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

2026 IL App (3d) 250504-U

Order filed October 8, 2026

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2026

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-25-0504 Circuit No. 24-CF-1305
MILO D. BROWN,	)	Honorable Amy B. Christiansen, Judge, Presiding.
Defendant-Appellant.	)	

JUSTICE HOLDRIDGE delivered the judgment of the court.
Presiding Justice Hettel and Justice Davenport concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The evidence presented at trial was sufficient to show the defendant had requisite intent to commit aggravated intimidation. (2) The issue of defendant's assessment waiver must first be raised in the circuit court under Illinois Supreme Court Rule 472.

¶ 2 The defendant, Milo D. Brown, appeals his convictions for aggravated intimidation, arguing that: (1) the evidence was insufficient to prove his guilt beyond a reasonable doubt and (2) defense counsel was ineffective for failing to file an assessment waiver and ensure that the appropriate statutory *per diem* custody credit was applied to eliminate his street value fine.

¶ 3 I. BACKGROUND

¶ 4 Following a bench trial, the defendant was convicted of, *inter alia*, unlawful possession of a controlled substance (720 ILCS 570/402(c) (West 2024)) and two counts of aggravated intimidation (720 ILCS 5/12-6.2(a)(3)(B)(i) (West 2024)). Relevant to this appeal, the criminal complaint alleged that the defendant committed the aggravated intimidation offenses with the intent to cause Sergeant Nicholas Giordano and Officer Marc Jenkins of the Joliet Police Department to omit the performance of an act, being the booking of the defendant, by directly communicating a threat to perform physical harm to said officers while engaged in the execution of their official duties. Specifically, one count alleged the defendant "bragged to [Giordano] that he had shot at a police officer and beat that case, and put his hand in a shape of a gun, pulling his finger back and forth like a trigger, and stated that he would shoot and kill [Giordano] when he is released." The other count alleged the defendant stated to Jenkins "that he is known for shooting at police officers, would learn [Jenkins's] first name and address, and that he would find [Jenkins] outside of work and shoot him."

¶ 5 At trial, the evidence established that the defendant was arrested after attempting to flee from a police officer. During a search incident to arrest, the defendant was found in possession of cocaine. As the defendant was semi-conscious and sweating profusely, he was initially taken to the hospital for a suspected overdose but was released shortly thereafter and transported to the police station by Jenkins and another officer.

¶ 6 While being transported to the police station, the defendant asked when the officers were going to release him and demanded to be let out of the squad car. After asking if he was still going to jail, the defendant urged Jenkins to "google" his name. The defendant told Jenkins that he had

shot and attempted to kill two Chicago police officers. The defendant bragged that he had "beat that case."

¶ 7 When the defendant arrived at the police station, he was taken to the booking area for photographs and fingerprinting before being transferred to the Will County jail. While in the booking area, the defendant was aggressive and agitated that he was under arrest. The defendant continued bragging about shooting at the Chicago police officers before he asked for Jenkins's first name and address. The defendant stated that upon his release, he would find Jenkins and shoot him. The defendant also threatened to sexually assault Jenkins's mother and daughter.

¶ 8 The defendant then requested to speak with Giordano as the supervising officer. The defendant told Giordano to look him up, stated that he had 33 previous arrests, and indicated he had shot at Chicago police officers and beat the case so he was "not worried about anything that [would] happen today." The defendant told Giordano that he was going to shoot him in the head as soon as he was released from police custody and then put his hand into the shape of a gun, gesturing as if he were pulling a trigger while pointing directly at Giordano's head.

¶ 9 Surveillance video from the booking area, which contained no audio, was admitted into evidence. The video depicted Giordano standing a few feet away from the defendant, who was seated and handcuffed by his left wrist to a bench. The defendant stood and raised his uncuffed arm as he approached Giordano. The defendant pointed directly at Giordano's face with his hand positioned as if it were a gun and mimicked pulling the trigger repeatedly. The defendant briefly stepped back before he approached Giordano a second time and pointed his hand as if it were a gun at Giordano's face again.

¶ 10 The defendant subsequently refused to be fingerprinted, preventing Giordano and Jenkins from completing the booking process. The surveillance video from the booking area showed the

defendant walking to a computer kiosk equipped with a fingerprint reader after being directed to do so by Jenkins. The defendant then put his hands up to indicate his refusal to be fingerprinted.

¶ 11 In finding the defendant guilty of both counts of aggravated intimidation, the court noted that voluntary intoxication was not a defense and that no evidence was presented to show the defendant received any medication at the hospital that could have caused him to become involuntarily intoxicated. The defendant was sentenced to three years' imprisonment for unlawful possession of a controlled substance and seven and a half years' imprisonment for each count of aggravated intimidation, with all terms to run concurrently. The court also imposed assessments totaling $679 after the elimination of $300 in fines using *per diem* credit for the 433 days the defendant had served in presentence custody. Additionally, the defendant was ordered to pay a street value fine of $100 and a crime laboratory analysis fee of $100. No *per diem* credit was awarded against the street value fine. The public defender that represented the defendant did not file an Illinois Supreme Court Rule 404(e) (eff. Sept. 1, 2023) certificate seeking waiver of assessments. The defendant appeals.

¶ 12 II. ANALYSIS

¶ 13 A. Sufficiency of Evidence

¶ 14 On appeal, the defendant first argues that the evidence at trial was insufficient to find him guilty beyond a reasonable doubt of aggravated intimidation. In reviewing the sufficiency of the evidence in a criminal case, we view the evidence in the light most favorable to the prosecution to determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *People v. Johnson*, 2026 IL 131337, ¶ 59. A conviction will only be reversed if the evidence is so unreasonable, improbable, or unsatisfactory that it creates a reasonable doubt of the defendant's guilt. *Village of Lincolnshire v. Olvera*, 2025 IL 130775, ¶ 34.

¶ 15 To sustain the aggravated intimidation convictions, the State had to prove that the defendant committed the offense of intimidation and that certain aggravating factors were present, specifically that: (1) the defendant knew Giordano and Jenkins were police officers and (2) Giordano and Jenkins were engaged in their official duties at the time of the offense. See 720 ILCS 5/12-6.2(a)(3)(A), (B)(i) (West 2024). The defendant does not challenge the sufficiency of the evidence regarding these aggravating factors.

¶ 16 The offense of intimidation occurs when (1) an individual communicates a threat to inflict physical harm (2) with the specific intent to coerce the person threatened to omit the performance of an act. *Id.* § 12-6(a)(1); *People v. Casciaro*, 2015 IL App (2d) 131291, ¶¶ 80, 84. The defendant does not dispute that the evidence established he communicated threats to physically harm Giordano and Jenkins. Rather, the defendant asserts that the evidence was insufficient to prove he intended to prevent Giordano and Jenkins from booking him.

¶ 17 Intent can be inferred from the facts and circumstances surrounding the offense. *People v. Byrd*, 285 Ill. App. 3d 641, 647 (1996). To prove intent to coerce another to omit the performance of an act, the State was required to prove that the defendant's threats "had a reasonable tendency, under the circumstances, to place the officers in fear that the defendant would perform his threatened act." See *id.* at 648. Whether the defendant's threats had a reasonable tendency to create apprehension that he would act according to their tenor is an objective determination. See *People v. Peterson*, 306 Ill. App. 3d 1091, 1103 (1999).

¶ 18 Here, the defendant's intent to intimidate Giordano and Jenkins to prevent them from completing the booking process can clearly be inferred from his statements, conduct, and the surrounding circumstances. The defendant repeatedly urged both officers to "google" him to prove his claim that he had shot at other police officers before without consequence and show that he

was fully capable of carrying out his threats toward Giordano and Jenkins. Thus, as the defendant had previously committed the acts he was threatening to do, his threats had an objectively reasonable tendency for the recipients to fear that he would similarly harm them in the future.

¶ 19 Furthermore, it is not required that a defendant specify the act he desired to omit to demonstrate his intent. *Byrd*, 285 Ill. App. 3d at 648. "[A] specific demand is not required if the circumstances are sufficient to show intent." *People v. Grayer*, 2023 IL 128871, ¶ 29. Here, the defendant expressed that he wanted Jenkins to release him. After realizing he was going to jail, he bragged about shooting at the Chicago police officers. When the defendant's threats to Jenkins were unsuccessful in preventing Jenkins from taking him to the police station and proceeding with the booking process, the defendant requested to speak specifically to Giordano in his capacity as a supervisor. When threatening Giordano was also unsuccessful, the defendant then refused to be fingerprinted. The defendant's escalation of tactics to subvert the booking process creates a reasonable inference that he intended for his threats to intimidate Jenkins and Giordano into not booking him.

¶ 20 In coming to this conclusion, we reject the defendant's assertion that his apparent intoxication made it impossible to discern that he had the requisite specific intent. See *id.* ¶ 26 (voluntary intoxication is a relevant factor that may be considered when determining whether a defendant had specific intent). Although the defendant was initially taken to the hospital for a suspected overdose, he was quickly released and there is no evidence that he received any medication or treatment for his condition. While in the booking area, the defendant appeared alert and demonstrated the ability to smoothly coordinate his movements, as he was able to quickly stand and step toward Giordano while pretending to shoot at him and was later able to walk independently to the computer kiosk and stand unassisted while raising his arms when he refused

to be fingerprinted. Moreover, the defendant's calculated and continuous pivoting of strategies in response to his unsuccessful attempts to avoid being booked do not support the inference that he was so incapacitated he lacked the capability to form the requisite intent. Consequently, we find the evidence sufficient to establish the defendant had the specific intent to intimidate the officers, notwithstanding his apparent voluntary intoxication. See *id.* ¶ 29.

¶ 21 B. Assessment Waiver

¶ 22 The defendant next contends that defense counsel provided ineffective assistance by failing to file a Rule 404(e) certificate for waiver of assessments under section 124A-20(b)(1) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/124A-20(b)(1) (West 2024)) and for failing to ensure that statutory *per diem* custody credit was applied against the defendant's street value fine (*id.* § 110-14(a)).

¶ 23 Illinois Supreme Court Rule 472 (eff. Feb. 1, 2024) governs sentencing errors, including errors in the imposition of assessments and errors in the application of *per diem* credit against fines. Ill. S. Ct. R. 472(a)(1), (2) (eff. Feb. 1, 2024). Rule 472 provides that the circuit court retains jurisdiction to correct sentencing errors at any time following judgment. Ill. S. Ct. R. 472(a) (eff. Feb. 1, 2024). Accordingly, claims alleging sentencing errors controlled by Rule 472 must be first raised in the circuit court, regardless of whether the error is attributable to the court or to counsel. *People* v. *Nibbelin*, 2026 IL 131825, ¶ 27.

¶ 24 Here, the defendant's ineffective assistance of counsel claim alleges errors in the imposition of assessments and the application of *per diem* credit. See *id.* ¶ 22. These sentencing errors are subject to the provisions of Rule 472 and cannot be raised for the first time on appeal. See *id.* ¶ 27; *People v. Eason*, 2020 IL App (3d) 180296, ¶¶ 14-15. Therefore, we cannot consider

the issue and instead remand the matter to afford the defendant the opportunity to file a motion pursuant to Rule 472 in the circuit court. See *Nibbelin*, 2026 IL 131825, ¶ 27.

¶ 25 III. CONCLUSION

¶ 26 The judgment of the circuit court of Will County is affirmed and remanded for further proceedings.

¶ 27 Affirmed and remanded.