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**APPENDIX**

**RULE 341(c) CERTIFICATE OF COMPLIANCE**

**CERTIFICATE OF FILING AND SERVICE**

## NATURE OF THE ACTION

In 2018, defendant pleaded guilty to four counts of child pornography and was sentenced to serve a term of probation and pay various fines and fees. In 2022, he pleaded guilty in a second case to failing to register as a sex offender and was sentenced to serve a term of probation and pay an assessment and additional fines and fees. In 2023, after defendant pleaded guilty in a third case to failing to register as a sex offender, he was resentenced in the first case to serve four consecutive four-year prison terms, resentenced in the second case to serve a concurrent three-year prison term, and sentenced in the third case to serve a concurrent three-year prison term and pay an assessment and additional fines and fees. In a consolidated appeal from the three sentencing judgments, defendant argued for the first time that he was entitled to a waiver of assessments. Defendant now appeals from the appellate court's order remanding for the trial court to address his claim under Supreme Court Rule 472. No question is raised on the charging instrument.

## ISSUE PRESENTED FOR REVIEW

Supreme Court Rule 472 authorizes the circuit court to correct “[e]rrors in the imposition . . . of . . . assessments,” prohibits appeals raising such errors “unless such alleged error [was] first raised in the circuit court,” and requires the appellate court to “remand to the circuit court to allow the party to file a motion pursuant to this rule” when “a party has attempted to

raise sentencing errors covered by this rule for the first time on appeal.” The issue presented is:

Whether, when defendant challenged assessments imposed by the circuit court for the first time on appeal on the ground that he was entitled to a waiver of those assessments under Supreme Court Rule 404(e), the appellate court properly remanded under Rule 472 for the trial court to address his claim.

### **JURISDICTION**

This Court allowed defendant’s petition for leave to appeal on September 25, 2024, and has jurisdiction under Supreme Court Rules 315, 602, and 612.

### **SUPREME COURT RULES INVOLVED**

#### **Rule 404. Application for Waiver of Court Assessments.**

- (a) **Contents.** An Application for Waiver of Court Assessments in a criminal action pursuant to 725 ILCS 5/124A-20 shall be in writing and signed under penalty of perjury by the applicant or, if the applicant is a minor or an incompetent adult, by another person having knowledge of the facts. The Application should be submitted no later than 30 days after sentencing.

\* \* \*

- (e) **Cases involving representation by public defenders, criminal legal services providers, or attorneys in court-sponsored pro bono program.** In any case where a defendant is represented by a public defender, criminal legal services provider, or an attorney in a court-sponsored pro bono program, the attorney representing that defendant shall file a certification with the court, and that defendant shall be entitled to a waiver

of assessments as defined in 725 ILCS 5/124A-20(a) without necessity of an Application under this rule. . . .

**Rule 472. Correction of Certain Errors in Sentencing.**

(a) In criminal cases, the circuit court retains jurisdiction to correct the following sentencing errors at any time following judgment and after notice to the parties, including during the pendency of an appeal, on the court’s own motion, or on motion of any party:

(1) Errors in the imposition or calculation of fines, fees, assessments, or costs;

\* \* \*

(e) In all criminal cases pending on appeal as of March 1, 2019, or appeals filed thereafter in which a party has attempted to raise sentencing errors covered by this rule for the first time on appeal, the reviewing court shall remand to the circuit court to allow the party to file a motion pursuant to this rule.

**STATEMENT OF FACTS**

**I. In 2018, Defendant Is Sentenced in Case No. 17-CF-402 to Serve a Term of Probation and to Pay Various Fines, Fees, and Costs.**

In 2018, defendant pleaded guilty in case No. 17-CF-402 (“the 2017 case”) to 4 counts of child pornography in exchange for the dismissal of a further 6 counts and a 36-month term of probation. C156-57.<sup>1</sup> The circuit court sentenced defendant to the agreed-upon term of probation, C168-69,

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<sup>1</sup> Citations to “R\_\_” and “C\_\_” refer to the report of proceedings and common law record in *People v. Nibbelin*, No. 17-CF-402 (McLean Cnty. Cir. Ct.). Citations to “PA\_\_” refer to the appendix to this brief, which contains defendant’s final sentencing order and notice from the circuit court clerk regarding assessments in that case, as well as the sentencing orders, assessment notices, and other relevant documents from case Nos. 20-CF-434 and 21-CF-850. Citations to “Def. Br.\_\_” and “A\_\_” refer to defendant’s brief and appendix.

and imposed a total of \$14,947 in fines, fees, and costs, C165-66. After the clerk applied defendant's \$10,000 bond against those assessments and added the probation fees, he owed \$5,847. C166.

The circuit court subsequently revoked defendant's probation and resentenced him to a new 36-month term of probation, C206-07, after he violated the conditions of probation, R92. The only new assessments were additional bond and sheriff fees. C212-13. When defendant violated probation again a few months later by failing to register as a sex offender (an offense to which he pleaded guilty in case No. 19-CF-328, R121-23), the court continued his existing term of probation and added a 130-day term of periodic imprisonment, R120, 124; the court imposed no further assessments, C236.

**II. In 2022, Defendant Is Sentenced in Case No. 20-CF-434 to Serve a Term of Probation and to Pay a Fine, a Bond Fee, and a Scheduled Assessment.**

In 2021, defendant pleaded guilty to a second count of failing to register as a sex offender in case No. 20-CF-434 ("the 2020 case") and admitted to a corresponding violation of his probation in the 2017 case. C266; R168-69, 175, 179. In 2022, the circuit court sentenced him to 24-month terms of probation in both cases. R234; PA7-8.

In the 2020 case, the court imposed a \$75 fine, which was offset by pre-sentence custody credit. PA9. The court also imposed an assessment pursuant to the schedules of the Criminal and Traffic Assessment Act, 705

ILCS 135/1-1 *et seq.*<sup>2</sup> — the Schedule 4 assessment of \$1,314 for certain felony sex offenses other than failure to register as a sex offender. A9; *see* 705 ILCS 135/15-20. Although defendant was represented by the public defender, *see* R145-46, counsel did not certify that fact pursuant to Supreme Court Rule 404(e). The court imposed no new assessments in the 2017 case, *see* R234, where defendant owed \$5,995 (reflecting the probation fees resulting from the extension of defendant’s term of probation and the application of defendant’s bond), C274.

Defendant had posted 10% of his \$20,000 bond in the 2020 case, PA5, and the court ordered the clerk to “apply all bond (less the 10% bond fee) to [his] financial obligations under [its] order” in that case, PA10. The conditions of the bond were that the posted portion would be applied first to defendant’s obligations in the 2020 case, then against defendant’s “other financial obligations . . . in different cases,” with any remaining balance then refunded. PA6. However, the clerk applied defendant’s \$2,000 bond only against his 10% bond fee of \$200 and the \$1,314 scheduled assessment in the 2020 case, then refunded him the remaining \$486, PA11, leaving in place his outstanding balance in the 2017 case.

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<sup>2</sup> In 2019, the Criminal and Traffic Assessment Act went into effect, replacing the criminal and traffic fines and fees previously assessed under a variety of statutes with a single assessment based on the category of the offense. *See People v. Clark*, 2018 IL 122495, ¶¶ 14-15 (citing Pub. Act 100-987 (eff. July 1, 2019)).

**III. In 2023, Defendant Is Sentenced in Case No. 21-CF-850 to Serve a Prison Term and Pay a Scheduled Assessment, and Resentenced to Serve Prison Terms in His Other Cases.**

In 2023, defendant pleaded guilty to a third charge of failure to register as a sex offender in case No. 21-CF-850 (“the 2021 case”) and admitted to corresponding violations of his probation conditions in the 2017 and 2020 cases. C302.

In the 2021 case, the circuit court sentenced defendant to a three-year prison term, to be served concurrently with his other sentences, PA15, and imposed a \$75 fine (offset by defendant’s \$60 credit for two days spent in pre-sentence custody in the case), PA16. Although defendant was represented by the public defender, *see* R187-88, no certification was filed pursuant to Rule 404(e), and the court imposed the Schedule 1 assessment of \$549 for felony offenses not subject to any other schedule. PA16; *see* 705 ILCS 135/15-5. Including the \$35 fee for his previous release on personal recognizance and the unpaid portion of his fine, defendant owed a total of \$599. PA18.

In the 2017 case, the court resentenced defendant to four consecutive four-year prison terms. PA1-2. The court noted that it had imposed the applicable fines when it initially sentenced defendant to probation, *see* R313, and awarded him credit for 579 days of pre-sentence custody, PA1. Altogether, defendant received a credit of \$17,370 against his outstanding fines in the 2017 case. *See* 725 ILCS 5/110-14(a) (defendant entitled to \$30 credit against fines per day spent in custody); 705 ILCS 135/5-20 (pre-sentence custody credit “shall be deducted from the fine, if any, ordered by

the court”). Of the \$5,420 that defendant still owed, \$4,674 was for unpaid fines. *See* PA3-4 (\$4,000 unpaid on fine imposed under 730 ILCS 5/5-9-1, \$600 unpaid on fine imposed under 730 ILCS 5/5-9-1.7, and \$74 unpaid on fine imposed under 730 ILCS 5-9-1.14).

In the 2020 case, the court resentenced defendant to a concurrent three-year prison term, PA12, and imposed no new fines, *see* R339. Because defendant had no outstanding balance from his previous sentence, his only financial obligations in the 2020 case were a \$35 fee for his earlier release on personal recognizance and \$56 in fees for testing while he was on probation, for a total of \$91. PA13.

#### **IV. On Appeal, Defendant Challenges the Assessments, and the Appellate Court Remands for the Circuit Court to Consider His Challenge Pursuant to Supreme Court Rule 472.**

In a consolidated appeal from the judgments in all three cases, defendant argued that the circuit court had inadequately admonished him before accepting his admissions to the probation violations in the 2017 and 2020 cases, and that trial counsel was ineffective for not filing certifications that would have entitled him to waiver of certain assessments under Supreme Court Rule 404(e). A34, ¶ 20. The appellate court rejected defendant’s admonishment claim, A40, ¶ 32, and remanded under Supreme Court Rule 472 for defendant to raise his challenge to the assessments before the circuit court, A41, ¶ 38.

As the appellate court explained, Rule 472 requires that a defendant raise any claim regarding “[e]rrors in the imposition . . . of . . . fines, fees,

assessments, or costs” in a motion before the circuit court before raising such claim on appeal. A40-41, ¶ 36 (quoting Ill. S. Ct. R. 472(a)(1), (c)). If a defendant attempts to challenge the imposition of an assessment for the first time on appeal, the appellate court “shall remand to the circuit court to allow [him] to file a motion pursuant to [Rule 472].” A41, ¶ 36 (quoting Ill. S. Ct. R. 472(e)). The appellate court rejected defendant’s attempt to frame his challenge as ineffective assistance of trial counsel, recognizing that, at bottom, he complained of an error in the imposition of the assessments and therefore his complaint was subject to Rule 472. A41, ¶¶ 37-38.

Defendant filed a petition for leave to appeal raising only the assessment issue, which this Court allowed.

### STANDARD OF REVIEW

The construction of Supreme Court Rule 472 presents a question of law that this Court reviews de novo. *People v. Walls*, 2022 IL 127965, ¶ 16.

### ARGUMENT

#### **The Appellate Court Correctly Remanded Under Rule 472 for the Circuit Court to Resolve Defendant’s Claim That He Is Entitled to a Waiver of Assessments.**

The appellate court correctly remanded the question of defendant’s entitlement to a waiver of assessments for the circuit court to resolve under Rule 472. The purpose of Rule 472 was to end the practice of raising challenges to fines, fees, costs, or assessments for the first time on appeal. Rather than waste appellate resources addressing these generally straightforward matters that would have been resolved if only they been

brought to the circuit court's attention, Rule 472 requires that they be raised in the circuit court and confers jurisdiction to address them at any time, even during a pending appeal from the conviction and sentence. Defendant's claim that he should not be obligated to pay certain assessments because he was represented by the public defender is exactly the kind of claim that Rule 472 directs to the circuit court for resolution. The fact that defendant framed it in terms of ineffective assistance of counsel is irrelevant; before the adoption of Rule 472, defendants routinely framed their challenges to various assessments in terms of ineffective assistance to circumvent forfeiture. This Court should decline defendant's invitation to revive the problem that it adopted Rule 472 to solve by allowing defendants to again raise their challenges to assessments for the first time on appeal by framing them as claims of ineffective assistance of counsel. The Court provided a complete remedy under Rule 472, so a claim of ineffective assistance has no role to play here.

**A. Defendant was entitled to a waiver of any assessments imposed under Article 15 of the Criminal and Traffic Assessments Act because he was represented by the public defender.**

Because defendant was represented by the public defender, Rule 404(e) entitled him to a waiver of any assessment imposed under Article 15 of the Criminal and Traffic Assessments Act. *See* Ill. S. Ct. R. 404(e) (requiring waiver of "assessments as defined in 725 ILCS 5/124A-20(a)" for any defendant represented by "a public defender, criminal legal services provider,

or an attorney in a court-sponsored pro bono program”); 725 ILCS 5/124A-20(a) (defining “assessments” as “any cost imposed . . . under Article 15 of the Criminal and Traffic Assessments Act”). Rule 404(e) represents a policy decision to waive Article 15 assessments for all defendants represented by need-based counsel. *See* Ill. S. Ct. R. 404(e). Some defendants who cannot afford the thousands of dollars required to retain counsel for a criminal trial nonetheless can afford an assessment of a few hundred dollars. *See, e.g.*, 705 ILCS 135/15-5 (\$549 assessment for generic felony offenses); *id.* § 15-25 (\$439 assessment for generic misdemeanor offenses). Other defendants cannot afford either to retain counsel or to pay an assessment. Rather than devote judicial resources to determining which group a defendant falls into, this Court determined that it was preferable to waive assessments for all defendants represented by need-based counsel.

To implement this policy, the Court had to ensure that circuit courts know when defendants are represented by need-based counsel. When a judge appoints the public defender, that judge (or any other judge) will likely recognize that the defendant is represented by need-based counsel at the sentencing hearing. But that is not necessarily the case when a defendant obtains pro bono counsel through a “criminal legal services provider” or “a court-sponsored pro bono program.” Ill. S. Ct. R. 404(e). To ensure that the circuit court knows when a defendant is represented by need-based counsel, the Court delegated the responsibility to inform the circuit court of that fact

to the party best positioned to know it: defendant's counsel. "In any case where a defendant is represented by" need-based counsel, "the attorney representing that defendant shall file a certification with the court," Ill. S. Ct. R. 404(e), informing the court that counsel is need-based, *see* Attorney Certification for Waiver of Fees Under Supreme Court Rule 404, *available at* <https://tinyurl.com/5arkz7uv> (last visited Mar. 19, 2026). By ordering that defense counsel provide this information to the circuit court, Rule 404(e) ensures that all defendants who are entitled to the automatic waiver receive it.

Counsel's duty to provide the court with this information under Rule 404(e) is a duty owed to the court in counsel's role as an officer of the court, not a duty owed to the defendant in counsel's role as zealous advocate. *See, e.g., People v. Buckley*, 164 Ill. App. 3d 407, 413 (2d Dist. 1987) ("It has been held that when engaged in litigation an attorney owes a duty to the court to assist it in the expeditious consideration and disposal of cases. Attorneys have a duty as officers of the court to make full and frank disclosures of all matters and facts which the court ought to know." (internal citations omitted)). Accordingly, counsel must file the certification under Rule 404(e) regardless of the defendant's wishes. If a defendant represented by need-based counsel is filled with remorse, pleads guilty, and directs counsel not to file the certification because he can afford the assessment and wants to pay his debt to society, counsel still must file the certification. *See* Ill. S. Ct. R.

404(e). Indeed, if the court knew that counsel was subject to Rule 404(e) and had not filed the necessary certification, the court would be free to order that counsel do so. Once counsel files the required certification informing the court that a defendant is represented by need-based counsel, waiver of Article 15 assessments is mandatory.

The parties to this appeal agree that (1) defense counsel was required to file a Rule 404(e) certification; and (2) defendant is entitled to waiver of the assessments set forth in Rule 404(a). The parties appear to disagree only about whether the appellate court's remand for the circuit court to address the error under Rule 472 provides an effective remedy. As explained below, it does.

**B. Defendant's complaint — that he was improperly obligated to pay assessments because counsel did not file a Rule 404(e) certification — raises an error in the imposition of the assessment that is subject to Rule 472.**

Defendant complains that he is obligated to pay assessments under Article 15 of the Criminal and Traffic Assessment Act that should have been waived (and would have been but for counsel's failure to file a Rule 404(e) certification). *See* Def. Br. 20-21. To determine whether claims that assessments should have been waived are claims of “[e]rrors in the imposition . . . of . . . assessments” subject to Rule 472, the Court must construe Rule 472. In doing so, this Court “appl[ies] the same principles that govern interpreting statutes.” *Walls*, 2022 IL 127965, ¶ 16. The Court's objective is to “ascertain and give effect to the intent of the drafters,” with “the best

evidence of that intent [being] the language of the rule[ ], given its plain and ordinary meaning,” *id.*, and construed in light of “the reason for the [rule], the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the [rule] one way or another,” *People v. Boyce*, 2015 IL 117108, ¶ 15. And because Rule 472 is “remedial in nature,” not only must it be interpreted in light of that purpose, it “must be *broadly* interpreted to further its purpose.” *People v. Fair*, 2024 IL 128373, ¶ 81 (remedial statutes must be interpreted broadly to give effect to their remedial purposes) (emphasis added).

“The intent behind Rule 472 is readily apparent”: to ensure that errors in the imposition of assessments that were previously raised for the first time on appeal are instead remedied in the circuit court. *People v. Eason*, 2020 IL App (3d) 180296, ¶ 11; *see also People v. Lawson*, 2025 IL App (4th) 240718-U, ¶ 54 (“Rule 472 was enacted to limit, among other things, appeals raising monetary sentencing issues by providing trial courts with jurisdiction to address those issues for the first time after sentencing.”). Before the Court adopted Rule 472, “[i]ssues relating to fines and fees ha[d] frequently gone unaddressed in the lower courts,” and, “[a]s a result, appellate courts faced a growing tide of appeals raising only those monetary issues.” *Eason*, 2020 IL App (3d) 180296, ¶ 11. This strained the resources of both this Court and the appellate court. *See* Chief Justice Lloyd Karmeier, *Overcoming the Chronic Challenge of Correcting Sentencing Errors: Help Is on the Way* (Feb. 25,

2019), *available at* <https://tinyurl.com/36nnfxxs> (last visited Mar. 19, 2026) (explaining adoption of Rule 472 as response to fact that “[p]etitions raising sentencing errors — most often involving the way fines and fees are imposed — ha[d] become commonplace on [the Court’s] PLA docket” and “[t]he appellate courts similarly report[ed] that the number of cases raising such issues for the first time on appeal ha[d] mushroomed”); *see also* Benjamin M. Sardinas, *The Ball Is in Your Court*, 108 Ill. Bar J. 34, 36 (May 2020) (before Rule 472, appellate court “was often tasked with addressing issues concerning custody, fines, and fees that were raised for the first time on appeal,” which “led to an additional strain on appellate court dockets”). The Court recognized that “[j]ustice is not served when a defendant is subject to penalties the law does not require,” Karmeier, *Correcting Sentencing Errors*, *supra*, and adopted Rule 472 to relieve defendants of improper financial obligations without burdening the appellate court, *Eason*, 2020 IL App (3d) 180296, ¶ 11.

Read broadly to further Rule 472’s remedial purpose, “errors in the imposition of assessments” are errors that result in a defendant being obligated to pay an assessment that he should not be obligated to pay. To “impose” an assessment means “to cause [the defendant] to be burdened” with the assessment or to make the assessment “compulsory, obligatory, or enforceable.” *Webster’s Third New International Dictionary* 1136 (2002) (defining “impose” as “to cause to be burdened” or “to make, frame, or apply

(as a charge, tax, obligation, rule, penalty) as compulsory, obligatory, or enforceable”). Thus, *any* error that results in a defendant being obligated to pay an assessment that he should not be obligated to pay is an error in the imposition of the assessment under Rule 472, whether the error is in initially applying the assessment, in not offsetting it by some credit, or in not waiving it altogether.

The error complained of here — that defendant is obligated to pay an assessment that he should not be obligated to pay because he was represented by the public defender — is exactly the kind of error in the imposition of assessments governed by Rule 472. Defendant was entitled to a waiver of Article 15 assessments under Rule 404(e) but did not receive it. Therefore, defendant’s obligation to pay the scheduled assessment is erroneous, and the appellate court properly remanded for the circuit court to address the error under Rule 472.

Defendant suggests that the weight of appellate court precedent supports his view that Rule 472 does not apply to errors in the imposition of assessments if they are attributable to counsel’s failure to file a Rule 404(e) certification, *see* Def. Br. 14-16, but closer inspection of his cited authority reveals no such support. Although defendant cites several cases where the appellate court adjudicated claims that counsel was ineffective for not filing the certification, *see id.* at 14-15, none addressed whether Rule 472 applied, much less held that it did not. Rather, the appellate court either (1) accepted

the People's concession that counsel was ineffective for not filing a Rule 404(e) certification without considering whether Rule 472 applied;<sup>3</sup> (2) adjudicated claims that counsel was ineffective for not filing the certification without considering whether Rule 472 applied;<sup>4</sup> or (3) or adjudicated such claims after acknowledging, but not addressing, the People's argument that Rule 472 applied.<sup>5</sup> Defendant also cites several cases where the appellate court did not consider the lack of a Rule 404(e) certification at all, but instead addressed claims that attorneys were ineffective for not filing applications for waiver that demonstrated their clients were indigent under 725 ILCS 5/124A-20 (and therefore entitled to full or partial waivers of

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<sup>3</sup> See *People v. DeHart*, 2025 IL App (4th) 231554, ¶ 132 (accepting People's concession that counsel was ineffective for not filing Rule 404(e) certification without mentioning Rule 472 or considering whether it applied); *People v. Harris*, 2025 IL App (4th) 240705, ¶¶ 134-37 (same); *People v. Glas*, 2025 IL App (4th) 241199-U, ¶¶ 26-35 (same). Defendant also cites the summary order in *People v. Haskins*, No. 4-24-0923 (Mar. 13, 2024), which may not be cited here even as persuasive authority, see Ill. S. Ct. R. 23(e)(1), and is not available in any public database. For the Court's convenience, the People have provided a copy in the appendix to this brief, see PA19, and note that the appellate court in *Haskins*, like in *Dehart*, *Harris*, and *Glas*, accepted the People's concession that counsel was ineffective for not filing a Rule 404(e) certification without considering whether Rule 472 applied, PA19-21.

<sup>4</sup> See *People v. Hoskins*, 2025 IL App (4th) 240991, ¶¶ 74-84 (adjudicating claim that counsel was ineffective for not filing Rule 404(e) certification without mentioning Rule 472 or considering whether it applied).

<sup>5</sup> See *People v. Durham*, 2025 IL App (4th) 241284-U, ¶¶ 11-15 (adjudicating claim that counsel was ineffective for not filing Rule 404(e) certification and acknowledging, but not addressing, the People's argument that Rule 472 applied).

assessments under that statute).<sup>6</sup> Only two of defendant’s cited cases included any analysis of whether Rule 472 applies to errors in the imposition of assessments caused by the lack of a Rule 404(e) certification — the decision below and the decision in *People v. Lawson*. In both cases, the appellate court concluded that Rule 472 *does* apply. *See* A40-41, ¶¶ 36-38 (construing Rule 472(a)(1) and determining that it applies to errors in imposition of assessments caused by lack of Rule 404(e) certification); *Lawson*, 2025 IL App (4th) 240718-U, ¶¶ 54-55 (same).

Apart from his citation to unpersuasive or inapposite appellate court decisions, defendant offers two arguments that Rule 472 does not apply to errors in the imposition of assessments if those errors arise from the lack of a Rule 404(e) certification. First, defendant makes a textual argument that errors in the imposition of assessments under Rule 472 are limited to what he calls “court-based errors.” Def. Br. 16-17. Second, he makes a pragmatic argument that errors arising from the lack of a Rule 404(e) certification *must* be addressed through ineffective-assistance claims because they cannot be remedied under Rule 472 due to the timing requirement that governs

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<sup>6</sup> *See People v. Cadengo*, 2025 IL App (4th) 240568, ¶¶ 74-79; *People v. Chase*, 2025 IL App (4th) 230407-U, ¶¶ 83-90; *People v. Davis*, 2025 IL App (3d) 230569-U, ¶¶ 34-36; *People v. Bradford*, 2024 IL App (3d) 220513-U, ¶¶ 13-17; *People v. Baker*, 2022 IL App (4th) 210713, ¶¶ 81-84; *People v. Harrison*, 2022 IL App (3d) 210425-U, ¶¶ 22-25; *see also People v. Miles*, 2019 IL App (1st) 170013-U, ¶¶ 16-17 (rejecting claim that counsel was ineffective for not applying for waiver of unwaivable fees imposed before 725 ILCS 5/124A-20 went into effect on the ground that, had they been imposed *after* that statute went into effect, they *would* be waivable).

applications for waiver under Rule 404(a). *Id.* at 19. Both arguments are meritless.

**1. Errors in the imposition of assessments are not limited to “court-based” errors that result in an erroneous obligation to pay an assessment.**

Defendant’s reading of “errors in the imposition of assessments” as limited to “court-based errors,” Def. Br. 16, focuses incorrectly on the *cause* of the error in the imposition of the assessment — on whose “fault” it is that the assessment was erroneously imposed. But Rule 472 does not distinguish between errors that are “court-based” and errors that are “counsel-based” (or “prosecutor-based,” for that matter), *see* Ill. S. Ct. R. 472(a), and for good reason: its purpose is to provide relief to defendants who have been erroneously obligated to pay assessments, not to affix blame, *see supra* pp. 13-14. Nor would it make any sense to distinguish between errors attributable to the court and errors attributable to counsel, for under the system that this Court implemented to govern the imposition of assessments, the responsibility to ensure that assessments are imposed properly is shared among prosecutors, defense counsel, and the circuit court.

When the Court adopted Rule 472 to ensure efficient correction of errors in the imposition of assessments, it also adopted Rule 452 to prevent such errors from occurring in the first place by enlisting the assistance of prosecutors and defense counsel in their roles as officers of the court. Rule 452 delegates responsibility for preparing the “written order imposing the sentence and all applicable fines, fees, assessments, and costs against the

defendant and specifying applicable credits” to the prosecutor and defense counsel, providing that “the State shall draft such order for review by . . . defense counsel.” Ill. S. Ct. R. 452. Thus, when an error is made in identifying applicable assessments, calculating assessments, or calculating and applying credits against assessments, that error is attributable to all of the parties assigned a role under Rule 452: the prosecutor (who drafted the proposed order), defense counsel (who reviewed the proposed order before it was submitted to the court), and the court (which ratified the parties’ work when it entered the proposed order). *See* Karmeier, *Correcting Sentencing Errors, supra* (explaining that under Rule 452, “[i]t will be the State’s responsibility to draft th[e] written order for the court’s approval and to present it for review . . . by defense counsel,” ensuring that “[a]ll relevant actors will have the opportunity to make sure that the sentence that is actually imposed fully and accurately reflects the sentence the circuit court meant to impose and that it conforms to controlling sentencing provisions”).

Rule 472 expressly applies to errors in identifying, calculating, and offsetting assessments, notwithstanding that under Rule 452 such errors could always be framed as defense counsel’s failure to object to the errors. Ill. S. Ct. R. 472(a). Indeed, when Rule 472 relieved the appellate court of the burden of litigating assessment issues in the first instance, much of that burden consisted of challenges to erroneous assessments that defendants framed as claims of ineffective assistance of counsel. *See, e.g., People v. Cox,*

2017 IL App (1st) 151536, ¶¶ 105-07 (adjudicating defendant's claim that counsel was ineffective for not objecting to erroneously imposed fines and fees and not ensuring proper application of *per diem* credit against fines); *see also* *People v. Hood*, 2019 IL App (1st) 162194, ¶¶ 75-77 (declining to address defendant's claims that counsel was ineffective for not objecting to erroneously imposed fines and fees and not ensuring proper application of *per diem* credit against fines and remanding for further proceedings under Rule 472). Accordingly, whenever a defendant complains of an improper obligation to pay an assessment, Rule 472 directs that complaint to the circuit court for resolution, regardless of whom the defendant blames for the error.

Given that the Court adopted Rule 472 to ensure that challenges to assessments are raised directly to the circuit court rather than indirectly on appeal as derivative claims of ineffective assistance of counsel, it is unsurprising that Rule 472 does not authorize the circuit court to resolve ineffective-assistance claims. *See* Def. Br. 16-17. There is no need to provide such authority, for correcting errors in the imposition of assessments requires only that the circuit court determine whether a defendant should or should not be obligated to pay an assessment. If the circuit court determines that a defendant should not be obligated to pay an assessment, then the circuit court's task is to correct that error, not to assign blame for it. Defendant's insistence that the appellate court again address challenges to assessments in the first instance would defeat the purpose of Rule 472, trading the

efficient, straightforward remedy that this Court has provided by rule for the past inefficient practice of burdening the appellate court with ineffective-assistance claims.

In sum, defendant's distinction between "court-based" errors and "counsel-based" errors is irrelevant under Rule 404(e), which, like Rule 452, enlists attorneys in their capacity as officers of the court to assist in ensuring the proper imposition of assessments. *See supra* pp. 10-12. An attorney's failure to file the certification is no different than a clerk's failure to place that certification in the court's file; it is a failure by the judicial system created to ensure waivers are properly applied, not a failure by counsel in providing the defendant with effective assistance. Under Rule 472, such errors are remedied by remand to the circuit court.

**2. Rule 472 provides a complete remedy for assessments erroneously imposed due to the lack of a Rule 404(e) certification.**

The appellate court's decision below granted defendant a complete remedy. Defendant is wrong that "it is now too late" for him to obtain relief under Rule 472 due to the timing requirement of 725 ILCS 5/124A-20(b), Def. Br. 19, for that section imposes no time limit on Rule 404(e) certifications.

Defendant confuses "[a]n Application for Waiver of Court Assessments" under Rule 404(a), which establishes the procedures governing waiver applications under section 124A-20(b), *see* 725 ILCS 5/124A-20(c), with a certification under Rule 404(e), which entitles a defendant to a waiver "without necessity of an Application under [Rule 404(a)]," Ill. S. Ct. R. 404(e).

Under section 124A-20(b), a defendant may apply for a waiver of Article 15 assessments only within 30 days of sentencing. 725 ILCS 5/124A-20(b). The defendant must sign the application under penalty of perjury, Ill. S. Ct. R. 404(a), and provide an exhaustive account of assets, income, and expenses, *see* 725 ILCS 5/124A-20(b); *see also* Application for Waiver of Criminal Court Assessments, *available at* <https://tinyurl.com/2eezdjj4> (last visited Mar. 19, 2026). If the circuit court finds that the defendant is indigent, then the court shall waive the assessment in full. 725 ILCS 5/124A-20(b)(1). If the court finds financial hardship short of indigency, then it shall waive a portion of the assessment. *Id.* § 124A-20(b)(2).

By contrast, a certification under Rule 404(e) is not subject to any of these requirements. Upon filing, the certification entitles the defendant to a waiver “without necessity of an Application under this Rule.” Ill. S. Ct. R. 404(e). Therefore, nothing prevents counsel from filing the certification or the circuit court from waiving the scheduled assessment following remand under Rule 472. Rule 472 provides defendant with a complete remedy.

Indeed, Rule 472 provides defendants with a *more* effective remedy than the prior practice of challenging assessments through the lens of ineffective-assistance claims on direct appeal. A defendant can *always* obtain relief from an error caused by the lack of a Rule 404(e) certification by raising it in a motion under Rule 472. Indeed, the circuit court could order counsel to file the certification on its own motion, then waive any outstanding Article 15

assessment. *See* Ill. S. Ct. R. 472 (authorizing circuit court to correct errors “on the court’s own motion”). But a defendant entitled to such relief cannot necessarily obtain that relief by framing it as an ineffective-assistance claim on direct appeal, for he may be unable to show either deficient performance or prejudice based on the record on appeal. *See Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984) (defendant must show both deficient performance and prejudice to establish ineffective assistance).

First, a defendant may be unable to show that counsel was deficient for not filing a certification under Rule 404(e) because the record may not show that counsel was required to file a certification. For example, if a defendant is represented by an attorney working with a criminal legal services provider, the record may contain no evidence of that fact *unless* the attorney filed a Rule 404(e) certification. If counsel did not file the certification and the record does not otherwise show that counsel’s representation of the defendant was need-based rather than fee-based, then the defendant’s ineffective-assistance claim rests on a matter outside the trial record and cannot be adjudicated on direct appeal. *See People v. Veach*, 2017 IL 120649, ¶¶ 46-47 (ineffective-assistance claims based on facts not found in the record better suited for postconviction review); *see also People v. Yankaway*, 2025 IL 130207, ¶ 137 (Overstreet, J., specially concurring) (“Collateral review, therefore, is necessary when defendant’s ineffective-assistance claim is based on matters that are outside the appellate record.”).

Second, even if a defendant can establish that counsel was subject to Rule 404(e), the appellate court may be unable to determine whether the defendant was prejudiced by the lack of a Rule 404(e) certification. Rule 404(e) authorizes the circuit court to waive only “assessments as defined in 725 ILCS 5/124A-20(a).” Ill. S. Ct. R. 404(e). That statute defines “assessments” as “any cost imposed on a criminal defendant under Article 15 of the Criminal and Traffic Assessment Act,” 725 ILCS 5/124A-20(a) — *i.e.*, the scheduled and conditional assessments set forth in 705 ILCS 135/15-5 through 15-70.<sup>7</sup> Whether counsel’s failure to file a certification actually

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<sup>7</sup> Here, the only waivable outstanding assessment in any of defendant’s three cases is the Schedule 1 assessment of \$549 imposed in the 2021 case. *See* PA16. The additional \$50 for the unpaid portion of defendant’s \$75 fine and his unpaid \$35 bond fee is not waivable because neither the fine nor the fee is an Article 15 assessment. PA18. And none of the outstanding assessments in the 2017 case or the 2020 case are assessments under Article 15 of the Criminal and Traffic Assessment Act. That Act did not exist in 2018 when the circuit court imposed the original assessments in the 2017 case, *see People v. Clark*, 2018 IL 122495, ¶¶ 14-15 (citing Pub. Act 100-987 (eff. July 1, 2019)), and the court did not impose any assessment under the Criminal and Traffic Assessment Act when it resentenced defendant in 2023, *see* R339; PA1-4. Nor are any of the outstanding assessments in the 2020 case waivable Article 15 assessments; all that remain in that case are the outstanding \$35 bond fee and \$56 testing fee. *See* PA13. Thus, a Rule 404(e) waiver would not relieve defendant of any financial obligation in the 2017 case or the 2020 case; it would relieve him only of his obligation to pay \$549 in the 2021 case.

The circuit court’s error in imposing the Schedule 4 assessment of \$1,314 in the 2020 case rather than the applicable Schedule 1 assessment of \$549 does not change this conclusion. Had the circuit court imposed the correct Schedule 1 assessment, such that a greater portion of defendant’s \$2,000 bond would remain after being applied against his financial obligations in the 2020 case, that remaining portion would then have been applied to his outstanding balance in the 2017 case. *See* PA5-6 (condition of

prejudiced a defendant by leaving him liable for an Article 15 assessment that should have been waived will not always be clear from the record.

For example, take a case where the circuit court ordered various assessments, including an Article 15 assessment, then ordered that the defendant's bond be applied against them. If the defendant sought a waiver, the circuit court could also order that the bond be applied against his financial obligations prior to applying the waiver. *See People v. Sellars*, 2023 IL App (4th) 200500-U, ¶¶ 17-18, 27 (circuit court may apply bond against assessments prior to waiver). In that case, if applying the bond against the defendant's obligations extinguished them (as it did in the 2020 case, *see* PA11), then there would be no outstanding Article 15 assessment to waive and therefore no prejudice from not receiving the waiver. But if the defendant never sought a waiver, then there would be no way to know whether the circuit court would have ordered that the bond be applied against the obligations before or after such waiver and therefore no way to determine prejudice.

Similarly, the appellate court might not be able to determine prejudice because whether a waiver would relieve the defendant of his obligation to pay

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\$2,000 bond was that any portion not used to pay obligations in the 2020 case would be used against defendant's outstanding obligations in other cases); PA4 (more than \$2,000 outstanding in the 2017 case at time of sentencing in the 2020 case). The fact that the clerk erroneously refunded the remainder of defendant's bond rather than apply it against his outstanding obligations cannot support a finding of prejudice. *Cf. Lafler v. Cooper*, 566 U.S. 156, 170 (2012) (remedy should "not grant a windfall to the defendant").

an Article 15 assessment might turn on the resolution of some other error that must be remedied on remand under Rule 472. For example, if the circuit court ordered that the bond be applied against the Article 15 assessment prior to any waiver and the bond was sufficient to cover the assessment, then there would be no outstanding portion of the assessment to waive and the appellate court would have to conclude that the defendant was not prejudiced by not receiving a waiver. But if the only reason the bond covered the assessment was that the circuit court imposed an incorrect scheduled assessment that was smaller than the applicable assessment, then the circuit court's subsequent correction of that error under Rule 472 would result in a portion of the assessment remaining outstanding, such that the defendant *was* prejudiced by not receiving a waiver under Rule 404(e).

By requiring that errors in the imposition of assessments involving Rule 404(e) be resolved through the lens of ineffective-assistance claims and separately from all other errors in the imposition of assessments, defendant's approach would needlessly complicate the otherwise straightforward resolution of Rule 404(e) errors under Rule 472.

**C. Because Rule 472 provides defendant with complete relief, the doctrine of constitutional avoidance bars consideration of his redundant ineffective-assistance claim.**

Because defendant already has a complete remedy under Rule 472, this Court need not, and should not, consider his claim that he was denied his Sixth Amendment right to the effective assistance of counsel when counsel

did not file the Rule 404(e) certification. This Court does not “consider issues where the result will not be affected regardless of how those issues are decided.” *People v. Bass*, 2021 IL 125434, ¶ 29. “Likewise, this [C]ourt’s long-standing rule is that cases should be decided on nonconstitutional grounds whenever possible, reaching constitutional issues only as a last resort.” *Id.*

There is no need to decide whether defendant had a constitutional right to the assistance of counsel with respect to seeking a waiver of Article 15 assessments, for the remedy provided under Rule 472 renders the question moot. Rule 472 provides all defendants with a complete remedy for any error under Rule 404(e), be it a failure by counsel to file the requisite certification or a failure by the court to then grant the waiver. The Court should therefore decline defendant’s request to revive the disfavored practice of raising complaints regarding assessments for the first time on appeal as ineffective-assistance claims.

**CONCLUSION**

This Court should affirm the judgment of the appellate court.

March 17, 2026

Respectfully submitted,

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# APPENDIX

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IN THE CIRCUIT COURT OF McLean County, IL  
ELEVENTH JUDICIAL CIRCUIT

FILED

SEP 29 2023

COUNTY

PEOPLE OF THE STATE OF ILLINOIS

Case No. 17-CF-402

Date of Sentence 09/29/2023

Date of Birth 09/17/1981

McLEAN

(Defendant)

CIRCUIT CLERK

Vs.

CARTHELL NIBBELIN

Defendant

**JUDGMENT – SENTENCE TO ILLINOIS DEPARTMENT OF CORRECTIONS**

WHEREAS the above-named defendant has been adjudged guilty of the offenses enumerated below; IT IS THEREFORE ORDERED that the defendant be and hereby is sentenced to confinement in the Illinois Department of Corrections for the term of years and months specified for each offense.

COUNT	OFFENSE	DATE OF OFFENSE	STATUTORY CITATION	CLASS	SENTENCE	MSR
<u>1</u>	<u>Child Pornography</u>	<u>3/30/2016</u>	<u>720 ILCS 5/11-20.1(a)(6)</u>	<u>2</u>	<u>4</u> Yrs. <u>0</u> Mos.	<u>3</u> Yrs. <u>Life</u> Mos.
To run ( <del>XXXXXX</del> ) (consecutively to) count(s) <u>2, 3, &amp; 4</u> and served at <u>50%</u> pursuant to <u>730 ILCS 5/3-6-3</u> Per PRB, MSR up to 12 Mos.						
<u>2</u>	<u>Child Pornography</u>	<u>3/30/2016</u>	<u>720 ILCS 5/11-20.1(a)(6)</u>	<u>2</u>	<u>4</u> Yrs. <u>0</u> Mos.	<u>3</u> Yrs. <u>Life</u> Mos.
To run ( <del>XXXXXX</del> ) (consecutively to) count(s) <u>1, 3, and 4</u> and served at <u>50%</u> pursuant to <u>730 ILCS 5/3-6-3</u> Per PRB, MSR up to 12 Mos.						
<u>3</u>	<u>Child Pornography</u>	<u>3/30/2016</u>	<u>720 ILCS 5/11-20.1(a)(6)</u>	<u>2</u>	<u>4</u> Yrs. <u>0</u> Mos.	<u>3</u> Yrs. <u>Life</u> Mos.
To run ( <del>XXXXXX</del> ) (consecutively to) count(s) <u>1, 2, and 4</u> and served at <u>50%</u> pursuant to <u>730 ILCS 5/3-6-3</u> Per PRB, MSR up to 12 Mos.						

**This Court finds that the defendant is:**

- Convicted of a Class \_\_\_\_\_ offense but sentenced as a Class X offender pursuant to 730 ILCS 5/5-4.5-95.
- Convicted of a Class 3 or 4 offense (other than a violent crime as defined in Section 3 of the Rights of Crime Victims & Witnesses Act)
- 4 or more months remaining \_\_\_\_\_ fewer than 4 months remaining 730 ILCS 5/5-4-1(c-7) (effective 7/1/21 P.A. 101-652)

The Court further finds that the defendant is entitled to receive credit for time actually served in custody (of 579 days as of the date of this order) from (specify dates) 4/17/17-12/16/17; 1/15/18-7/31/18; 10/10/18-10/11/18; and/or credit for time served on electronic monitoring, GPS monitoring, or home confinement (of \_\_\_\_\_ days as of the date of this order) from (specify dates) \_\_\_\_\_. The defendant is also entitled to receive credit for the additional time served in custody from the date of this order until the defendant is received at the Illinois Department of Corrections. 4/20/18-12/18/18; 10/20/19-3/10/20; 7/20/20-5/31/21; and 8/31/22-9/1/23

The Court further finds that the conduct leading to conviction for the offenses enumerated in counts \_\_\_\_\_ resulted in great bodily harm to the victim. (730 ILCS 5/3-6-3(a)(2)(iii))

The Court further finds that the defendant meets the eligibility requirements for possible placement in the Impact Incarceration Program. (730 ILCS 5/5-4-1(a))

The Court further finds that offense was committed as a result of the use of, abuse of, or addiction to alcohol or a controlled substance and recommends the defendant for placement in a substance abuse program. (730 ILCS 5/5-4-1(a))

The defendant successfully completed a full-time (60-day or longer) Pre-Trial Program \_\_\_\_\_ Educational/Vocational \_\_\_\_\_ Substance Abuse \_\_\_\_\_ Behavior Modification \_\_\_\_\_ Life Skills \_\_\_\_\_ Re-Entry Planning – provided by the county jail while held in pre-trial detention prior to this commitment and if eligible for sentence credit in accordance with 730 ILCS 5/3-6-3(a)(4). THEREFORE IT IS ORDERED that the defendant shall be awarded one day of sentence credit for each day in which the Defendant is engaged in the activities, \_\_\_\_\_ days, if not previously awarded. (effective 7/1/21 P.A. 101-652)

The defendant passed the high school level test for General Education and Development (GED) on \_\_\_\_\_ while held in pre-trial detention prior to this commitment and is eligible to receive Pre-Trial GED Program Credit in accordance with 730 ILCS 5/3-6-3(a)(4.1). THEREFORE IT IS ORDERED that the defendant shall be awarded 90 days of additional sentence credit, if not previously awarded.

The Court further finds that the Defendant served \_\_\_\_\_ days engaged in a self-improvement program, volunteer work, or work assignments, and shall receive 0.5 days of sentence credit for each day the Defendant was engaged in activities for a total of \_\_\_\_\_. (730 ILCS 5/3-6-3(a)(4.2)

The Court further finds that the Defendant has been advised of and given a copy of the financial obligations and statutory fines, fees and assessments pursuant to SCR 452.

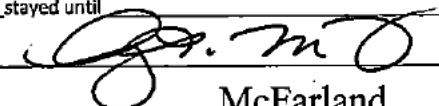
IT IS FURTHER ORDERED the sentence(s) imposed on count(s) 1, 2, 3, and 4 be (concurrent with) (~~XXXXXX~~) the sentence imposed in case number 20-CF-434 and 21-CF-850 in the Circuit Court of McLean County.

IT IS FURTHER ORDERED that \_\_\_\_\_  
The Clerk of the Court shall deliver a certified copy of this order to the sheriff. The Sheriff shall take the defendant into custody and deliver the defendant to the Department of Corrections which shall confine said defendant until expiration of this sentence or until otherwise released by operation of law.

This order is ( effective immediately) (\_\_\_\_\_ stayed until \_\_\_\_\_).

DATE: 9/29/2023

ENTER: \_\_\_\_\_



McFarland

(PLEASE PRINT JUDGE'S NAME HERE)

Original – Court      Green – Defendant      Canary – IDOC      Pink – State's Attorney      Goldenrod – Defendant's Attorney  
Approved by Conference of Chief Judges March 2022

PA1

FILED

SEP 29 2023

CIRCUIT CLERK

CLERK

IN THE CIRCUIT COURT OF McLean County, IL  
ELEVENTH JUDICIAL CIRCUIT

McLEAN

PEOPLE OF THE STATE OF ILLINOIS )  
 )  
 Vs. )  
 )  
 CARTHELL NIBBELIN )  
 Defendant )

Date of Sentence 09/29/2023  
Date of Birth 09/17/1981  
(Defendant)

Case No. 17-CF-402

**JUDGMENT – SENTENCE TO ILLINOIS DEPARTMENT OF CORRECTIONS**

WHEREAS the above-named defendant has been adjudged guilty of the offenses enumerated below; IT IS THEREFORE ORDERED that the defendant be and hereby is sentenced to confinement in the Illinois Department of Corrections for the term of years and months specified for each offense.

COUNT	OFFENSE	DATE OF OFFENSE	STATUTORY CITATION	CLASS	SENTENCE	MSR
<u>4</u>	<u>Child Pornography</u>	<u>3/30/2016</u>	<u>720 ILCS 5/11-20.1(a)(6)</u>	<u>2</u>	<u>4</u> Yrs. <u>0</u> Mos.	<u>3</u> Yrs. <u>Life</u> Mos.
To run ( <del>XXXXXX</del> ) (consecutively to) count(s) <u>1, 2, and 3</u> and served at <u>50%</u> , <u>75%</u> , <u>85%</u> , <u>100%</u> pursuant to 730 ILCS 5/3-6-3 Per PRB, MSR up to 12 Mos.						
To run (concurrent with) (consecutively to) count(s) _____ and served at 50%, 75%, 85%, 100% pursuant to 730 ILCS 5/3-6-3 Per PRB, MSR up to 12 Mos.						
To run (concurrent with) (consecutively to) count(s) _____ and served at 50%, 75%, 85%, 100% pursuant to 730 ILCS 5/3-6-3 Per PRB, MSR up to 12 Mos.						

**This Court finds that the defendant is:**

- Convicted of a Class \_\_\_\_\_ offense but sentenced as a Class X offender pursuant to 730 ILCS 5/5-4.5-95.
- Convicted of a Class 3 or 4 offense (other than a violent crime as defined in Section 3 of the Rights of Crime Victims & Witnesses Act)
- 4 or more months remaining \_\_\_\_\_ fewer than 4 months remaining 730 ILCS 5/5-4-1(c-7) (effective 7/1/21 P.A. 101-652)

The Court further finds that the defendant is entitled to receive credit for time actually served in custody (of \_\_\_\_\_ days as of the date of this order) from (specify dates) \_\_\_\_\_ and/or credit for time served on electronic monitoring, GPS monitoring, or home confinement (of \_\_\_\_\_ days as of the date of this order) from (specify dates) \_\_\_\_\_. The defendant is also entitled to receive credit for the additional time served in custody from the date of this order until the defendant is received at the Illinois Department of Corrections.

The Court further finds that the conduct leading to conviction for the offenses enumerated in counts \_\_\_\_\_ resulted in great bodily harm to the victim. (730 ILCS 5/3-6-3(a)(2)(iii))

The Court further finds that the defendant meets the eligibility requirements for possible placement in the Impact Incarceration Program. (730 ILCS 5/5-4-1(a))

The Court further finds that offense was committed as a result of the use of, abuse of, or addiction to alcohol or a controlled substance and recommends the defendant for placement in a substance abuse program. (730 ILCS 5/5-4-1(a))

The defendant successfully completed a full-time (60-day or longer) Pre-Trial Program \_\_\_\_\_ Educational/Vocational \_\_\_\_\_ Substance Abuse \_\_\_\_\_ Behavior Modification \_\_\_\_\_ Life Skills \_\_\_\_\_ Re-Entry Planning – provided by the county jail while held in pre-trial detention prior to this commitment and is eligible for sentence credit in accordance with 730 ILCS 5/3-6-3(a)(4). THEREFORE IT IS ORDERED that the defendant shall be awarded one day of sentence credit for each day in which the Defendant is engaged in the activities, \_\_\_\_\_ days, if not previously awarded. (effective 7/1/21 P.A. 101-652)

The defendant passed the high school level test for General Education and Development (GED) on \_\_\_\_\_ while held in pre-trial detention prior to this commitment and is eligible to receive Pre-Trial GED Program Credit in accordance with 730 ILCS 5/3-6-3(a)(4.1). THEREFORE IT IS ORDERED that the defendant shall be awarded 90 days of additional sentence credit, if not previously awarded.

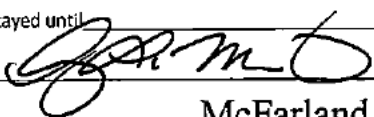
The Court further finds that the Defendant served \_\_\_\_\_ days engaged in a self-improvement program, volunteer work, or work assignments, and shall receive 0.5 days of sentence credit for each day the Defendant was engaged in activities for a total of \_\_\_\_\_. (730 ILCS 5/3-6-3(a)(4.2))

The Court further finds that the Defendant has been advised of and given a copy of the financial obligations and statutory fines, fees and assessments pursuant to SCR 452.

IT IS FURTHER ORDERED the sentence(s) imposed on count(s) 1, 2, 3, and 4 be (concurrent with) (~~XXXXXX~~) the sentence imposed in case number 20-CF-434 and 21-CF-850 in the Circuit Court of McLean County.

IT IS FURTHER ORDERED that \_\_\_\_\_  
The Clerk of the Court shall deliver a certified copy of this order to the sheriff. The Sheriff shall take the defendant into custody and deliver the defendant to the Department of Corrections which shall confine said defendant until expiration of this sentence or until otherwise released by operation of law.

This order is (  effective immediately ) ( \_\_\_\_\_ stayed until \_\_\_\_\_ ).

DATE: 9/29/2023 ENTER:   
McFarland  
(PLEASE PRINT JUDGE'S NAME HERE)

Original – Court      Green – Defendant      Canary – IDOC      Pink – State's Attorney      Goldenrod – Defendant's Attorney  
Approved by Conference of Chief Judges March 2022

**FILED**  
 FEB 09 2024  
 COUNTY  
 CIRCUIT CLERK

STATE OF ILLINOIS  
 IN THE CIRCUIT OF THE ELEVENTH JUDICIAL CIRCUIT  
 COUNTY OF MCLEAN

NIBBELIN, CARHELL EUGENE

Case No. 2017CF000402

( Party's Name )

*Amended*  
**NOTICE TO PARTY**

YOU ARE HEREBY NOTIFIED that the following fine and court costs have been assessed against you in connection with this case:

			<u>Assessed</u>		<u>Paid</u>	
010	CIRCUIT CLERK	\$	100.00	\$	100.00	705 ILCS 105/27.1a
011	CIRCUIT CLERK BOND FEE	\$	1,105.00	\$	1,105.00	725 ILCS 5/110-7
022	DNA ANALYSIS FEE	\$	240.00	\$	.00	730 ILCS 5/5-4-3(j)
023	DNA ANALYSIS ADMIN FEE (\$10)	\$	10.00	\$	.00	730 ILCS 5/5-4-3(k)
077	2016 LUMP SUM SURCHARGE	\$	3,495.00	\$	3,495.00	730 ILCS 5/5-9-1(C)
086	VIOLENT CRIME VICTIM FUND	\$	400.00	\$	400.00	705 ILCS 135/15 725 ILCS 240/10 PA 97-816
090	STATE'S ATTORNEY	\$	120.00	\$	120.00	PA 100-987 / 55 ILCS 5/4- 2002
100	SHERIFF	\$	45.00	\$	25.00	55 ILCS 5/4-5001
120	COURT AUTOMATION	\$	20.00	\$	20.00	705 ILCS 135/15 705 ILCS 105/27.3a
130	COURT SYSTEM FEE	\$	200.00	\$	200.00	55 ILCS 5/5- 1101(a),(c)(1),(c)(2)
131	SECURITY FEE	\$	25.00	\$	25.00	55 ILCS 5/5-1103
CACF	2016 CHILDREN'S ADVOCACY CENTER FEE	\$	66.00	\$	66.00	55 ILCS 5/5-1101(f-5)
COPY	COPY OR MOTION FEE	\$	4.50	\$	4.50	705 ILCS 105/27.1
CP500	CHILD PORNOGRAPHY FINE/\$500	\$	2,000.00	\$	2,000.00	730 ILCS 5/5-9-1.14
DCT	DRUG COURT FEE (\$10)	\$	40.00	\$	40.00	55 ILCS 5/5-1101(d-5)
DSF	DOCUMENT STORAGE FEE	\$	15.00	\$	15.00	705 ILCS 105/27.3c
FPD	PUBLIC DEFENDER REIMBURSE/CF	\$	200.00	\$	200.00	725 ILCS 5/113-3.1
JBF	JAIL PR BOND FEE	\$	35.00	\$	35.00	55 ILCS 5/4-5001
JEXCC	\$10 CC JUV EXP FINE	\$	40.00	\$	40.00	730 ILCS 5/5-9-1.17
JEXF	\$20 JUV EXPUNGEMENT FINE	\$	80.00	\$	80.00	730 ILCS 5/5-9-1.17
MCF	MEDICAL COSTS FUND	\$	40.00	\$	40.00	730 ILCS 125/17
MCL	MCLEAN COUNTY	\$	4,000.00	\$	.00	730 ILCS 5/5-9-1
PROP	PROBATION & COURT SERVICES OPERATION	\$	10.00	\$	10.00	705 ILCS 105/27.3a (1.1) PA 97-0761 AO 2012-13
PRT	PROBATION TESTING FEE	\$	490.00	\$	315.00	730 ILCS 5/5-6-3.1 (g)
SAF	SEXUAL ASSAULT FINE	\$	800.00	\$	200.00	730 ILCS 5/5-9-1.7
SARA	STATES ATTORNEY RECORDS AUTOMATION FEE	\$	8.00	\$	8.00	55 ILCS 5/4-2002(a)
SOCA	SEX OFFENDER CLERK ADMIN	\$	200.00	\$	200.00	730 ILCS 5/5-9-1.14
SOIF	SEX OFFENDER INVESTIGATION FINE/FUND	\$	1,400.00	\$	1,326.00	730 ILCS 5/5-9-1.14
SOSA	SEX OFFENDER STATES ATTORNEY	\$	400.00	\$	400.00	730 ILCS 5/5-9-1.14
SPAF	STATE POLICE OP ASSISTANCE FEE	\$	15.00	\$	15.00	705 ILCS 105/27.3a

*\* probation fees adjusted  
 to reverse the last  
 four months.  
 \* Noil maintain*

TOTAL AMOUNT DUE	\$	5,119.00	
Past Due Probation	\$	50.00	
Less Bond Posted	\$	.00	
NET DUE/REFUND	\$	5,169.00	
Remaining Probation Fee ( 016)	\$	251.00	(\$ _____ X _____ mos. )
<b>GRAND TOTAL</b>	\$	<b>5,420.00</b>	

YOU HAVE BEEN ORDERED BY THE PRESIDING JUDGE TO PAY THE FINE AND COSTS IN FULL BY 02/28/2031.

FAILURE TO PAY SAID AMOUNT MAY RESULT IN A FORFEITURE, A WARRANT BEING ISSUED FOR YOUR ARREST, OR REFERRAL TO A COLLECTION AGENCY. IN ADDITION, FAILURE TO PAY A TRAFFIC CASE COULD RESULT IN A REVOCATION OF COURT SUPERVISION AND A CONVICTION BEING SUBMITTED TO THE SECRETARY OF STATE'S OFFICE.

IF YOU ARE TAKING TRAFFIC SAFETY SCHOOL, YOU WILL NOT BE ENROLLED IN A CLASS UNTIL THE TRAFFIC SAFETY SCHOOL FEE IS PAID. YOU MUST ATTEND THE TRAFFIC SAFETY SCHOOL CLASS AT LEAST 30 DAYS PRIOR TO THE TERMINATION DATE OF YOUR COURT SUPERVISION. NOTE: THIS MAY REQUIRE THE TRAFFIC SAFETY SCHOOL FEE TO BE PAID BEFORE THE DUE DATE ON THIS NOTICE.

Mailing address : Circuit Clerk of McLean County , P.O. BOX 2400 , BLOOMINGTON , IL , 61702-2400  
 Street address: 104 W Front St., Bloomington, IL, 61701, if receipt of payment is needed, please enclose self addressed stamped envelope.

**Credit card payments can be made online at [www.McLeanCountyIL.gov/casepayment](http://www.McLeanCountyIL.gov/casepayment).  
 Please do not send cash through the mail.**

I acknowledge Receipt of this Notice:

\_\_\_\_\_ Date

\_\_\_\_\_ Signature

\_\_\_\_\_ Mailing Address

\_\_\_\_\_ Apt.

\_\_\_\_\_ City

\_\_\_\_\_ State

\_\_\_\_\_ Zip

ELEVENTH JUDICIAL CIRCUIT COURT  
McLEAN COUNTY, ILLINOIS

FILED  
JUN 01 2020  
McLEAN COUNTY  
CIRCUIT CLERK

People of the State of Illinois

Case Number(s): 2020 CF0004134

Nibbelin, Carthell

Defendant's Date of Birth: 09/17/1981

Defendant

APPEARANCE BOND

The DEFENDANT has been charged with the offense(s) Child Porn/Pass Photo Vic <13  
and bond for this offense has been set at: \$ 20,000

Cash  10% Cash  Personal Recognition with the \$35.00 bond fee to be assessed as costs for a total due at release of: \$ 2,035

Therefore, in consideration of being released from custody, the DEFENDANT, and the BOND DEPOSITOR, if other than the defendant, agree:

- The Defendant is indebted to the State of Illinois in the full amount of the appearance bond stated above.
- That the DEFENDANT SHALL:
  - Personally appear to answer charge(s) at the McLean County Law & Justice Center, Bloomington, IL on June 19th 2020 at 0900 AM and appear as ordered by the Court, until discharged.
  - Not violate any criminal statute of any jurisdiction.
  - Not leave the State of Illinois without permission of the Court.
  - Give written notice of change of address to the Circuit Clerk within 24 hours at P.O. Box 2420, Bloomington, IL 61702
  - Other Conditions: \_\_\_\_\_

If the victim is a family member/household member as defined by 725 ILCS 5/112A-3(3):

- F. Refrain from contact or communication with \_\_\_\_\_ for a minimum period of 72 hours following the defendant's release from custody.
- G. Refrain from entering or remaining at residence for a minimum period of 72 hours following the defendant's release from custody.

NOTICE TO PERSON PROVIDING BOND MONEY  
IF OTHER THAN DEFENDANT (725 ICLS 5/110-7)

I hereby acknowledge that I have posted bond for the above named defendant. I further understand that if the defendant fails to comply with the conditions of this bond, that the Court shall enter an order declaring the bond to be forfeited and used to pay costs, attorney's fees, fines, child support obligations or other purposes authorized by the Court. I further understand upon disposition of the case, part or the entire bond may be used to pay fines, costs, fees, restitution, child support or other financial obligations of the defendant.

Print Depositor's Name \_\_\_\_\_

Signature: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

ASSIGNMENT OF BOND BY THE DEFENDANT

I hereby authorize the return of the bond herein posted to the person shown above after all conditions of the bond have been met.

DEFENDANT'S SIGNATURE: \_\_\_\_\_

CERTIFICATE OF DEFENDANT

I, the Defendant, do hereby state that I know and understand the terms and conditions of this appearance bond as shown on the front and reverse of this form. I understand further that if at any time prior to the final disposition of the charge(s), I escape or am released on bond and fail to appear in Court when required, I thereby waive my right to confront witnesses against me; the trial or sentencing can proceed in my absence; I forfeit the security posted; judgment will be entered against me in the full amount of this bond, plus costs; a warrant may be issued in which additional bond may be required to be posted. I understand and accept the terms and conditions set forth above and on the reverse side of this appearance bond.

Print Defendant's Name Carthell Nibbelin

Signature of DEFENDANT \_\_\_\_\_

Address: 1240 1/2 st

City, State, Zip: Bloomington ill 61704

Signed and acknowledged before me and bond received by me this 31st day of May, 2020

T. Ben 137851 Illinois  
Official Signature

C/O 1 8  
Official Capacity

### APPLICATION OF BOND

When the person charged (the Defendant) has been discharged from all obligations in the case, the bond posted shall be distributed by the Circuit Clerk as follows:

- A. When a 100% bond has been posted, the Clerk shall satisfy any and all financial obligations in the court file in which the bond was posted unless otherwise ordered by the Court. Any remaining balance shall be refunded to the Defendant or the Surety, unless the Court orders the refund be directed to some other person, or the balance be applied to costs in a different court file.
- B. When a 10% bond has been posted, then 90% of the bond posted shall be disbursed by the Clerk to satisfy any and all financial obligations in the court file in which the bond was posted as outlined in 725 ILCS 5/110-7, unless otherwise ordered by the Court. The remaining 10% of the bond, but not less than \$5.00, shall be retained as court-costs. Pursuant to Administrative Order 2004-6, any remaining balance shall be first used to satisfy any child support obligations of the same defendant incurred in a different case, if any, with any remaining balance transferred to satisfy the fines, fees, court costs, restitution, public defender fees or other financial obligations of the same defendant in different cases. Any remaining balance shall be refunded to the Defendant or the Surety, unless the Court orders the refund be directed to some other person, entity or file.
- C. Any real estate, stocks or securities that have been posted as bond shall be returned to the Defendant or to the Surety, and any lien on any real estate will be discharged, unless otherwise ordered by the Court.

### AUTOMATIC BOND CREDIT FOR CERTAIN OFFENSES

- A. If the defendant is incarcerated for a Category B offense as defined under 725 ILCS 5/102-7.2, the defendant shall be given credit in the amount of \$30.00 per day for every day incarcerated and the monetary amount of the bond shall be automatically decreased in that amount.

Revised: December 2017

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
McLean County, Illinois

DONALD R. EVERHART, JR.  
CLERK OF THE CIRCUIT COURT  
MCLEAN COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

Case Number(s): 2020CF434

Carthell Nibbelin

ORDER FOR PROBATION OR CONDITIONAL DISCHARGE

This cause coming before the Court for sentencing, and the defendant having been convicted of the following offense: Count Two: Violation of the IL Sex Offender Reg. Act  
(Count Number and Offense)

IT IS HEREBY ORDERED that the defendant is sentenced to a term of:  PROBATION Sex offender

CONDITIONAL DISCHARGE for a period of 24 months, upon the conditions that

during said period the defendant shall:

- A. Not violate any criminal statute of any jurisdiction.
- B. Pay all fines, restitution, costs, fees and mandatory assessments, including VCVA, as set forth in the fine/cost sheet provided by the McLean County Circuit Clerk by 11/31/2023.
- C. Pay restitution in the following amount, as detailed in the attached restitution addendum, to the McLean County Circuit Clerk as directed by the Court or Court Services: \$\_\_\_\_\_
- D. Serve a term of 180 days of imprisonment in the McLean County Jail as provided in the attached Order for Confinement. credit 6 days already served; remainder stayed
- E. If placed on probation, report to the Court Services Office immediately, and then as often as directed by the Probation Officer, permit the Probation Officer to visit him/her at his/her home or elsewhere, and pay a probation services fee of \$ 25.00 per month. All defendants shall truthfully and completely answer all questions asked by the Probation Officer or Court during the term of this order, and shall cooperate fully with the Probation Officer and obey all reasonable directives during the period of this order.
- F. Not possess a firearm or other dangerous weapon. In all felony and/or domestic battery convictions, the defendant shall surrender his/her Firearm Owners Identification (FOID) card to the Probation Officer as directed.
- G. Work or pursue a course of study or vocational training as directed by the Probation Officer and shall support his/her dependants.
- H. Not unlawfully consume, use, or possess: (1) cannabis; or (2) any Controlled Substances or any depressant or stimulant substances or anabolic steroid as defined in the Illinois Controlled Substances Act (720 ILCS 570). Upon the request of the Probation or Correctional Officer, the Defendant shall submit to breath, urine and/or blood tests to determine whether he has in his body the presence of any of the aforesaid prohibited substances or alcoholic beverage. The Defendant shall within 30 days pay the costs of each such test performed.
- I. Advise and provide proof to the Probation Officer, in writing, of his place of residence and employment at all times; advise the Probation Officer within 24 hours of any change; not leave the State of Illinois without written permission of the Probation Officer; and sign and deliver a waiver of extradition to said Probation Officer before departing.
- J. Not seek transfer to another state without first paying a \$125.00 non-refundable transfer fee to the McLean County Circuit Clerk. The defendant's supervision shall remain in McLean County until he/she is granted permission by the probation officer to transfer his/her supervision to another state.

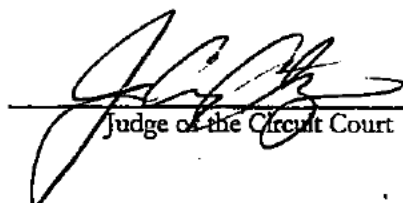
- K. Not seek transfer to another county within the state of Illinois without first obtaining permission from the probation officer or Court. The defendant shall continue to report in McLean County until his/her supervision is accepted by the Illinois county to which he/she seeks transfer, and shall comply with the terms and conditions herein set forth and those that may be required of him/her to reside in the receiving Illinois county.
- L. Undergo diagnosis and assessment for any medical or psychiatric condition, drug or alcohol addiction, sex offense or domestic violence as directed by the Probation Officer by as directed, and shall provide proof of successful completion of all recommended treatment to the Probation Officer as directed, by as directed. The defendant shall sign consent for release of confidential information to court services for all treatment programs which shall be effective during the entire term of this order.
- M. Complete \_\_\_\_\_ hours of Community Service by \_\_\_\_\_, and shall cooperate fully with the guidelines of the Community Service Program, including payment of any applicable fee.
- N. Not be a member of, or knowingly associate with, any member of a criminal street gang, as defined by the Illinois Street Gang Terrorism Omnibus Prevention Act (740 ILCS 147/10).
- O. The Defendant may be offered the opportunity to participate in the Administrative Sanctions Program.
- P. The following conditions are applicable if checked:

- 1. The Defendant's Probation is to be served on Intensive Probation under the additional conditions as provided by Court Services.
- 2. The Defendant's Probation is to be served on Sex Offender Probation under the additional conditions as provided by Court Services.
- 3. The Defendant shall register as a convicted sex offender pursuant to the Illinois Sex Offender Registration Act.
- 4. The Defendant is directed to submit to STD/DNA testing as directed by Court Services, and shall pay a DNA collection fee of \$200.00
- 5. The Defendant shall not consume, use, or possess any alcoholic beverage. and cannabis as prescribed.
- 6. The Defendant shall appear in Court for a review/remission hearing on 5/6/22@11a.m.
- 7. The Defendant shall attend a \_\_\_ DUI Victim Impact Panel/ \_\_\_ Domestic Violence Victim Impact Panel as directed by Court Services, including payment of any applicable fee.
- 8. The Defendant shall attend a Youthful Intoxicated Driver Visitation Program as directed by Court Services, including payment of any applicable fee.
- \_\_\_\_\_

I understand these conditions and acknowledge receipt of this order including the additional conditions of Intensive or Sex Offender Probation if applicable.

  
 \_\_\_\_\_  
 Defendant

Entered: 1/31/22, 20

  
 \_\_\_\_\_  
 Judge of the Circuit Court

STATE OF ILLINOIS, CIRCUIT COURT OF MCLEAN COUNTY	FINANCIAL SENTENCING ORDER - CRIMINAL	FOR COURT USE ONLY  FILED 1/31/2022 4:45 PM  DONALD R. EVERHART, JR. CLERK OF THE CIRCUIT COURT MCLEAN COUNTY, ILLINOIS
THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff  vs.  <u>Carthell N. bbelin</u> Defendant (First, Middle, Last Name)		<u>2020CF434</u> Case Number

The Defendant has appeared before this Court and has been adjudicated guilty (either by plea or after trial) of the offense(s) specified below. In addition to any other sentence(s) imposed, Defendant is ordered to pay the fine(s), assessment(s), and other amounts listed below, and is awarded the credit(s) authorized below.

A. FINE(S) [705 ILCS 105/27.3b-1 - minimum fine of \$25 in minor traffic offenses, \$75 in all other cases]

1. Count/Charge: Two/Violation of the IL Sex Offender Registration Act \$ 75<sup>00</sup>
2. Count/Charge: \_\_\_\_\_ \$ \_\_\_\_\_
3. Count/Charge: \_\_\_\_\_ \$ \_\_\_\_\_

B. CREDIT AGAINST FINES [deduction from Defendant's fine(s)]

- Credit for Pre-Sentencing Jail Time Served ( 6 days X \$30.00 per day) (\$ 180<sup>00</sup>)

C. SCHEDULED ASSESSMENT [check one per case - most serious offense]

- Generic Felony - Schedule 1 - \$549 [705 ILCS 135/15-5]
  - Felony Drug Offense - Schedule 3 - \$2,215 [705 ILCS 135/15-15]
  - Felony Sex Offense - Schedule 4 - \$1,314 [705 ILCS 135/15-20]
  - Generic Misdemeanor - Schedule 5 - \$439 [705 ILCS 135/15-25]
  - Misdemeanor Drug Offense - Schedule 7 - \$905 [705 ILCS 135/15-35]
  - Misdemeanor Sex Offense - Schedule 8 - \$1,184 [705 ILCS 135/15-40]
  - Non-Traffic Violation - Schedule 13 - \$100 [705 ILCS 135/15-65]
- \$ 1314<sup>00</sup>

D. CONDITIONAL ASSESSMENT(S) [check all that apply - one per count]

1.  Arson/residential arson/aggravated arson - \$500/conviction [705 ILCS 135/70(1)] \$ \_\_\_\_\_
2.  ~~Child pornography - \$500/conviction [705 ILCS 135/15-70(2)]~~ \$ \_\_\_\_\_
3.  Crime lab drug analysis - \$100 [705 ILCS 135/15-70(3)] \$ \_\_\_\_\_
4.  DNA analysis - \$250/conviction [705 ILCS 135/15-70(4)] \$ \_\_\_\_\_
5.  Drug-related offense, possession/delivery - Street Value [705 ILCS 135/15-70(6)] \$ \_\_\_\_\_
6.  Methamphetamine-related offense, poss./manuf. - Street Value [705 ILCS 135/15-70(7)] \$ \_\_\_\_\_
7.  Order of protection violation - \$200/conviction [705 ILCS 135/15-70(8)] \$ \_\_\_\_\_
8.  Order of protection violation - \$25/violation [705 ILCS 135/15-70(9)] \$ \_\_\_\_\_
9.  Dom. violence against family member - \$200 per plea/conv. [705 ILCS 135/15-70(13)] \$ \_\_\_\_\_
10.  EMS response reimbursement (controlled substances) - \$1,000 [705 ILCS 135/15-70(15)] \$ \_\_\_\_\_
11.  EMS reimb. (reck. driv./agg. reck. driv./agg. speeding) - \$1,000 max. [705 ILCS 135/15-70(16)] \$ \_\_\_\_\_
12.  Sex trafficking/solicitation of sex act/prostitution - \$350.00 [705 ILCS 135/15-70(17)] \$ \_\_\_\_\_
13.  Weapons violation (Trauma Center Fund) - \$100/conviction [705 ILCS 135/15-70(18)] \$ \_\_\_\_\_

E. OTHER AMOUNTS DUE

- 1.  Restitution [see restitution addendum, if any, for details about payee(s) and amount(s)] \$ \_\_\_\_\_
- 2.  Public Defender assessment \$ \_\_\_\_\_
- 3.  Probation/Community Service Work fee (24 months X \$25.00/month) \$ 600.00
- 4.  Other: \_\_\_\_\_ \$ \_\_\_\_\_
- 5.  Other: \_\_\_\_\_ \$ \_\_\_\_\_

F. OTHER PROVISIONS

- 1. In addition to the fine(s), assessment(s), and other amounts due as specified above, Defendant also shall be responsible for all other fees or costs associated with this cause that are incurred and/or recorded by the Circuit Clerk, including any and all of the following: notice fee(s), bond fee(s), failure-to-appear fee(s), Sheriff's fee(s), and/or booking fee(s) that have been or may be levied by the Circuit Clerk through the date of this Order.
- 2. Within 30 days of the date of entry of this Order, the Circuit Clerk shall compute the amounts due under this Order and prepare and transmit to Defendant a written notice of Defendant's total financial obligations in this cause, including the additional fees or costs referenced in the prior paragraph.
- 3. The Circuit Clerk shall apply all bond (less the 10% bond fee) to Defendant's financial obligations under this Order.
- 4. If Defendant is ordered to pay restitution, then, unless otherwise ordered by the Court, the Circuit Clerk shall apply all bond and payments first to restitution before any fines, assessments, or other amounts due under this Order.

G. PAYMENT DEADLINES

Defendant shall pay the amounts due under this Financial Sentencing Order by no later than 1/31/2023 to the Circuit Clerk's office.

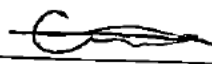
If ordered to pay *restitution*, then Defendant shall pay to the Circuit Clerk's office by no later than \_\_\_\_\_ that *restitution* portion of Defendant's total financial obligation under this Order.

ACKNOWLEDGEMENT BY DEFENDANT

I am the Defendant in the case identified above. I have read fully the terms of this Financial Sentencing Order. If I am represented by an attorney, then I have had the opportunity to discuss the contents of this Order with my counsel.

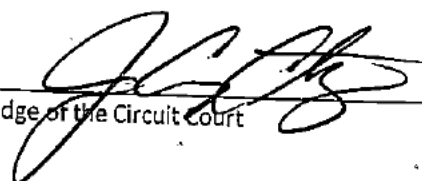
*If the date of the offense(s) on which I have been adjudicated guilty occurred prior to July 1, 2019, then I acknowledge that I may have the right to elect to be sentenced under the applicable law in effect at the time of the offense. If it is my wish to be sentenced under the former law, then I understand that I must inform the sentencing judge of that request at the time of my sentencing. If I do not ask the judge at the time of my sentencing to sentence me under the former law in effect at the time of the offense, then I acknowledge that the Court will apply the law in effect at the time of my sentencing.*

I acknowledge that I have been informed that I may have the right to petition the Court to request a waiver of some or all of the assessment(s) imposed by this Financial Sentencing Order. If I wish to request a full or partial waiver of assessments, then I understand that I must file my waiver application with the Circuit Clerk within 30 days of the date of entry of this Financial Sentencing Order. I understand that I may obtain the waiver application form from the Circuit Clerk's office.

  
\_\_\_\_\_  
Defendant's Signature

APPROVAL BY COURT

Entered: 1/31/2022

  
\_\_\_\_\_  
Judge of the Circuit Court

FILED

1/31/2022 4:45 PM

STATE OF ILLINOIS  
 IN THE CIRCUIT OF THE ELEVENTH JUDICIAL CIRCUIT  
 COUNTY OF MCLEAN

DONALD R. EVERHART, JR.  
 CLERK OF THE CIRCUIT COURT  
 MCLEAN COUNTY, ILLINOIS

NIBBELIN, CARTHELL EUGENE

Case No. 2020CF000434

( Party's Name )

**NOTICE TO PARTY**

YOU ARE HEREBY NOTIFIED that the following fine and court costs have been assessed against you in connection with this case:

			<u>Assessed</u>		<u>Paid</u>	
011	CIRCUIT CLERK BOND FEE	\$	200.00	\$	.00	725 ILCS 5/110-7
086	VIOLENT CRIME VICTIM FUND	\$	100.00	\$	.00	705 ILCS 135/15 725 ILCS 240/10 PA 97-816
120	COURT AUTOMATION	\$	20.00	\$	.00	705 ILCS 135/15 705 ILCS 105/27.3a
CAC	CHILDREN'S ADVOCACY CENTER FEE	\$	10.00	\$	.00	55 ILCS 5/5-1101(f-5)
COAF	CIRCUIT COURT CLERK OPERATIONS & ADMIN FUND	\$	5.00	\$	.00	705 ILCS 135/10-5(d)(3)
DSF	DOCUMENT STORAGE FEE	\$	20.00	\$	.00	705 ILCS 105/27.3c
DVSF	DOMESTIC VIOLENCE SHELTER & SERVICES FUND	\$	100.00	\$	.00	705 ILCS 135/15
MCF	MEDICAL COSTS FUND	\$	20.00	\$	.00	730 ILCS 125/17
MCGF	MCLEAN COUNTY GENERAL FUND	\$	255.00	\$	.00	705 ILCS 135/15
MCL	MCLEAN COUNTY	\$	.00	\$	.00	730 ILCS 5/5-9-1
PDRA	PUBLIC DEFENDER RECORDS AUTOMATION FUND	\$	2.00	\$	.00	705 ILCS 135/10-5(d)(5)
PROP	PROBATION & COURT SERVICES OPERATION	\$	20.00	\$	.00	705 ILCS 105/27.3a (1.1) PA 97-0761 AO 2012-13
SARA	STATES ATTORNEY RECORDS AUTOMATION FEE	\$	2.00	\$	.00	55 ILCS 5/4-2002(a)
SASF	SEXUAL ASSAULT SERVICES FUND	\$	200.00	\$	.00	705 ILCS 135/10-5(d)(13)
SPAF	STATE POLICE OP ASSISTANCE FEE	\$	520.00	\$	.00	705 ILCS 105/27.3a
SPMB	STATE POLICE MERIT BOARD PUBLIC SAFETY FUND	\$	5.00	\$	.00	705 ILCS 135/15
SRCH	CONVICTION SURCHARGE FUND	\$	35.00	\$	.00	705 ILCS 135/15

Probation fees assessed in 17CF402

TOTAL AMOUNT DUE	\$	1,514.00
Past Due Probation	\$	.00
Less Bond Posted	\$	2,000.00
NET DUE/REFUND	\$	( 486.00 )
Remaining Probation Fee ( 016)	\$	.00 ( \$ _____ X _____ mos. )
<b>GRAND TOTAL</b>	\$	<b>( 486.00 )</b>

YOU HAVE BEEN ORDERED BY THE PRESIDING JUDGE TO **PAY THE FINE AND COSTS IN FULL BY 01/31/2023.**

McLEAN COUNTY  
FILED  
SEP 29 2023  
CIRCUIT CLERK

IN THE CIRCUIT COURT OF McLean County, IL  
ELEVENTH JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS }  
 }  
 Vs. }  
 }  
 CARTHELL NIBBELIN }  
 Defendant }

Date of Sentence 09/29/2023  
Date of Birth 09/17/1981  
(Defendant)

**JUDGMENT – SENTENCE TO ILLINOIS DEPARTMENT OF CORRECTIONS**

WHEREAS the above-named defendant has been adjudged guilty of the offenses enumerated below; IT IS THEREFORE ORDERED that the defendant be and hereby is sentenced to confinement in the Illinois Department of Corrections for the term of years and months specified for each offense.

COUNT	OFFENSE	DATE OF OFFENSE	STATUTORY CITATION	CLASS	SENTENCE	MSR
<u>2</u>	<u>Violation of SORA</u>	<u>5/26/2020</u>	<u>730 ILCS 150/3(a)</u>	<u>2</u>	<u>3</u> Yrs. <u>3</u> Mos. <u>1</u> Yrs. <u>1</u> Mos.	Per PRB, MSR up to 12 Mos.
To run (concurrent with) (consecutively to) count(s) _____ and served at <u>50%</u> _____, _____, _____% pursuant to 730 ILCS 5/3-6-3 _____						
To run (concurrent with) (consecutively to) count(s) _____ and served at 50%, 75%, 85%, 100% pursuant to 730 ILCS 5/3-6-3 _____ Per PRB, MSR up to 12 Mos.						
To run (concurrent with) (consecutively to) count(s) _____ and served at 50%, 75%, 85%, 100% pursuant to 730 ILCS 5/3-6-3 _____ Per PRB, MSR up to 12 Mos.						

**This Court finds that the defendant is:**

- Convicted of a Class \_\_\_\_\_ offense but sentenced as a Class X offender pursuant to 730 ILCS 5/5-4.5-95.
- Convicted of a Class 3 or 4 offense (other than a violent crime as defined in Section 3 of the Rights of Crime Victims & Witnesses Act) 4 or more months remaining \_\_\_\_\_ fewer than 4 months remaining 730 ILCS 5/5-4-1(c-7) (effective 7/1/21 P.A. 101-652)
- The Court further finds that the defendant is entitled to receive credit for time actually served in custody (of 8 days as of the date of this order) from (specify dates) 5/26/20-5/31/20 and 8/31/22-9/1/22 and/or credit for time served on electronic monitoring, GPS monitoring, or home confinement (of \_\_\_\_\_ days as of the date of this order) from (specify dates) \_\_\_\_\_. The defendant is also entitled to receive credit for the additional time served in custody from the date of this order until the defendant is received at the Illinois Department of Corrections.
- The Court further finds that the conduct leading to conviction for the offenses enumerated in counts \_\_\_\_\_ resulted in great bodily harm to the victim. (730 ILCS 5/3-6-3(a)(2)(iii))
- The Court further finds that the defendant meets the eligibility requirements for possible placement in the **Impact Incarceration Program**. (730 ILCS 5/5-4-1(a))
- The Court further finds that offense was committed as a result of the use of, abuse of, or addiction to alcohol or a controlled substance and recommends the defendant for placement in a substance abuse program. (730 ILCS 5/5-4-1(a))
- The defendant successfully completed a full-time (50-day or longer) Pre-Trial Program \_\_\_\_\_ Educational/Vocational \_\_\_\_\_ Substance Abuse \_\_\_\_\_ Behavior Modification \_\_\_\_\_ Life Skills \_\_\_\_\_ Re-Entry Planning – provided by the county jail while held in pre-trial detention prior to this commitment and if eligible for sentence credit in accordance with 730 ILCS 5/3-6-3(a)(4). THEREFORE IT IS ORDERED that the defendant shall be awarded one day of sentence credit for each day in which the Defendant is engaged in the activities, \_\_\_\_\_ days, if not previously awarded. (effective 7/1/21 P.A. 101-652)
- The defendant passed the high school level test for General Education and Development (GED) on \_\_\_\_\_ while held in pre-trial detention prior to this commitment and is eligible to receive Pre-Trial GED Program Credit in accordance with 730 ILCS 5/3-6-3(a)(4.1). THEREFORE IT IS ORDERED that the defendant shall be awarded 90 days of additional sentence credit, if not previously awarded.
- The Court further finds that the Defendant served \_\_\_\_\_ days engaged in a self-improvement program, volunteer work, or work assignments, and shall receive 0.5 days of sentence credit for each day the Defendant was engaged in activities for a total of \_\_\_\_\_. (730 ILCS 5/3-6-3(a)(4.2)
- The Court further finds that the Defendant has been advised of and given a copy of the financial obligations and statutory fines, fees and assessments pursuant to SCR 452.
- IT IS FURTHER ORDERED the sentence(s) imposed on count(s) 2 be (concurrent with) ~~(concurrent with)~~ the sentence imposed in case number 2017-CF-103 and 21-CF-859 in the Circuit Court of McLean County.

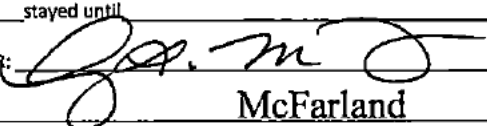
IT IS FURTHER ORDERED that \_\_\_\_\_

The Clerk of the Court shall deliver a certified copy of this order to the sheriff. The Sheriff shall take the defendant into custody and deliver the defendant to the Department of Corrections which shall confine said defendant until expiration of this sentence or until otherwise released by operation of law.

This order is (  effective immediately ) ( \_\_\_\_\_ stayed until \_\_\_\_\_ ).

DATE: 9/29/2023

ENTER: \_\_\_\_\_

  
**McFarland**  
(PLEASE PRINT JUDGE'S NAME HERE)

Original – Court      Green – Defendant      Canary – IDOC      Pink – State's Attorney      Goldenrod – Defendant's Attorney  
Approved by Conference of Chief Judges March 2022

**FILED**  
**OCT 10 2023**  
**CIRCUIT CLERK**

McLEAN COUNTY

Amended  
 STATE OF ILLINOIS  
 IN THE CIRCUIT OF THE ELEVENTH JUDICIAL CIRCUIT  
 COUNTY OF MCLEAN

NIBBELIN, CARHELL EUGENE

Case No. 2020CF000434

( Party's Name )

**NOTICE TO PARTY**

YOU ARE HEREBY NOTIFIED that the following fine and court costs have been assessed against you in connection with this case:

			<u>Assessed</u>		<u>Paid</u>	
011	CIRCUIT CLERK BOND FEE	\$	200.00	\$	200.00	725 ILCS 5/110-7
086	VIOLENT CRIME VICTIM FUND	\$	100.00	\$	100.00	705 ILCS 135/15 725 ILCS 240/10 PA 97-816
120	COURT AUTOMATION	\$	20.00	\$	20.00	705 ILCS 135/15 705 ILCS 105/27.3a
CAC	CHILDREN'S ADVOCACY CENTER FEE	\$	10.00	\$	10.00	55 ILCS 5/5-1101(f-5)
COAF	CIRCUIT COURT CLERK OPERATIONS & ADMIN FUND	\$	5.00	\$	5.00	705 ILCS 135/10-5(d)(3)
DSF	DOCUMENT STORAGE FEE	\$	20.00	\$	20.00	705 ILCS 105/27.3c
DVSF	DOMESTIC VIOLENCE SHELTER & SERVICES FUND	\$	100.00	\$	100.00	705 ILCS 135/15
JBF	JAIL PR BOND FEE	\$	35.00	\$	.00	55 ILCS 5/4-5001
MCF	MEDICAL COSTS FUND	\$	20.00	\$	20.00	730 ILCS 125/17
MCGF	MCLEAN COUNTY GENERAL FUND	\$	255.00	\$	255.00	705 ILCS 135/15
MCL	MCLEAN COUNTY	\$	.00	\$	.00	730 ILCS 5/5-9-1
PDRA	PUBLIC DEFENDER RECORDS AUTOMATION FUND	\$	2.00	\$	2.00	705 ILCS 135/10-5(d)(5)
PROP	PROBATION & COURT SERVICES OPERATION	\$	20.00	\$	20.00	705 ILCS 105/27.3a (1.1) PA 97-0761 AO 2012-13
PRT	PROBATION TESTING FEE	\$	56.00	\$	.00	730 ILCS 5/5-6-3.1 (g)
SARA	STATES ATTORNEY RECORDS AUTOMATION FEE	\$	2.00	\$	2.00	55 ILCS 5/4-2002(a)
SASF	SEXUAL ASSAULT SERVICES FUND	\$	200.00	\$	200.00	705 ILCS 135/10-5(d)(13)
SPAF	STATE POLICE OP ASSISTANCE FEE	\$	520.00	\$	520.00	705 ILCS 105/27.3a
SPMB	STATE POLICE MERIT BOARD PUBLIC SAFETY FUND	\$	5.00	\$	5.00	705 ILCS 135/15
SRCH	CONVICTION SURCHARGE FUND	\$	35.00	\$	35.00	705 ILCS 135/15

TOTAL AMOUNT DUE	\$	91.00
Past Due Probation	\$	.00
Less Bond Posted	\$	.00
NET DUE/REFUND	\$	91.00
Remaining Probation Fee ( 016)	\$	.00 (\$ _____ X _____ mos. )
<b>GRAND TOTAL</b>	\$	<b>91.00</b>

YOU HAVE BEEN ORDERED BY THE PRESIDING JUDGE TO PAY THE FINE AND COSTS IN FULL BY \_\_\_\_\_.

FAILURE TO PAY SAID AMOUNT MAY RESULT IN A FORFEITURE, A WARRANT BEING ISSUED FOR YOUR ARREST, OR REFERRAL TO A COLLECTION AGENCY. IN ADDITION, FAILURE TO PAY A TRAFFIC CASE COULD RESULT IN A REVOCATION OF COURT SUPERVISION AND A CONVICTION BEING SUBMITTED TO THE SECRETARY OF STATE'S OFFICE.

IF YOU ARE TAKING TRAFFIC SAFETY SCHOOL, YOU WILL NOT BE ENROLLED IN A CLASS UNTIL THE TRAFFIC SAFETY SCHOOL FEE IS PAID. YOU MUST ATTEND THE TRAFFIC SAFETY SCHOOL CLASS AT LEAST 30 DAYS PRIOR TO THE TERMINATION DATE OF YOUR COURT SUPERVISION. NOTE: THIS MAY REQUIRE THE TRAFFIC SAFETY SCHOOL FEE TO BE PAID BEFORE THE DUE DATE ON THIS NOTICE.

Mailing address : Circuit Clerk of McLean County , P.O. BOX 2400 , BLOOMINGTON , IL , 61702-2400  
Street address: 104 W Front St., Bloomington, IL, 61701, if receipt of payment is needed, please enclose self addressed stamped envelope.

Credit card payments can be made online at [www.McLeanCountyIL.gov/casepayment](http://www.McLeanCountyIL.gov/casepayment).  
Please do not send cash through the mail.

I acknowledge Receipt of this Notice:

\_\_\_\_\_  
Date Signature

\_\_\_\_\_  
Mailing Address Apt. City State Zip

CERTIFICATE OF MAILING

I, the undersigned, certify that I did on 10/10/2023 deposit a copy of this Notice to Party, in the United States Mail, in a sealed envelope with postage prepaid, addressed to: Defendant

C/O Mclean County Jail

Carthell Nibbelin

CIRCUIT CLERK OF MCLEAN COUNTY

By: AL

Deputy

IN THE CIRCUIT COURT OF McLean County, IL  
ELEVENTH JUDICIAL CIRCUIT

**FILED**  
SEP 29 2023  
CIRCUIT CLERK

COUNTY

PEOPLE OF THE STATE OF ILLINOIS )  
 )  
 Vs. )  
 )  
 CARTHELL NIBBELIN )  
 Defendant )

Case No. 21-CF-850

Date of Sentence 09/29/2023  
Date of Birth 09/17/1981  
(Defendant)

**JUDGMENT – SENTENCE TO ILLINOIS DEPARTMENT OF CORRECTIONS**

WHEREAS the above-named defendant has been adjudged guilty of the offenses enumerated below; IT IS THEREFORE ORDERED that the defendant be and hereby is sentenced to confinement in the Illinois Department of Corrections for the term of years and months specified for each offense.

COUNT	OFFENSE	DATE OF OFFENSE	STATUTORY CITATION	CLASS	SENTENCE	MSR
<u>1</u>	<u>Violation of SORA</u>	<u>8/13-17/21</u>	<u>730 ILCS 150/6</u>	<u>2</u>	<u>3</u> Yrs. <u>0</u> Mos.	<u>1</u> Yrs. <u>0</u> Mos.
To run (concurrent with) (consecutively to) count(s) _____ and served at <u>50%</u> pursuant to 730 ILCS 5/3-6-3 Per PRB, MSR up to 12 Mos.						
To run (concurrent with) (consecutively to) count(s) _____ and served at 50%, 75%, 85%, 100% pursuant to 730 ILCS 5/3-6-3 Per PRB, MSR up to 12 Mos.						
To run (concurrent with) (consecutively to) count(s) _____ and served at 50%, 75%, 85%, 100% pursuant to 730 ILCS 5/3-6-3 Per PRB, MSR up to 12 Mos.						

**This Court finds that the defendant is:**

- \_\_\_\_\_ Convicted of a Class \_\_\_\_\_ offense but sentenced as a Class X offender pursuant to 730 ILCS 5/5-4.5-95.
- \_\_\_\_\_ Convicted of a Class 3 or 4 offense (other than a violent crime as defined in Section 3 of the Rights of Crime Victims & Witnesses Act) 4 or more months remaining \_\_\_\_\_ fewer than 4 months remaining 730 ILCS 5/5-4-1(c-7) (effective 7/1/21 P.A. 101-652)
- The Court further finds that the defendant is entitled to receive credit for time actually served in custody (of 2 days as of the date of this order) from (specify dates) 8/18/2021-8/19/2021 and/or credit for time served on electronic monitoring, GPS monitoring, or home confinement (of \_\_\_\_\_ days as of the date of this order) from (specify dates) \_\_\_\_\_. The defendant is also entitled to receive credit for the additional time served in custody from the date of this order until the defendant is received at the Illinois Department of Corrections.
- \_\_\_\_\_ The Court further finds that the conduct leading to conviction for the offenses enumerated in counts \_\_\_\_\_ resulted in great bodily harm to the victim. (730 ILCS 5/3-6-3(a)(2)(iii))
- \_\_\_\_\_ The Court further finds that the defendant meets the eligibility requirements for possible placement in the Impact Incarceration Program. (730 ILCS 5/5-4-1(a))
- \_\_\_\_\_ The Court further finds that offense was committed as a result of the use of, abuse of, or addiction to alcohol or a controlled substance and recommends the defendant for placement in a substance abuse program. (730 ILCS 5/5-4-1(a))
- \_\_\_\_\_ The defendant successfully completed a full-time (60-day or longer) Pre-Trial Program \_\_\_\_\_ Educational/Vocational \_\_\_\_\_ Substance Abuse \_\_\_\_\_ Behavior Modification \_\_\_\_\_ Life Skills \_\_\_\_\_ Re-Entry Planning – provided by the county jail while held in pre-trial detention prior to this commitment and if eligible for sentence credit in accordance with 730 ILCS 5/3-6-3(a)(4). THEREFORE IT IS ORDERED that the defendant shall be awarded one day of sentence credit for each day in which the Defendant is engaged in the activities, \_\_\_\_\_ days, if not previously awarded. (effective 7/1/21 P.A. 101-652)
- \_\_\_\_\_ The defendant passed the high school level test for General Education and Development (GED) on \_\_\_\_\_ while held in pre-trial detention prior to this commitment and is eligible to receive Pre-Trial GED Program Credit in accordance with 730 ILCS 5/3-6-3(a)(4.1). THEREFORE IT IS ORDERED that the defendant shall be awarded 90 days of additional sentence credit, if not previously awarded.
- \_\_\_\_\_ The Court further finds that the Defendant served \_\_\_\_\_ days engaged in a self-improvement program, volunteer work, or work assignments, and shall receive 0.5 days of sentence credit for each day the Defendant was engaged in activities for a total of \_\_\_\_\_. (730 ILCS 5/3-6-3(a)(4.2)
- \_\_\_\_\_ The Court further finds that the Defendant has been advised of and given a copy of the financial obligations and statutory fines, fees and assessments pursuant to SCR 452.

IT IS FURTHER ORDERED the sentence(s) imposed on count(s) 1 be (concurrent with) ~~(XXXXXX)~~ the sentence imposed in case number 2017-CF-402 and 20-CF-434 in the Circuit Court of McLean County.

IT IS FURTHER ORDERED that \_\_\_\_\_  
The Clerk of the Court shall deliver a certified copy of this order to the sheriff. The Sheriff shall take the defendant into custody and deliver the defendant to the Department of Corrections which shall confine said defendant until expiration of this sentence or until otherwise released by operation of law.

This order is ( effective immediately) (\_\_\_\_\_ stayed until \_\_\_\_\_).

DATE: 9/29/2023 ENTER:   
McFarland  
(PLEASE PRINT JUDGE'S NAME HERE)

Original – Court      Green – Defendant      Canary – IDOC      Pink – State’s Attorney      Goldenrod – Defendant’s Attorney  
Approved by Conference of Chief Judges March 2022

<b>STATE OF ILLINOIS, CIRCUIT COURT OF MCLEAN COUNTY</b>	<b>FINANCIAL SENTENCING ORDER - CRIMINAL</b>	FOR COURT USE ONLY  <div style="display: flex; justify-content: space-between;"> <span style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>MCLEAN</b></span> <span style="font-size: 2em; font-weight: bold;">FILED</span> <span style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>COUNTY</b></span> </div> <p style="text-align: center; font-weight: bold;">SEP 29 2023</p> <p style="text-align: center; font-weight: bold;">CIRCUIT CLERK</p>
<p><b>THE PEOPLE OF THE STATE OF ILLINOIS,</b> Plaintiff</p> <p style="text-align: center;">vs.</p> <p style="text-align: center;"><u>Carthell Nibbelin</u></p> <p style="text-align: center;">Defendant (First, Middle, Last Name)</p>		<p style="font-size: 1.5em; font-weight: bold;">21-CF-850</p> <hr/> <p style="text-align: center;">Case Number</p>

The Defendant has appeared before this Court and has been adjudicated guilty (either by plea or after trial) of the offense(s) specified below. In addition to any other sentence(s) imposed, Defendant is ordered to pay the fine(s), assessment(s), and other amounts listed below, and is awarded the credit(s) authorized below.

**A. FINE(S) [705 ILCS 105/27.3b-1 – minimum fine of \$25 in minor traffic offenses, \$75 in all other cases]**

1. Count/Charge: 1: Violation of SORA \$ 75
2. Count/Charge: \_\_\_\_\_ \$ \_\_\_\_\_
3. Count/Charge: \_\_\_\_\_ \$ \_\_\_\_\_

**B. CREDIT AGAINST FINES [deduction from Defendant's fine(s)]**

- Credit for Pre-Sentencing Jail Time Served ( 2 days X \$30.00 per day ) (\$ 60 )

**C. SCHEDULED ASSESSMENT [check one per case – most serious offense]**

- Generic Felony – Schedule 1 – \$549 [705 ILCS 135/15-5]
- Felony Drug Offense – Schedule 3 – \$2,215 [705 ILCS 135/15-15]
- Felony Sex Offense – Schedule 4 – \$1,314 [705 ILCS 135/15-20]
- Generic Misdemeanor – Schedule 5 – \$439 [705 ILCS 135/15-25]
- Misdemeanor Drug Offense – Schedule 7 – \$905 [705 ILCS 135/15-35]
- Misdemeanor Sex Offense – Schedule 8 – \$1,184 [705 ILCS 135/15-40]
- Non-Traffic Violation – Schedule 13 – \$100 [705 ILCS 135/15-65] \$ 549

**D. CONDITIONAL ASSESSMENT(S) [check all that apply – one per count]**

1.  Arson/residential arson/aggravated arson – \$500/conviction [705 ILCS 135/70(1)] \$ \_\_\_\_\_
2.  Child pornography – \$500/conviction [705 ILCS 135/15-70(2)] \$ \_\_\_\_\_
3.  Crime lab drug analysis – \$100 [705 ILCS 135/15-70(3)] \$ \_\_\_\_\_
4.  DNA analysis – \$250/conviction [705 ILCS 135/15-70(4)] \$ \_\_\_\_\_
5.  Drug-related offense, possession/delivery – Street Value [705 ILCS 135/15-70(6)] \$ \_\_\_\_\_
6.  Methamphetamine-related offense, poss./manuf. – Street Value [705 ILCS 135/15-70(7)] \$ \_\_\_\_\_
7.  Order of protection violation – \$200/conviction [705 ILCS 135/15-70(8)] \$ \_\_\_\_\_
8.  Order of protection violation – \$25/violation [705 ILCS 135/15-70(9)] \$ \_\_\_\_\_
9.  Dom. violence against family member – \$200 per plea/conv. [705 ILCS 135/15-70(13)] \$ \_\_\_\_\_
10.  EMS response reimbursement (controlled substances) – \$1,000 [705 ILCS 135/15-70(15)] \$ \_\_\_\_\_
11.  EMS reimb. (reck. driv./agg. reck. driv./agg. speeding) – \$1,000 max. [705 ILCS 135/15-70(16)] \$ \_\_\_\_\_
12.  Sex trafficking/solicitation of sex act/prostitution - \$350.00 [705 ILCS 135/15-70(17)] \$ \_\_\_\_\_
13.  Weapons violation (Trauma Center Fund) – \$100/conviction [705 ILCS 135/15-70(18)] \$ \_\_\_\_\_

**E. OTHER AMOUNTS DUE**

- 1.  Restitution [see restitution addendum, if any, for details about payee(s) and amount(s)] \$ \_\_\_\_\_
- 2.  Public Defender assessment \$ \_\_\_\_\_
- 3.  Probation/Community Service Work fee (\_\_\_\_\_ months X \$25.00/month) \$ \_\_\_\_\_
- 4.  Other: \_\_\_\_\_ \$ \_\_\_\_\_
- 5.  Other: \_\_\_\_\_ \$ \_\_\_\_\_

**F. OTHER PROVISIONS**

- 1. In addition to the fine(s), assessment(s), and other amounts due as specified above, Defendant also shall be responsible for all other fees or costs associated with this cause that are incurred and/or recorded by the Circuit Clerk, including any and all of the following: notice fee(s), bond fee(s), failure-to-appear fee(s), Sheriff's fee(s), and/or booking fee(s) that have been or may be levied by the Circuit Clerk through the date of this Order.
- 2. Within 30 days of the date of entry of this Order, the Circuit Clerk shall compute the amounts due under this Order and prepare and transmit to Defendant a written notice of Defendant's total financial obligations in this cause, including the additional fees or costs referenced in the prior paragraph.
- 3. The Circuit Clerk shall apply all bond (less the 10% bond fee) to Defendant's financial obligations under this Order.
- 4. If Defendant is ordered to pay restitution, then, unless otherwise ordered by the Court, the Circuit Clerk shall apply all bond and payments first to restitution before any fines, assessments, or other amounts due under this Order.

**G. PAYMENT DEADLINES**

Defendant shall pay the amounts due under this Financial Sentencing Order by no later than 2 years after release from IDOC to the Circuit Clerk's office.


If ordered to pay *restitution*, then Defendant shall pay to the Circuit Clerk's office by no later than \_\_\_\_\_ that *restitution* portion of Defendant's total financial obligation under this Order.

**ACKNOWLEDGEMENT BY DEFENDANT**

I am the Defendant in the case identified above. I have read fully the terms of this Financial Sentencing Order. If I am represented by an attorney, then I have had the opportunity to discuss the contents of this Order with my counsel.

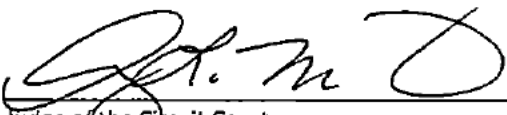
*If the date of the offense(s) on which I have been adjudicated guilty occurred prior to July 1, 2019, then I acknowledge that I may have the right to elect to be sentenced under the applicable law in effect at the time of the offense. If it is my wish to be sentenced under the former law, then I understand that I must inform the sentencing judge of that request at the time of my sentencing. If I do not ask the judge at the time of my sentencing to sentence me under the former law in effect at the time of the offense, then I acknowledge that the Court will apply the law in effect at the time of my sentencing.*

I acknowledge that I have been informed that I may have the right to petition the Court to request a waiver of some or all of the assessment(s) imposed by this Financial Sentencing Order. If I wish to request a full or partial waiver of assessments, then I understand that I must file my waiver application with the Circuit Clerk within 30 days of the date of entry of this Financial Sentencing Order. I understand that I may obtain the waiver application form from the Circuit Clerk's office.

  
\_\_\_\_\_  
Defendant's Signature

**APPROVAL BY COURT**

Entered: 9/29/2023

  
\_\_\_\_\_  
Judge of the Circuit Court

**FILED**  
**SEP 29 2023**  
**CIRCUIT CLERK**

**MCLEAN**  
**COUNTY**

STATE OF ILLINOIS  
 IN THE CIRCUIT OF THE ELEVENTH JUDICIAL CIRCUIT  
 COUNTY OF MCLEAN

NIBBELIN, CARTHELL EUGENE

Case No. 2021CF000850

( Party's Name )

**NOTICE TO PARTY**

YOU ARE HEREBY NOTIFIED that the following fine and court costs have been assessed against you in connection with this case:

			<u>Assessed</u>		<u>Paid</u>	
086	VIOLENT CRIME VICTIM FUND	\$	100.00	\$	.00	705 ILCS 135/15 725 ILCS 240/10 PA 97-816
120	COURT AUTOMATION	\$	20.00	\$	.00	705 ILCS 135/15 705 ILCS 105/27.3a
CAC	CHILDREN'S ADVOCACY CENTER FEE	\$	10.00	\$	.00	55 ILCS 5/5-1101(f-5)
COAF	CIRCUIT COURT CLERK OPERATIONS & ADMIN FUND	\$	5.00	\$	.00	705 ILCS 135/10-5(d)(3)
DSF	DOCUMENT STORAGE FEE	\$	20.00	\$	.00	705 ILCS 105/27.3c
JBF	JAIL PR BOND FEE	\$	35.00	\$	.00	55 ILCS 5/4-5001
MCF	MEDICAL COSTS FUND	\$	20.00	\$	.00	730 ILCS 125/17
MCGF	MCLEAN COUNTY GENERAL FUND	\$	255.00	\$	.00	705 ILCS 135/15
MCL	MCLEAN COUNTY	\$	15.00	\$(*-\$60.00 JTC)	.00	730 ILCS 5/5-9-1
PDRA	PUBLIC DEFENDER RECORDS AUTOMATION FUND	\$	2.00	\$	.00	705 ILCS 135/10-5(d)(5)
PROP	PROBATION & COURT SERVICES OPERATION	\$	20.00	\$	.00	705 ILCS 105/27.3a (1.1) PA 97-0761 AO 2012-13
SARA	STATES ATTORNEY RECORDS AUTOMATION FEE	\$	2.00	\$	.00	55 ILCS 5/4-2002(a)
SPAF	STATE POLICE OP ASSISTANCE FEE	\$	50.00	\$	.00	705 ILCS 105/27.3a
SPMB	STATE POLICE MERIT BOARD PUBLIC SAFETY FUND	\$	10.00	\$	.00	705 ILCS 135/15
SRCH	CONVICTION SURCHARGE FUND	\$	35.00	\$	.00	705 ILCS 135/15

TOTAL AMOUNT DUE	\$	599.00
Past Due Probation	\$	.00
Less Bond Posted	\$	.00
NET DUE/REFUND	\$	599.00
Remaining Probation Fee ( 016)	\$	.00 (\$ _____ X _____ mos. )
<b>GRAND TOTAL</b>	<b>\$</b>	<b>599.00</b>

YOU HAVE BEEN ORDERED BY THE PRESIDING JUDGE TO **PAY THE FINE AND COSTS IN FULL BY 02/27/2032.**



or more, but less than 100 grams of methamphetamine (720 ILCS 646/60(b)(3) (West 2022)). The trial court then appointed the public defender to represent defendant.

Defendant agreed to a stipulated bench trial in exchange for the State's agreement to drop the possession-with-intent-to-deliver charge. The trial court found defendant guilty of the remaining charge. In April 2024, it held a sentencing hearing *in absentia* after defendant failed to appear at the scheduled time. It sentenced him to 12 years' imprisonment, a fine of \$15,000, and \$3,031 in fees and assessments. After application of defendant's bond and credits, there was a balance of \$2,401. Defense counsel did not move to reconsider the sentence. Further, counsel failed to file an application for waiver of assessments under Rule 404 or a certificate under Rule 404(e).

Defendant was arrested in June 2024. We gave him leave to file a late notice of appeal and this appeal followed.

Rule 404(e) provides: "In any case where a defendant is represented by a public defender, \*\*\* the attorney representing that defendant shall file a certification with the court, and that defendant shall be entitled to a waiver of assessments as defined in 725 ILCS 5/124A-20(a) without necessity of an Application under this rule." Ill. S. Ct. R 404(e) (eff. Sept. 1, 2023). Given the use of "shall" in the rule, we would be inclined to conclude defendant's public defender violated the rule by failing to file a certificate. See *People v. Ousley*, 235 Ill. 2d 299, 311 (2009) (noting, when the issue is whether a provision is mandatory or permissive, use of "shall" usually indicates a mandate).

To show counsel was ineffective, a defendant must show (1) counsel's representation fell below an objective standard of reasonableness (*Strickland v. Washington*, 466 U.S. 668, 688) (1984)), and (2) defendant was prejudiced by the unreasonable representation—

that is “that the decision reached would reasonably likely have been different absent the errors.”  
*Id.* at 696.

Here, it was unreasonable for counsel not to file a Rule 404(e) certificate as the rule mandates counsel to file the required certificate. Moreover, had counsel filed such a certificate, given the language of the rule, we expect the trial court would have waived the fees and assessments. Thus, defendant was prejudiced because where defendant was represented by the public defender “defendant shall be entitled to a waiver of assessments” as defined in 725 ILCS 5/124A-20(a). Ill. S. Ct. R. 404(e) (eff. Sept. 1, 2023).

For the reasons stated, consistent with Illinois Supreme Court Rule 23(c)(2) (eff. Feb. 1, 2023), we remand the cause for defense counsel to file a Rule 404(e) certificate and for the trial court to order a recalculation of assessments due, if any, consistent with the rule.

Remanded with directions.

**RULE 341(c) CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 28 pages.

/s/ Joshua M. Schneider  
JOSHUA M. SCHNEIDER  
Assistant Attorney General

**CERTIFICATE OF FILING AND SERVICE**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On March 17, 2025, the foregoing **Brief and Appendix of Plaintiff-Appellee People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the Court's electronic filing system, which provided service to the following:

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