

NOTICE

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

2026 IL App (4th) 251099-U

NO. 4-25-1099

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 8, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Winnebago County
CHARLES BIDWELL,	)	No. 23CF581
Defendant-Appellant.	)	
	)	Honorable
	)	Ronald J. White,
	)	Judge Presiding.

JUSTICE GRISCHOW delivered the judgment of the court.
Justices Lannerd and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed the trial court's decision to revoke defendant's probation for failure to report to probation and the imposition of an eight-year prison sentence, finding the trial court did not punish defendant for conduct other than the offense to which he pleaded guilty, the sentence was not excessive, and statements made by defendant at the hearing on his motion to reconsider sentence were insufficient to trigger a preliminary *Krankel* inquiry (see *People v. Krankel*, 102 Ill. 2d 181 (1984)).

¶ 2 Defendant, Charles Bidwell, pleaded guilty to possession of less than five grams of methamphetamine (720 ILCS 646/60(a) (West 2022)) and was sentenced to 12 months' probation. Thereafter, defendant's probation was revoked due to his failure to report on multiple occasions, and he was sentenced to eight years in prison. On appeal, defendant argues (1) the evidence presented regarding his alleged stalking behavior was insufficient to establish that he committed the offense and, thus, violated his probation in that regard; (2) the trial court improperly punished him for conduct other than the offense to which he pleaded guilty; (3) the

eight-year sentence imposed upon him was excessive; and (4) his case must be remanded for a preliminary *Krankel* hearing (see *People v. Krankel*, 102 Ill. 2d 181 (1984)) because, at the hearing on his motion to reconsider sentence, he informed the court that his attorney failed to address issues he believed should have been pursued. For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4

A. The Charges and Plea Agreement

¶ 5

In March 2023, defendant was charged by information with the following: possession of less than five grams of methamphetamine (720 ILCS 646/60(a) (West 2022)) (count I), obstructing identification (720 ILCS 5/31-4.5(a) (West 2022)) (count II), possession of drug paraphernalia (720 ILCS 600/3.5(a) (West 2022)) (count III), unlawful possession of a hypodermic syringe or needle (720 ILCS 635/1 (West 2022)) (count IV), unlawful operation of a bicycle (625 ILCS 5/11-1501 (West 2022)) (count V), and failure to have a lamp at night on his bicycle (*id.* § 11-1507(a)) (count VI). Subsequently, a grand jury returned a true bill of indictment as to the charges in counts I, II, III, and VI of the information.

¶ 6

In October 2023, defendant entered into a plea agreement with the State in which he agreed to plead guilty to possession of less than five grams of methamphetamine and the State agreed to dismiss all other charges. Pursuant to the agreement, defendant would be sentenced as follows: (1) serve 12 months' probation, subject to the standard terms, as well as being prohibited from possessing firearms or dangerous weapons, prohibited from consuming alcohol or drugs unless prescribed, and required to submit to random urinalysis and/or blood or Breathalyzer tests; (2) serve 180 days in the Winnebago County jail, with 160 days stayed and credit for 10 days served; (3) cooperate with any assessment, treatment, education, or counseling as directed by probation; (4) work or pursue a course of study or vocational training, and have no

contact with Menards (due to a prior retail theft conviction); and (5) pay a fine and assessments.

¶ 7 The State provided the following factual basis for defendant's guilty plea. On March 11, 2023, at approximately 11 p.m., Deputy Jon Humphries of the Winnebago County Sheriff's Office observed defendant riding his bicycle on a roadway in Rockford, Illinois. Defendant was wearing dark clothing and did not have any active lamps on his bicycle. Upon making contact with defendant, Deputy Humphries asked him if he had any contraband on his person. Defendant, who identified himself as Charles Allen, stated he had syringes in his pockets. A pat down search of defendant revealed syringes, one of which appeared to be used; a pipe commonly used to smoke crack cocaine that had burnt ends and a "Chore Boy" inside; and a baggy containing a rock-like substance weighing 1.3 grams, which tested positive for methamphetamine. After further investigation, Deputy Humphries learned defendant's true identity.

¶ 8 Defendant was admonished of his rights upon pleading guilty. Finding defendant's plea was made knowingly and voluntarily, the trial court accepted the guilty plea and sentenced defendant according to the terms of the plea agreement. Defendant was released from custody and ordered to report to probation the following morning. Defendant was admonished of his right to appeal.

¶ 9 B. Petition to Vacate Probation

¶ 10 In March 2024, the State filed a petition to vacate defendant's probation, alleging numerous violations. The State alleged defendant committed the offense of aggravated stalking (720 ILCS 5/12-7.4 (West 2022)) against Cassandra Hirth between October 18 and 21, 2023, via social media posts and text messages. The State alleged further defendant's conduct was also in violation of a stalking no contact order involving Hirth, which had been previously entered in

January 2019. Finally, the State alleged defendant violated the terms of his probation by failing to report as ordered for probation orientation on October 17, 2023, and failing to subsequently report on November 13 and December 5, 2023. Defendant was charged with the stalking offenses in Winnebago County case No. 24-CF-28, and because Hirth was a member of the public defender's office when she obtained the order of protection against defendant in 2019, both cases were reassigned to a conflict attorney, Clayton Zamudio. In September 2024, the State filed an amended petition to vacate defendant's probation, removing the allegations regarding the pending stalking charges and retaining only the allegations regarding defendant's failure to report for probation.

¶ 11 At the hearing on the amended petition, the State presented testimony from defendant's probation officer, Cynthia Pond. She stated defendant was placed on probation on October 5, 2023, and reported as required the following day. At that initial meeting, defendant completed the probation report form, which included providing his address, and he was assigned to complete probation orientation on October 17, 2023. Pond stated she was subsequently assigned as defendant's probation officer on October 10 and sent defendant an initial appointment letter to inform him of a mandatory meeting with her on October 27, 2023. Defendant failed to complete probation orientation and failed to attend his October 27 appointment with Pond. As a result, Pond sent defendant a failure to report letter on October 30 and informed defendant of his next appointment on November 13. Defendant did not show on November 13. Pond sent defendant another failure to report letter and informed him of his next appointment on December 5. After defendant again failed to report, Pond sent a final notice to defendant and informed him that he must report on December 22, 2023. Defendant failed to appear on that date as well. Pond testified, in accordance with the terms of probation, defendant

was responsible for providing his address to the clerk of the court and probation, and he was required to notify them of any change of address within 24 hours. Pond stated probation never received any notice of change of address from defendant.

¶ 12 Defendant testified he was under an order of protection entered in 2019, requiring him to stay 300 feet away from Hirth. Defendant stated the reason he did not go to the probation appointments was that he believed he would have been in violation of the order of protection because “[p]ublic transportation is within 300 feet of the court house [sic].” When discussing the relevance of this testimony, the trial court noted for the record that Hirth was not a probation officer, she was a private attorney, she did not have an office in the courthouse, and she was not with the state’s attorney’s office or the public defender’s office. Defendant testified he believed there was a “conflict of interest” and explained:

“I was allowed to be at the court houses [sic]. The public—the Probation Department is within 300 feet, and it’s not the court house [sic]. That is a completely different address.

*** I didn’t go to Probation. I went to—I checked in, and I didn’t go because I didn’t want to violate the order of protection. They can’t make me break the law.”

On cross-examination, defendant stated he did not go to the probation office on October 6, 2023; instead, he had someone from probation bring him the paperwork and turn it in for him. When asked whether he communicated with probation regarding his reason for not reporting, defendant stated, “I made a phone call and told them I didn’t have a conventional job, but I would be reporting. I turned myself in on this.”

¶ 13 The trial court found the State had proved by a preponderance of the evidence

defendant violated his probation. Although he reported on October 6, 2023, he failed to report as required at any time thereafter after being given proper notice. The court found defendant's reason for not reporting incredible and unacceptable. The matter was set for sentencing.

¶ 14

C. Sentencing

¶ 15

The parties appeared for defendant's sentencing hearing on April 25, 2025. Before commencement of the hearing, the trial court conducted a Rule 402 conference (see Ill. S. Ct. R. 402(d) (eff. July 1, 2012)), during which the State recommended a five-year sentence. The court indicated it would agree with that sentence. Defense counsel informed the court defendant would not agree; therefore, the case proceeded to a hearing on defendant's sentence.

¶ 16

The trial judge stated he had reviewed the presentence investigation report (PSI). The PSI restated the charges, factual basis, and guilty plea in this case. Defendant was arrested for aggravated stalking and violation of a stalking no contact order on January 24, 2024, and had been incarcerated in the Winnebago County jail since that time. Defendant's extensive criminal history indicated his last convictions prior to this case were in 2016 for two separate retail theft charges (Class 3 and Class 4 felonies). He also had retail theft convictions in 2014 and 2015 (the latter a Class 4 felony), misdemeanor battery in 2009, unlawful possession of drug paraphernalia in 2010, unlawful restraint (a Class 4 felony) in 2003, and domestic battery convictions in 2007 (a Class 4 felony) and 2004, 2003, 2002, and 1999. Defendant also had convictions for numerous traffic offenses. Defendant's parole or conditional release had been revoked on four other occasions. The PSI indicated that while on parole or conditional release, defendant did not consistently report, continued to use drugs and alcohol, failed to complete required treatment and counseling, and committed additional offenses. The PSI indicated defendant was unsuccessfully discharged from substance abuse treatment programs four times between 1999 and 2017, and he

was released or left against medical advice on three other occasions during that period.

¶ 17 According to the PSI, defendant stated, at the time of his arrest in this case, he was helping a friend who was “ ‘going through Drug Court’ ” and had a relapse. He admitted he had possession of a “ ‘broken meth pipe with meth in it’ ” but stated it did not belong to him. Defendant asserted he had been “ ‘clean since Drug Court in 2016.’ ” Defendant said he “ ‘blew off probation’ ” because he had an order of protection with “ ‘somebody in the building.’ ” He thought he could “ ‘do the 90 days because it’s day for day and not worry about it but obviously [he] was mistaken.’ ” He knew he missed orientation and two appointments with his probation officer and admitted to postdating his paperwork. He acknowledged that his drug use contributed significantly to his problems with the law and had negatively impacted his relationship with his children. Although defendant had an extensive history of illegal drug and alcohol use, he stated he completed an outpatient substance abuse program between 2016 and 2019. He did not believe he needed further substance abuse treatment, but he was willing to comply with treatment if ordered to do so.

¶ 18 The State called Hirth to testify. Hirth stated she was an attorney with her own practice in Rockford. In 2016, she was with the Winnebago County Public Defender’s Office when she came into contact with defendant while representing his friend in “DUI court.” Hirth began receiving e-mails from defendant indicating he was interested in an intimate relationship with her, and she told him to leave her alone via e-mail. Defendant continued to contact Hirth via e-mail and social media. Defendant took photographs of Hirth and posted them on his own Facebook page and created YouTube videos using her photos. Hirth eventually obtained a stalking no contact order against defendant in 2019, which was later extended to March 2025. Hirth stated defendant continued to contact her via social media despite the no contact order.

Defendant took photographs from her social media pages, “plastering them on his own social media” and insinuating that they were in a romantic relationship. In 2023, Hirth received a birthday greeting text message on her work phone from an unknown number. When she responded asking whom it was from, defendant responded with a photograph of his Illinois identification card. Hirth testified defendant sent her “romantic stuff and threatening stuff,” as well as “really bizarre links and attachments,” which she did not open. She stated the e-mails she received when she was with the public defender’s office were “relentless,” “embarrassing,” “annoying,” and “[t]raumatic.” Hirth testified she was afraid. She was also embarrassed, particularly when she started her own law practice and defendant began making comments on her business Facebook page. Hirth testified, in early 2022, defendant sent her a “threatening e-mail telling [her] how dare [she] have him served in traffic court with the order of protection extension.”

¶ 19 The State argued defendant had demonstrated a continued disregard for court orders and failed to take advantage of programs offered to him; thus, a sentence of at least five years in prison would be appropriate. Defense counsel argued the State’s recommended sentence was “an overreach.” He contended nearly all of the factors in mitigation applied in this case and argued “60 to 90 days on top of what [defendant has] already had, 458 days incarcerated, would be a sufficient amount for being arrested with methamphetamines while riding a bicycle.” During his statement to the trial court, defendant commented about his completion of drug court, resulting in a neutral discharge, and his successful completion of probation at that time. He stated he believed that if he went to his probation appointments, it would have violated the order of protection. Referring to the stalking case that was no longer being prosecuted, defendant stated the court should lift his stayed sentence because he had served “over 468 days *** for a crime

[he] never committed.” Defendant stated he did not miss three appointments and only missed the initial appointment, and he reasoned, therefore, “How can I miss follow-up appointments when I never started probation.”

¶ 20 After hearing argument, the trial court detailed it considered the evidence and information presented by the parties and defendant’s statement, as well as the statutory factors in aggravation and mitigation. The court commented on defendant’s extensive and “serious history of criminal activity,” and it stated there was no question defendant had unlawful contact with Hirth, specifically stating it found “beyond a reasonable doubt, that this contact happened, unwanted contact.” The court stated it must consider whether defendant’s criminal conduct was the result of circumstances likely or unlikely to recur and whether his character and attitude indicated a likelihood he would commit another criminal offense. The court stated:

“Having due regard for the history, character, and conditions of the defendant, the nature and circumstances of the offenses, the offense and the public interest, the Court finds that probation is not a proper sentence; and the Court finds that a sentence of imprisonment is the most appropriate disposition for the defendant and that probation or conditional discharge would deprecate the seriousness of the defendant’s conduct and would be inconsistent with the ends of justice and not adequately protect the public.”

Defendant was sentenced to a term of eight years in the Illinois Department of Corrections, with credit for time served. Defendant filed a motion to reconsider his sentence, arguing the court improperly punished him for conduct while on probation based upon unreliable evidence, namely Hirth’s testimony, that lacked proper foundation.

¶ 21 At the hearing on defendant’s motion, defendant told the trial court he was not

ready to proceed on the motion, Zamudio explained defendant had raised “other issues” with him, and although Zamudio believed he had adequately addressed them with defendant, defendant continued to disagree. Zamudio stated he was ready to proceed, but if defendant wished to present other issues, he should proceed *pro se*. The following colloquy took place:

“THE COURT: One moment. Thank you for saying that. You must have read my mind.

[Defendant], it appears that you may have some issues and conflict with your attorney, what he’s recommending. This is here today on a motion for reconsider [sic] of sentence, and I’m ready to go, the prosecutor is ready to go. It appears that you may have raised some issues. Now, you could represent yourself, if you wish. There was a hearing on this. There was a hearing on a petition to vacate. We went through a full sentencing hearing and Ms. Hirth, the victim, testified.

* * *

She testified, I heard arguments of counsel, and I sentenced you to eight years, and at that time when you were sentenced you had credit for 464 days. I read the [PSI]. It’s up to you. You can represent yourself. If you have some issues that you feel strongly should be addressed other than your attorney, then you can represent yourself. I want you to think a moment and see where you’re at because your attorney has indicated to me that he’s ready to go and he’s already addressed these issues.”

¶ 22 After a brief recess, during which defendant conferred with his attorney, defendant informed the trial court he wished to proceed *pro se* and told the court he needed

“[his] full discovery from [case No.] 23-CF-581, grand jury transcripts, everything.” The court informed defendant it would not order discovery because he pleaded guilty, but the court would give defendant “whatever your attorney has here, whatever he’s prepared for you, that can be turned over.” Defendant asked for the grand jury transcripts several more times, and the court again denied his request.

¶ 23 The trial court offered defendant the opportunity to review the information provided by Zamudio. Defendant stated he had never seen the motion his attorney filed; however, Zamudio stated he reviewed the issues very carefully with defendant. Defendant again asked for the grand jury transcripts and stated, “My attorney already told me you’re railroading me.” Defendant was given a copy of the motion to reconsider sentence and was allowed to review it in open court. The court explained that once defendant reviewed the motion, it would ask defendant if he would like to have Zamudio represent him and argue the motion that day or if defendant wished to proceed *pro se*. After reviewing the motion, defendant informed the court “Zamudio can argue this motion,” but he also said, “I want my grand jury transcripts.” The court again stated it would not order the grand jury transcripts, and when defendant was asked why he wanted the transcripts, defendant replied, “I need them.”

¶ 24 After hearing argument, the trial court denied defendant’s motion to reconsider sentence. The court explained: “When you say I punished him for contact in the petition to vacate probation, the aggravated stalking, that was an allegation which I found was proved beyond a reasonable doubt so now I have to sentence you for your possession of methamphetamine.” The court stated it had considered defendant’s age, his “serious history of drug addiction,” his “[d]ifficult life growing up,” as well as his good health and “stable mental health.” The court then restated defendant’s extensive criminal history and acknowledged the

aggravated stalking charge was subsequently dismissed. The court stated:

“I’ve considered everything in this case, and, respectfully, I didn’t punish you for the conduct of Ms. Hirth. That was a violation, I found you were in violation, that’s all. I’m not sentencing you for aggravated stalking. But when I gave you the probation in light of your criminal record, I gave you an opportunity. I handle all the major drug cases and the possession cases. I like to work with people, give them an opportunity for probation so they can do drug treatment, be drug and alcohol free and free of any crimes and don’t commit any issues or problems. You couldn’t do it.”

The court stated for the record that defendant repeatedly interrupted during the court’s ruling. Defendant made comments disputing his criminal record, disputing Hirth’s testimony, and stating he was unable to go to his probation appointments because of the no contact order.

¶ 25 This appeal followed.

¶ 26 II. ANALYSIS

¶ 27 A. Violation of Probation

¶ 28 As a preliminary matter, we must address defendant’s contention that the evidence presented regarding his alleged stalking of Hirth was insufficient to establish that he committed the offense and, thus, violated his probation in that regard.

¶ 29 When petitioning to revoke a defendant’s probation, the State bears the burden of proving by a preponderance of the evidence that a defendant has violated a term or condition of his probation.⁷³⁰ ILCS 5/5-6-4(c) (West 2024). The State only needs to establish the violation of one of the conditions of probation to warrant revocation. *People v. Walsh*, 273 Ill. App. 3d 453, 458-59 (1995). In this case, defendant has not challenged the trial court’s determination that he

violated his probation by failing to report to his probation officer; thus, any such challenge has been forfeited. See Ill. S Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (“Points not argued [in appellant’s opening brief] are forfeited.”). Irrespective of this forfeiture, the record clearly shows defendant failed to complete probation orientation on October 17, 2023, and he failed to meet with his probation officer at any time thereafter, despite being notified of multiple meetings scheduled in November and December 2023. “A defendant’s failure to report to his probation officer even once can provide sufficient grounds to revoke probation.” *People v. Jones*, 377 Ill. App. 3d 506, 508 (2007). Under the circumstances, we need not review the trial court’s subsequent determination that defendant violated his probation based on an additional ground related to his conduct with Hirth. See *id.*; *People v. Moaton*, 182 Ill. App. 3d 161, 166-67 (1989) (finding if any one of multiple conditions of probation is violated, it is within the trial court’s discretion to revoke a defendant’s probation).

¶ 30

B. Sentence

¶ 31 Defendant contends the trial court improperly punished him for conduct other than the offense to which he pleaded guilty, namely, his conduct involving Hirth, and that the eight-year sentence imposed upon him was excessive. We disagree.

¶ 32 When a defendant violates conditions of his probation, the trial court may continue probation, either with or without modifying the probation conditions, or may impose any other sentence authorized when the defendant was originally sentenced. 730 ILCS 5/5-6-4(e) (West 2024). Trial courts are obligated to consider factors in mitigation and aggravation (730 ILCS 5/5-5-3.1(a), 3.2(a) (West 2024)), though the court is not required to recite or assign a value to each factor. *People v. Pina*, 2019 IL App (4th) 170614, ¶ 19. In addition to the nature and circumstances of the offense, a defendant’s criminal history, potential for reform and “the

recognized interest in protecting the public and in providing a deterrent,” are factors that may be considered. *People v. Morrow*, 2014 IL App (2d) 130718, ¶ 12. It is well settled that the rules of evidence applicable at trial regarding a defendant’s guilt or innocence do not apply during a sentencing hearing. See Ill. R. Evid. 1101(b)(3) (eff. Sept. 1, 2019); *People v. Bilski*, 333 Ill. App. 3d 808, 818 (2002). Generally, evidence is admissible so long as it is relevant and reliable, including evidence of other crimes that did not result in prosecution. *Bilski*, 333 Ill. App. 3d at 818.

¶ 33 Trial courts have broad discretionary powers in imposing sentences because, having observed the proceedings, they are in the best position to “weigh such factors as the defendant’s credibility, demeanor, general moral character, mentality, social environment, habits, and age.” *People v. Stacey*, 193 Ill. 2d 203, 209 (2000). As such, a trial court’s sentencing decisions are entitled to great deference and will not be overturned on appeal absent an abuse of discretion. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). “A sentence will be deemed an abuse of discretion where the sentence is ‘greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.’ ” *Id.* (quoting *Stacey*, 193 Ill. 2d at 210).

¶ 34 When resentencing a defendant upon revocation of his probation, the trial court may “consider the defendant’s behavior while on probation to the extent that it evidences his rehabilitative potential.” *People v. Miller*, 2021 IL App (2d) 190093. ¶ 23. “[I]t is appropriate for a defendant who conducts himself poorly while on probation to receive a more severe sentence than he originally received.” *People v. Palmer*, 352 Ill. App. 3d 891, 895 (2004). However, a court “resentencing a defendant for a revocation of probation abuses its discretion where it imposes a sentence that is punishment for the conduct underlying the revocation, rather than

punishment for the original offense.” *Miller*, 2021 IL App (2d) 190093. ¶ 23. On review, a sentence within the statutory range will not be set aside “ ‘unless the reviewing court is strongly persuaded that the sentence imposed after revocation of probation was *in fact* imposed as a penalty for the conduct which was the basis of revocation, and *not* for the original offense.’ ” (Emphases in original.) *People v. Vilces*, 186 Ill. App. 3d 983, 986 (1989) (quoting *People v. Young*, 138 Ill. App. 3d 130, 142 (1985)). Importantly, “the record must clearly demonstrate that the trial court considered [the] defendant’s original offense when fashioning his sentence.” *People v. Varghese*, 391 Ill. App. 3d 866, 877 (2009).

¶ 35 In this case, defendant pleaded guilty to one count of possession of less than five grams of methamphetamine (720 ILCS 646/60(a)(1) (West 2022)), a Class 3 felony, punishable with two to five years in prison (730 ILCS 5/5-4.5-40(a) (West 2024)). However, the trial court determined defendant was eligible for an extended-term sentence based on his prior convictions; therefore, he was eligible to be sentenced to 5 to 10 years in prison. See *id.* §§ 5-4.5-40(a), 5-8-2(a). Defendant’s sentence of eight years in prison was within the statutory range and presumptively proper. See *Miller*, 2021 IL App (2d) 190093, ¶ 22.

¶ 36 In arguing that his sentence was disproportionate to the seriousness of the crime, defendant contends the trial court failed to consider the nature and circumstances of the offense, noting that he was in possession of a small amount of methamphetamine, did not engage in any “particularly violent or belligerent” behavior when he was confronted by Deputy Humphries, and his criminal record revealed only one prior possession-related offense in 2010. The record shows the court stated it had, in fact, considered the nature of the offense for which defendant was placed on probation and all of the factors in mitigation and aggravation when determining defendant’s sentence. The court was well aware of the circumstances of defendant’s arrest and,

likewise, was informed of defendant's "serious history of criminal activity" and discussed it at length during sentencing. While defendant acknowledged his one prior drug possession offense, the court noted the multitude of offenses in defendant's criminal history and his "extensive serious, serious issue regarding drugs." In the PSI, defendant admitted that his drug use has "historically resulted in problems with the law." Addressing defendant directly during sentencing, the court noted, "We had this conversation about your criminal history; so I gave you the benefit of probation, but you didn't take advantage of it." The court discussed defendant's conduct while on probation, namely, his continued inappropriate and unwanted contact with Hirth, as a part of its consideration of defendant's rehabilitative potential. The court determined defendant's character and attitude indicated a likelihood he would commit another criminal offense; therefore, the court determined a sentence of probation would not be proper under the circumstances.

¶ 37 Relying upon *Varghese* and *People v. Gansz*, 2024 IL App (4th) 230243-U, defendant contends that the totality of the trial court's sentencing determination and the nature of the underlying offense demonstrate that the court improperly punished him for his conduct while on probation. We disagree.

¶ 38 In *Varghese*, the appellate court acknowledged the trial court considered permissible factors during sentencing, but it made only a passing reference to the original offense (aggravated criminal sexual abuse) and focused on other uncharged conduct that allegedly took place while the defendant was on probation (communicating with a 16-year-old and allegedly arranging to meet her in person). *Varghese*, 391 Ill. App. 3d at 877. During sentencing, the trial court commented that being placed on sex offender probation had no impact on the defendant because he was attempting to engage in the same conduct again *while on probation*, and this

conduct, which occurred *while on probation*, was intolerable and dangerous. *Id.* at 872. The appellate court concluded that the trial court punished the defendant for his conduct while on probation rather than strictly for his original offense. *Id.* at 877.

¶ 39 In *Gansz*, the defendant was placed on conditional discharge after pleading guilty to two counts of domestic battery. *Gansz*, 2024 IL App (4th) 230243-U, ¶¶ 5-6. The defendant was charged with numerous crimes while on conditional discharge, and the State proceeded on its petition to revoke based on allegations of unlawful possession of methamphetamine and drug paraphernalia. *Id.* ¶¶ 12, 15. In resentencing the defendant to a term in prison, the trial court stated the level of criminal conduct the defendant engaged *while on conditional discharge* was the most aggravating factor in the case, and it was time for the defendant to be accountable for his actions. *Id.* ¶ 27. The appellate court remanded the case for a new sentencing hearing, finding the trial court's comments regarding the defendant's conduct while on conditional discharge strongly persuaded the court that the defendant was being punished for his conduct while on conditional discharge instead of the underlying offense. *Id.* ¶ 38.

¶ 40 Unlike in *Varghese*, there is nothing in the record to suggest the trial court “improperly commingled” the uncharged conduct regarding Hirth with defendant's original offense. See *Varghese*, 391 Ill. App. 3d at 877. Further, unlike in *Gansz*, the record does not show the sentence imposed was either punishment for or the result of undue consideration of defendant's conduct while on probation. Rather, the record shows the trial court expressly acknowledged the only criminal conduct for which defendant was being sentenced was possession of methamphetamine, and the court reiterated this when it denied defendant's motion to reconsider his sentence. In addressing defendant's rehabilitative potential, the court noted defendant had not performed well in any of the programs offered to him in the past, and when

given probation in this case as an opportunity to “help [him] turn [his] life around,” it was a “waste of time” because he failed to take advantage of it. In sentencing defendant to a term of eight years in prison, the court explained:

“Having due regard for the history, character, and conditions of the defendant, the nature and circumstances of the offenses, the offense and the public interest, the Court finds that probation is not a proper sentence; and the Court finds that a sentence of imprisonment is the most appropriate disposition for the defendant and that probation or conditional discharge would deprecate the seriousness of the defendant’s conduct and would be inconsistent with the ends of justice and not adequately protect the public.”

Under the circumstances, we find the trial court’s decision to impose an eight-year sentence was not an abuse of discretion.

¶ 41 We soundly reject defendant’s argument that the “difference between the sentence accepted by the court during the Rule 402 conference and the final sentence” demonstrates the trial court gave undue consideration to evidence involving Hirth at sentencing. Neither the State nor the trial court are bound by sentencing recommendations made during plea negotiations. *People v. Schnoor*, 2019 IL App (4th) 170571, ¶¶ 86, 89. A prior offer made by the State is not a legitimate basis upon which a defendant may attack the length of his sentence unless it is clearly evident that a harsher sentence resulted from a defendant’s demand for a trial (*id.* ¶ 88), or in this case, a sentencing hearing. After the Rule 402 conference, the State proposed a five-year sentence, and the court stated it was inclined to accept it, acknowledging defendant was eligible for an extended term of 5 to 10 years. Defendant chose to reject the proposed agreed sentence and proceed to a full sentencing hearing. Defendant’s argument that “the only thing that was new

during sentencing was Hirth’s direct testimony” is simply untrue. At the sentencing hearing, the court was presented with the PSI (which the court acknowledged it had previously reviewed), Hirth’s testimony, defendant’s statement, and the parties’ arguments. The trial court, having observed defendant and the proceedings, had the opportunity to consider the evidence presented, as well as “weigh such factors as the defendant’s credibility, demeanor, general moral character, mentality, social environment, habits, and age.” *Stacey*, 193 Ill. 2d at 209. Defendant’s isolation of Hirth’s testimony as the sole basis for the court’s decision to impose an eight-year sentence is not supported by the record.

¶ 42 In sum, defendant’s sentence is presumed to be proper because it was within the statutory extended-term range. We see no reason to set aside that presumption in this case because defendant’s sentence was not “greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.” *Id.* at 210.

¶ 43 C. Preliminary *Krankel* Inquiry

¶ 44 Defendant contends the trial court erred in failing to conduct a preliminary *Krankel* inquiry when the court learned, at the hearing on defendant’s motion to reconsider sentence, that defendant claimed his attorney was not addressing issues defendant believed should be raised in the motion.

¶ 45 When a defendant presents a *pro se* claim of ineffective assistance of counsel posttrial, a trial court is obligated to engage in the common-law procedure articulated in the Illinois Supreme Court’s *Krankel* decision. *People v. Jolly*, 2014 IL 117142, ¶ 29. The first step in this procedure is for the court to examine the factual basis of the claims to determine if they show possible neglect of the case. *People v. Jackson*, 2020 IL 124112, ¶ 97. The “narrow purpose” of a preliminary *Krankel* inquiry is to allow “the trial court to decide whether to

appoint independent counsel to argue a defendant's *pro se* posttrial ineffective assistance of counsel claims." (Internal quotation marks omitted.) *Id.* ¶ 95.

¶ 46 To trigger a *Krankel* inquiry, a *pro se* defendant need only bring his or her claim to the trial court's attention. *People v. Roddis*, 2020 IL 124352, ¶ 35. "The defendant is not required to file a written motion in the trial court but may raise the issue orally or through a letter or note to the court." *Jackson*, 2020 IL 124112, ¶ 96 (citing *People v. Ayres*, 2017 IL 120071, ¶ 11). A defendant must clearly express a claim of ineffective assistance of counsel to trigger the trial court's duty to conduct a preliminary *Krankel* inquiry. *People v. Patton*, 2022 IL App (4th) 210561, ¶ 102 (citing *People v. Taylor*, 237 Ill. 2d 68, 76-77 (2010)). "When such a claim is merely implicit or could be subject to different interpretations, a *Krankel* inquiry is not required." *Schnoor*, 2019 IL App (4th) 170571, ¶ 67. Whether a statement made by a defendant is sufficient to trigger a trial court's duty to conduct a *Krankel* inquiry is a question of law subject to *de novo* review. *People v. Cook*, 2023 IL App (4th) 210621, ¶ 64; *Taylor*, 237 Ill. 2d at 75.

¶ 47 When the parties appeared on defendant's motion to reconsider sentence, defendant stated he was not ready to proceed because there were other issues he believed his attorney should pursue. Zamudio informed the trial court he had reviewed the issues with defendant, but defendant still disagreed. Although defendant did not explain the nature of the other issues, he repeatedly requested that he be provided with the grand jury transcripts in this case. Defendant told the court he believed the State had dismissed this case when they "filled out the paperwork for the probation violation." The court explained to defendant that he had pleaded guilty in this case, was sentenced to probation, his probation was revoked, he was resentenced, and he was now before the court on a motion to reconsider that sentence after revocation of his probation; therefore, the court declined to order the grand jury transcripts or additional discovery

at this stage of the proceedings. At no time during the discussion did defendant complain about his attorney's performance; in fact, he interjected to the judge, "My attorney already told me you're railroading me." Defendant was given the opportunity to review all the materials Zamudio had prepared for the hearing and to decide whether he wished to proceed *pro se*. Defendant decided to have Zamudio continue to represent him and argue the posttrial motion.

¶ 48 Our *de novo* review of the statements defendant made to the trial court before the hearing on his motion to reconsider the sentence imposed after revocation of his probation expressed no claims of ineffective assistance of counsel. Rather, those statements revealed defendant was concerned about what occurred in the original proceedings—before the grand jury prior to his guilty plea—which the court explained was not relevant at this stage of the proceedings. See *People v. Lambert*, 23 Ill. App. 3d 615, 618 (1974) ("Irregularities in the original trial *** are not subject to review in an appeal from an order revoking probation."); *People v. Floyd*, 14 Ill. App. 3d 1009, 1011 (1973) (holding a defendant who pleaded guilty and did not appeal could not complain later on an appeal from a probation revocation order that the original proceedings were defective because such a contention amounted to a collateral attack on the earlier judgment); *People v. Elion*, 2023 IL App (5th) 230307-U, ¶ 35 ("[A] defendant appealing from a probation revocation may not challenge the underlying guilty plea unless the judgment was void."). Under the circumstances, we conclude defendant's statements were insufficient to trigger a preliminary *Krankel* inquiry.

¶ 49 III. CONCLUSION

¶ 50 For the reasons stated, we affirm the trial court's judgment.

¶ 51 Affirmed.