitment for a defendant found not guilty by reason of insanity. See 730 ILCS 5/5-4-2 (West 2020); *People v. Thiem*, 82 Ill. App. 3d 956 (1980). After the instant offense, defendant was transferred to Chester Mental Health Center for “increased aggression” and was described as “experiencing grandiose and persecutory delusions” with “disorganized” thought processes.

¶ 10 Lancaster’s report further stated that in terms of the instant offense, defendant claimed that Borsinger was the initial aggressor and should be criminally charged. Elgin Police Department records showed that defendant believed that Borsinger “always had it out for him” before he hit her, and that other witnesses to the incident reported that defendant said that he was the “leader of the biggest gang in Illinois.” Witness reports indicated that defendant told Borsinger that he was “going to beat her,” and he “called her a bitch several times,” before punching her.

¶ 11 State exhibit 2 was Oliverio’s report prepared on December 5, 2024. Oliverio concluded that defendant was unfit to stand trial and would be unlikely to attain fitness in the next 12 months. In preparing his report, Oliverio interviewed defendant and reviewed the relevant records, including Lancaster’s report.

¶ 12 Oliverio’s report stated as follows. Despite repeated redirection to defendant’s case and the pending allegations, defendant “continues to state that his social worker [Borsinger] attacked him

and believes she should be charged.” In terms of the instant offense, defendant’s responses to one of the assessments “reflected a substantial appreciation problem with respect to his rational understanding of the proceedings against him due to the interference of delusional beliefs and responses that reflect a serious distortion of reality.” Defendant “expressed circumscribed delusions regarding the facts of his pending case that radically impacted his thinking about these types of issues.” Defendant also “repeatedly provided information about the alleged index offense that is tainted by delusional beliefs and results in a gross distortion of the reality of the circumstances.”

¶ 13 Defendant also made other “seemingly delusional remarks” during the interview, including a claim that Al Capone was his great-grandfather. Further, defendant described his 2021 case as “the fake case,” in which he had been framed. Defendant claimed that a doctor had told him that the video of the 2021 incident was fake.

¶ 14 State exhibit 3 was a second report prepared by Lancaster on January 3, 2025, in which she changed her initial conclusion and found that defendant was unfit to stand trial and would be unlikely to attain fitness in the next 12 months. In her second report, Lancaster stated as follows. Defendant’s “delusional thought content was more prominent than previously noted and his perception of past events was significantly impacted by his ingrained beliefs.” Though records indicated that defendant was compliant with his prescribed medications, he continued to present with “delusional thought processes that interfere with his ability to fully accept his past behaviors as they relate to his legal history.” The rigidity in defendant’s thinking, along with his grandiose and persecutory delusions and reported mood disturbance, was indicative of his diagnosis of schizoaffective disorder, bipolar type. Even in light of defendant’s adherence to psychotropic medications, which were managing his mood symptoms, defendant continued to present with

delusional beliefs that interfered with his “ability to understand reality and apply learned concepts to his own legal case.” Based on the above, Lancaster now opined that defendant was unfit to stand trial.

¶ 15 The trial court accepted both Lancaster and Oliverio as experts and stated that it had reviewed all three reports. Based on the evidence, the court found that defendant was unfit to stand trial, that his disability was mental, and that there was not a substantial probability that he would be restored to fitness in the next 12 months.

¶ 16 B. Discharge Hearing

¶ 17 The trial court set the matter for a discharge hearing, which was held on May 1, 2025.

¶ 18 Borsinger testified first as follows. Borsinger had worked as a social worker at the health center for the previous 23 years but had not worked since the date of the incident, February 2, 2024. Borsinger was employed by the State of Illinois, as shown by her paystub, which was admitted into evidence. The Hartman Unit of the health center is a forensic psychiatric inpatient unit where most of the residents have been charged with criminal offenses but are unable to proceed with their cases due to mental health issues. Borsinger’s role was to meet with patients monthly, develop treatment plans, and coordinate family visits. Borsinger was assigned 12 patients in the unit, including defendant. Borsinger believed that defendant was in DHS custody at the time, because he had been charged with the assault of two elderly people at a library. Borsinger met with defendant at the health center on a monthly basis and would speak to him informally once or twice a week, as she interacted with other patients in the unit.

¶ 19 On the date of the incident, Borsinger was wearing a badge with her picture that said “social worker.” Borsinger and a psychology intern met with defendant in the day room to talk about his case. They were seated at one of the tables, and other staff members were present in the room.

Defendant was concerned about his case and thought that he was being improperly detained for inpatient treatment. Defendant also told Borsinger that he was being abused by the staff within the unit and believed he should be released on that basis. During the conversation, defendant became angry, because he “wasn’t getting an answer he wanted.” At some point during the conversation, defendant responded “physically.” The only thing Borsinger remembered was “a strong kick to the side of [her] head.” The strike was a “real strong impact” to the area around her right temple. Borsinger did not see anyone hit her; the next thing she remembered was being on the floor and hearing someone say she needed help.

¶ 20 Borsinger did not remember how she got to the nurses’ station, but she remembered being there. Borsinger felt confused, disoriented, and scared, with pain on the right side of her face. From the nurses’ station, Borsinger was transported by ambulance to the emergency room. State exhibits 1 through 3 were photographs of her injuries, taken in the emergency room that day. Borsinger was discharged from the emergency room about five or six hours later. State exhibits 4 through 9 were photographs of her injuries, which were taken the next day at her home. Borsinger had not been able to return to work since the incident, due to her injuries, which included short and long-term memory loss, vision focus issues, and difficulty speaking. After the incident, Borsinger started receiving social security disability payments.

¶ 21 On cross-examination, Borsinger testified that she had a multitude of tests done in the emergency room, including x-rays and MRIs, which revealed no broken bones. In addition, no stitches or surgery were required, and she was discharged that day. The emergency room doctor prescribed Norco and Motrin. Borsinger admitted having health problems prior to the incident, which included spinal fusion, osteoporosis in both knees, chronic pain disorder, and Parkinson’s disease. She denied having memory loss issues dating back to 2019, and she was currently being

treated by a neurologist. Borsinger hired an attorney to sue the health center and admitted asking her attorney whether doing volunteering work would affect her lawsuit.

¶ 22 Dr. Faizan Shakeel, who treated Borsinger in the emergency room on the date of the incident, testified as follows as an expert witness in emergency room medicine. Borsinger presented with bruising around her right eye and redness in her eye, which Shakeel diagnosed as a subconjunctival hemorrhage. Borsinger told Shakeel that she had been punched in the face three times, before falling and hitting the left side of her head on the ground. Borsinger was unsure whether she lost consciousness at any point. Shakeel ordered various tests and found no broken bones or bleeding. Shakeel ultimately diagnosed Borsinger with a concussion, because she had a headache and could not recall whether she had lost consciousness. He also diagnosed her with subconjunctival hemorrhage and swelling and bruising of the face.

¶ 23 On cross-examination, Shakeel agreed that a subconjunctival hemorrhage is just a “fancy way” of saying Borsinger had a broken blood vessel in her eye, which typically healed without treatment and could be caused by something as simple as a sneeze. Shakeel also agreed that there is no single test that can diagnose a concussion, and his discharge instructions for Borsinger listed a “likely concussion.” The majority of patients with concussions do not suffer long-term effects. Shakeel performed eight tests on Borsinger, each of which came back normal. Borsinger was discharged in five to six hours and was not transferred to a hospital bed for additional testing or treatment. Shakeel instructed Borsinger to follow up with her primary care provider, and he did not refer to any specialist. Shakeel prescribed Norco and ibuprofen.

¶ 24 Student extern Brooklyn Martner testified that she was sitting at the table with defendant and Borsinger at the time of the incident. The conversation started normally, and Borsinger did not do or say anything to incite defendant, in that she did not raise her voice, swear, or threaten him.

Though Borsinger challenged defendant's delusions, she was not at all aggressive. Nevertheless, as the conversation ensued, defendant became agitated and aggressive toward Borsinger. Defendant clenched his fists, raised his voice, and swore at Borsinger before striking her.

¶ 25 Dawn Garswick, a social worker, who was passing out mail about 20 feet from defendant's table, testified that defendant told Borsinger, "I'm going to beat your a**, b*tch." Because the conversation was getting loud, Garswick started to move toward defendant's table and saw defendant stand up and hit Borsinger in the head and face three times with a closed fist. The strikes were "powerful." Garswick put her arms around defendant to de-escalate the situation.

¶ 26 Kathleen Schroeder, a clinical psychologist who was sitting at another table in the day room, believed that defendant used "significant" force when striking Borsinger. Schroeder hit her alarm to summon security and then ran over to help Borsinger.

¶ 27 On cross-examination, defense counsel elicited testimony from the above three witnesses that they discussed the incident prior to the arrival of the police. Further, these witnesses testified that the officers interviewed them together in a joint interview.

¶ 28 At the close of the testimony, defense counsel moved for a directed finding on counts I and II, arguing that the State offered no evidence to prove that defendant knew that Borsinger worked for the State of Illinois. The court indicated that it would not make a ruling that day, and the parties proceeded to present their closing arguments. During closing argument, defense counsel argued that there was "zero evidence whatsoever" that defendant knew that Borsinger was a State employee and that defendant should be found not guilty of counts I and II. In terms of count III alleging great bodily harm, defense counsel argued that the State failed to prove a causal connection between Borsinger's long-term symptoms and the battery, given her pre-existing conditions; that Borsinger's testimony did not match the medical testimony and the test results;

and, that Borsinger had a financial motive to “have the worst injuries possible” given her hiring of a lawyer and disability payments. Defense counsel argued that Borsinger suffered bodily harm, not great bodily harm, and that defendant should be found not guilty of count III as well.

¶ 29 On May 22, 2025, the court found defendant “not not guilty” on all three counts and ordered him to undergo extended treatment in DHS for a period not to exceed April 8, 2027. Defense counsel then filed a motion for a new discharge hearing, acquittal, reconsideration of extended treatment, or correction of treatment end date. In his motion, defense counsel argued that: (1) defendant should have been acquitted on counts I and II, because there was no evidence suggesting that he knew Borsinger was a State employee; (2) the evidence did not show that Borsinger’s injuries rose to the level of “great bodily harm”; (3) if defendant was not acquitted on all three counts, he should be granted a new discharge hearing “due to errors occurring at the hearing”; (4) the court should not have ordered extended treatment for defendant, given that no treatment had been ordered when he was found unfit; and, (5) the end date ordered for the extended treatment had been calculated incorrectly.

¶ 30 The court conducted a hearing on defendant’s motion on July 16, 2025. Because the court agreed with defendant that the State had not proven that he knew Borsinger was a State employee, the court entered judgments of acquittal on counts I and II. The court also agreed that it had calculated the end date for defendant’s treatment incorrectly, which caused it to enter a new, short term, not to exceed August 22, 2026. The court denied defendant’s remaining arguments.

¶ 31 Defendant’s timely notice of appeal followed.

¶ 32 II. ANALYSIS

¶ 33 On appeal, defendant argues that he was denied the effective assistance of counsel at his discharge hearing, where defense counsel failed to investigate and assert the affirmative defense

of insanity. Defendant notes that he was in DHS custody at the time of the instant offense, because he had previously been adjudicated not guilty by reason of insanity. Given that defendant had already been found not guilty by reason of insanity, defendant argues that it is reasonable to infer that he was likewise unable to appreciate the criminality of his conduct in the instant offense. At the very least, defendant argues that defense counsel should have taken steps to investigate the viability of an insanity defense by requesting an insanity evaluation. Defendant argues that despite the irrational nature of his actions, his prior insanity finding, his diagnosis of schizoaffective disorder, and the expert evaluations stating that his thinking was delusional and disordered, defense counsel was ineffective for failing to investigate or otherwise raise the affirmative defense of insanity before or at the discharge hearing.

¶ 34 The State responds that defense counsel was not ineffective in that counsel raised other arguments at the discharge hearing. The State points out that defense counsel achieved acquittals on counts I and II by successfully arguing that the State had failed to prove that defendant knew that Borsinger was a State employee, and defense counsel also successfully argued that the trial court had miscalculated defendant's release date. In addition, the State argues that defense counsel's decision not to pursue the affirmative defense of insanity was a matter of trial strategy.

¶ 35 Defendant counters that defense counsel's success in receiving acquittals on counts I and II and a reduction in his extended term treatment "does not exempt her from her duty to investigate and assert other viable defenses." According to defendant, "it does not erase counsel's failure to pursue an insanity defense that likely would have resulted in acquittal" on count III.

¶ 36 Ineffective assistance of counsel claims are governed by the standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), and adopted by our supreme court in *People v. Albanese*, 104 Ill. 2d 504 (1984). To prevail on a claim of ineffective assistance of counsel, a defendant must

show both that counsel's performance was deficient and that the deficient performance prejudiced the defendant. *Strickland*, 466 U.S. at 687; *People v. Petrenko*, 237 Ill. 2d 490, 496-97 (2010). "More specifically, the defendant must demonstrate that counsel's performance was objectively unreasonable under prevailing professional norms and that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland*, 466 U.S. at 694; *Petrenko*, 237 Ill. 2d at 496-97.

¶ 37 As for *Strickland*'s performance prong, "counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Strickland*, 466 U.S. at 690. "Matters of trial strategy are generally immune from ineffective assistance of counsel claims." *People v. Jones*, 2023 IL 127810, ¶ 51. Further, "a mistake in trial strategy or an error in judgment by defense counsel will not alone render representation constitutionally defective." *People v. Peterson*, 2017 IL 120331, ¶ 80. "Only if counsel's trial strategy is so unsound that he entirely fails to conduct meaningful adversarial testing of the State's case will ineffective assistance of counsel be found." (Internal quotation marks omitted.) *Id.*

¶ 38 "The prejudice prong [of *Strickland*] requires a showing of actual prejudice, not simply speculation that the defendant might have been prejudiced." *People v. Bustos*, 2020 IL App (2d) 170497, ¶ 87. A reasonable probability means a showing sufficient to undermine confidence in the outcome, rendering the result unreliable or fundamentally unfair. *Id.* When a claim of ineffective assistance of counsel is raised for the first time on appeal, our review is *de novo*. *Id.*

¶ 39 Because defendant's ineffective assistance of counsel claim arises in the context of a discharge hearing, we set forth the nature of such a proceeding. A defendant who has been found unfit to stand trial is entitled to a discharge hearing if he remains unfit after one year from the

original finding of unfitness. See 725 ILCS 5/104-23(a), 104-25 (West 2022). A discharge hearing under section 104-25 is an “innocence only” proceeding to determine whether a defendant is entitled to a judgment of acquittal. *People v. Manns*, 373 Ill. App. 3d 232, 238 (2007). The purpose of a discharge hearing is not to make a determination of guilt. *People v. Waid*, 221 Ill.2d 464, 469-70 (2006). Rather, the question of guilt is deferred until a defendant is fit to stand trial. *People v. Rink*, 97 Ill.2d 533, 543 (1983).

¶ 40 At a discharge hearing, the trial court may make one of three findings. *Manns*, 373 Ill. App. 3d at 238. First, the court could find the State has carried its burden of proof in providing evidence by which the defendant may be proved guilty beyond a reasonable doubt. *Id.* Second, the court may acquit the defendant. *Id.* Finally, the court may acquit the defendant based on a finding the defendant is not guilty by reason of insanity. *Id.*; 725 ILCS 5/104-25(c) (West 2022) (a defense based on insanity is available at a discharge hearing and operates to acquit the defendant of the charges against him). Critically, the definitions of insanity and fitness differ, in that insanity focuses on the defendant at time of the incident, whereas fitness focuses on the time of preparation for and at trial. *Manns*, 373 Ill. App. 3d at 241-42. Thus, the finding that a defendant is unfit to stand trial and remains unfit is not proof of insanity at the time of the offense. See *People v. Britton*, 119 Ill. App. 2d 110, 113 (1970).

¶ 41 The Criminal Code of 1961 provides that “[a] person is not criminally responsible for conduct if at the time of such conduct, as a result of mental disease or mental defect, he lacks substantial capacity to appreciate the criminality of his conduct.” 720 ILCS 5/6-2(a) (West 2022). The defendant bears the burden of proving by clear and convincing evidence that he is not guilty by reason of insanity. *Id.* § 6-2(e).

¶ 42 As stated above, defense counsel was successful in achieving acquittals on counts I and II and in reducing the length of defendant's extended term treatment. Thus, the only count at issue in terms of defendant's ineffective assistance of counsel claim is count III, alleging aggravated battery (great bodily harm). In terms of count III, we agree with the State that defense counsel's decision to argue that the State failed to prove great bodily harm, as opposed to insanity, was a matter of trial strategy. See *People v. Hayes*, 2022 IL App (4th) 210409, ¶ 52 (the decision to rely on one theory of defense to the exclusion of other theories of defense is a matter of trial strategy).

¶ 43 As the State points out, if the aggravating factor for count III (great bodily harm) was not proven, the offense could be reduced to a simple battery, which would reduce a Class 3 felony to a Class A misdemeanor (720 ILCS 5/12-3(b) (West 2022)). The result would be that the extended term treatment would be reduced to 12 months, as opposed to 15 months. The State correctly notes that "the focus of defendant's controversy with Borsinger was his dissatisfaction with his extended term treatment out-date" in the 2021 case. As of the date of the instant offense, defendant had already been at the health center for the 2021 case for three to four years. Given defendant's not guilty by reason of insanity of aggravated battery in the 2021 case, we agree with the State that he "would be virtually guaranteed in-patient treatment status" due to a reasonable expectation that he would inflict serious harm. See 730 ILCS 5/5-2-4 (West 2022). Thus, these potential time periods for extended term treatment were an important consideration for defense counsel in determining which defense to pursue.

¶ 44 To this end, defense counsel challenged the State's ability to prove the aggravating factor of great bodily harm in several ways. First, defense counsel cross-examined Borsinger as to any health issues she suffered prior to the incident and argued that the State failed to connect the injuries she claimed to have suffered from the battery to the actual medical evidence. Second,

though defendant claims that Borsinger suffered a concussion, defense counsel elicited testimony from Shakeel, her treating room physician, admitting that Borsinger's discharge instructions stated "likely concussion." Third, defense counsel elicited testimony that Borsinger had eight normal test results, had no broken bones or need for stitches, and was discharged from the emergency room within hours. Shakeel also admitted that he did not refer Borsinger to any specialist and merely prescribed Norco and ibuprofen. Last, defense counsel argued that Borsinger had a motive to testify that her injuries were severe, given her disability status and her retention of a lawyer to sue the health center. Thus, defense counsel's strategy to argue that Borsinger's injuries did not amount to great bodily harm was a matter of trial strategy, and undercuts defendant's argument that "insanity was the only viable defense available."

¶ 45 As a final matter, defendant's reliance on *Manns* and *People v. Young*, 220 Ill. App. 3d 98, 102-103 (1991), do not alter our conclusion. In *Manns*, the defendant went into a bank, claimed he had a gun, and took \$100 from a teller. 373 Ill. App. 3d at 233. In that case, the reviewing court found that defense counsel was ineffective for failing to present an insanity defense, because it was the *only* viable defense that the defendant had. *Id.* at 241. Unlike in *Manns*, insanity was not the only viable defense that defense counsel had in the instant case. Rather, as previously mentioned, defense counsel achieved acquittals on counts I and II and then pursued the defense that defendant's conduct did not inflict great bodily harm as to count III. As explained above, defense counsel's pursuit of that defense theory was a matter of trial strategy. Notably, the *Manns* court relied on *Young*, where the defendant, holding a shotgun and pistol, forced his wife to sit across the table from him and write out a confession that she had killed his mother, when his mother was still alive. *Young*, 220 Ill. App. 3d at 102-103. The defendant in *Young* was deemed unfit to stand trial, and at the discharge hearing, the *only* defense presented by defense counsel was

deemed unsound as a matter of law. *Id.* Again, unlike defense counsel in *Young*, defense counsel in the instant matter pursued a viable defense as to count III that defendant's conduct did not result in great bodily harm to Borsinger.

¶ 46 In sum, the defenses presented by defense counsel at defendant's discharge hearing were largely successful and a matter of trial strategy, and defendant has not shown that defense counsel provided ineffective assistance of counsel for failing to raise the affirmative defense of insanity.

¶ 47 III. CONCLUSION

¶ 48 For the reasons stated, we affirm the judgment of Kane County.

¶ 49 Affirmed.