2026 IL App (2d) 250417-U
No. 2-25-0417
Order filed September 4, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

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

v.

KENNETH BANASZAK, Defendant-Appellant.

Appeal from the Circuit Court of Kane County.
Honorable Julia A. Yetter, Judge, Presiding.
No. 24-CF-1348

JUSTICE BIRKETT delivered the judgment of the court.
Justices Schostok and Mullen concurred in the judgment.

ORDER

¶ 1 *Held*: Where the record shows that postplea counsel complied with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024), the trial court properly denied defendant's postplea motion to withdraw his guilty plea and vacate the judgment.

¶ 2 Defendant, Kenneth Banaszak, appeals the trial court's denial of his motion to withdraw his guilty plea and vacate the judgment of conviction based on the claim that he did not knowingly, freely, and voluntarily enter the plea. Because postplea counsel complied with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024), we affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged by grand jury indictment with eight counts of aggravated criminal sexual abuse, a Class 2 felony (720 ILCS 5/11-1.60(d) (West 2022)), for committing acts of sexual

conduct with H.S. when she was 13 years of age but under 17 years of age and he was more than five years older than her.

¶ 5 On July 30, 2025, the parties appeared before the trial court. The public defender represented defendant. The parties informed the court that they had reached a plea agreement with the following terms. Defendant would plead guilty to count I, and the remaining counts would be dismissed. Defendant would be sentenced to 24 months' sex offender probation and required to complete sex offender treatment, individual counseling, and a drug and alcohol evaluation. In addition, defendant would be ordered to have no contact with H.S., follow all rules of sex offender probation, and register in compliance with the Sex Offender Registration Act (Act) (730 ILCS 150/1 *et seq.* (West 2024)). The court inquired whether "that's a lifetime [registration] based on the Class 2," and both the State and defense counsel said yes. Following a brief recess to obtain defendant's "Diagnostic Center sex offender evaluation," which was to be placed in the court file, the parties appeared again before the court.

¶ 6 At that point, the trial court asked defendant, "So, Mr. Banaszak, do you remember when you were up here before me earlier today you heard the lawyers explain to me what they think the agreement is that's been reached in your case, do you remember what they said about that agreement?" Defendant said yes. The court followed up: "Is that also your understanding of the agreement?" Defendant again said yes. The court then asked defendant, "Do you have any medical, mental, or physical condition that makes it hard for you to understand what's going on in court?" Defendant replied, "Not technically." Defendant clarified that he had "mental health issues, *** but none that [were] stopping [him] from understanding today." Defendant agreed that he would let his attorney or the court know if there was "something [he] [did not] understand." Defendant then confirmed that he was not under the influence of drugs or alcohol. He was taking

prescription medication, but it did not prevent him from understanding "[what] [was] going on." Defendant had reviewed the terms of the plea agreement with his attorney and was prepared to proceed with the plea. After defendant agreed to plead guilty to count I, the court admonished him under Illinois Supreme Court Rule 402(a) (eff. July 1, 2012) regarding the nature and potential penalties of the offense. Relevant here, the court stated, "Additionally, it's not part of a sentence, but it is a consequence of a conviction for [the] offense[,] [defendant] would be required to register consistently with the requirements under the [Act]." Defendant confirmed that he understood "that additional consequence." Defendant also confirmed that he had not been forced or threatened to enter the guilty plea or promised anything apart from the plea terms.

¶ 7 The State provided the following factual basis for defendant's plea. At trial, the State would prove beyond a reasonable doubt that defendant committed the offense of aggravated criminal sexual abuse against H.S. The State would present H.S.'s testimony that between January 1, 2024, and May 28, 2024, she went to defendant's residence and "had sex" with him. Further, the State would provide evidence of their respective birth dates. The State agreed that defendant had no prior criminal history, and both parties waived a presentence investigation. After finding a factual basis for the plea, the trial court determined that defendant "entered into [the] plea agreement freely, knowingly, understandingly, and voluntarily." The court ordered defendant to complete 24 months' sex offender probation, continue sex offender treatment and individual counseling, obtain a drug and alcohol evaluation, stay current with medication, avoid contact with H.S., and pay the fines and fees imposed in the financial sentencing order.

¶ 8 The trial court then admonished defendant about his appeal rights. Defendant said he understood those rights. Finally, the court asked defendant, "Do you have any other questions about anything else ***?" Defendant replied, "No, [Y]our Honor."

¶ 9 On August 18, 2025, defendant, still represented by the public defender, filed a motion to withdraw his guilty plea and vacate the judgment. We reproduce the argument portion of the motion:

> "5. Defendant did not knowingly, freely, and voluntarily enter into the plea.
>
> 6. Defendant did not fully understand the implication or the consequences of the plea he entered.
>
> 7. Because of [d]efendant's limited understanding at the time of the plea, this [c]ourt should allow [d]efendant to withdraw the plea of guilty."

The motion did not elaborate on these assertions. Counsel filed with the motion a certificate that tracked the relevant language of Rule 604(d). See Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024).

¶ 10 On September 12, 2025, the trial court conducted a hearing on defendant's motion to withdraw his plea. Defendant appeared in court with counsel. Counsel said he had no evidence to offer and would stand on the motion. Counsel argued as follows:

> "ATTORNEY ROELFSEMA [(DEFENSE COUNSEL)]: *** I would rest mostly on my motion.
>
> I would like to highlight [paragraph] number 6 [of the motion to withdraw the plea], that [defendant] did not fully understand the implications of all of the consequences of [the] plea, namely, the registration. He didn't fully understand or comprehend what that lifetime registration meant and required.
>
> Your Honor, I would note he is a 24 years old. This is his first case. So, Your Honor, he has not been through the system. And, Your Honor, although he did sign the paperwork, it was not—he did not fully understand the full implications of what he was

signing. And for that reason, I would be asking to have his plea taken back and the judgment vacated.

THE COURT: All right. And so I want to make sure I'm understanding, [defense counsel], because the motion that is on file—and, I agree, paragraph 6 says that defendant did not fully understand the implication or consequences of the plea he entered, but it sounds like, based on your argument here today, the issue was the—the issue is the registration requirements under the [Act]?

ATTORNEY ROELFSEMA: That is—along with the probation requirements and the sentence itself. He—altogether, it was—I was just highlighting. But I did not put that in the written motion. I had spoken with him this morning. So to supplement the written motion, I wanted to add that for Your Honor.

THE COURT: All right. So it is also your contention that [defendant] did not fully understand the requirements that would be part of the sentence of probation?

ATTORNEY ROELFSEMA: Yes, Your Honor.

THE COURT: All right. Is there anything else then based upon my inquiry?

ATTORNEY STOUT [(ASSISTANT STATE'S ATTORNEY)]: No.

ATTORNEY ROELFSEMA: No, Your Honor."

¶ 11 In response, the State introduced, without defense objection, the transcript of the plea hearing. The State then referred the trial court to the "Specialized Sex Offender Probation Order," which was entered on the date of the plea and stated, *inter alia*, that defendant "[s]hall register as a sex offender or sexual predator and cooperate with DNA indexing as arranged by the probation officer." The State noted defendant's signature on the order. The State also related that, at the beginning of the plea hearing, the State "recited the terms of [the] plea agreement," including that

defendant " 'would register in compliance with the [Act].' " The State noted that, after hearing the registration component of the agreement, the trial court confirmed that the registration duration was " 'lifetime.' " Thus, the State emphasized, defendant "did hear that that would have been a lifetime registration" under the Act. The State then recalled that, following a recess for the court to review the "sex offender evaluation," the court specifically asked defendant if he remembered " 'what [the parties] said about the agreement' " and if that "[was] *** also [his] understanding of the agreement." Defendant, the State noted, said yes to both. The State stressed:

> "[S]pecifically [,] [the State] had discussed that it was a part of it that he would register in compliance with the [Act]. And it was clarified that that would be a lifetime registration. And [defendant] then indicates, after that recess, he understands all of the terms, Judge, that being a term included."

The State further noted that the court specifically advised defendant that although it was " 'not part of [his] sentence, but as a consequence of a conviction for [the] offense, [defendant] would be required to register consistently with the requirements of the [Act].' "

¶ 12 The defense offered no reply.

¶ 13 Following the arguments, the trial court denied defendant's motion to withdraw his guilty plea, reasoning as follows:

> "[F]or the [c]ourt to grant a motion to withdraw a plea of guilty and vacate a judgment, the [c]ourt would, based upon what has been pled, have to have some evidence in which it could make a finding that [defendant] at the time of the plea of guilty in this case did not knowingly, freely, and voluntarily enter into the plea.

> What has been alleged is that [defendant] did not fully understand the implication or the consequence of the plea, meaning specifically the requirements under probation and the—what I'm going to call is the ancillary consequence of registration under the [Act].
>
> What I have on the record, what evidence I do have, is, as the State has pointed out, the transcript, ***, which goes over the plea agreement that was discussed in court and the ramifications with [defendant] in which multiple times he indicated to the [c]ourt he understood. Additionally, there was the probation form with the rules and conditions that were signed, and [defendant]—he had indicated to the court that he had sufficient time to review all of this with his lawyer and he was prepared to go forward, that he understood the terms and conditions, not only the plea and agreement of the sentence but also understood as part of—as a consequence of this conviction, he would be required to register consistently with the [Act]. It was addressed in open court, based upon the Class 2 [f]elony, which he's pleading to, that that would be a lifetime registration requirement.
>
> And so, based upon this, I don't have evidence to support the contention that [defendant] did not fully understand the complication or consequence of the plea. I have no evidence upon which I can find that he did not knowingly, freely, or voluntarily enter into this plea agreement. ***."

¶ 14 Defendant timely appealed.

¶ 15 II. ANALYSIS

¶ 16 On appeal, defendant concedes that postplea counsel's Rule 604(d) certificate is "facially valid," but he argues that the record refutes counsel's representation that he made all necessary amendments to the postplea motion for an adequate presentation of any defects in the plea proceedings. Therefore, according to defendant, counsel did not fulfill his duty to strictly comply

with Rule 604(d), and the remedy is a remand for further proceedings in accordance with Rule 604(d).

¶ 17 "Rule 604(d) governs the procedure to be followed when a defendant wishes to appeal from a judgment entered upon a guilty plea." *People v. Brown*, 2024 IL 129585, ¶ 47. Specifically, the rule provides:

> "The defendant's attorney shall file with the trial court a certificate stating that the attorney has consulted with the defendant either by phone, mail, electronic means or in person to ascertain defendant's contentions of error in the sentence and the entry of the plea of guilty, has examined the trial court file and both the report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing, and has made any amendments to the motion necessary for adequate presentation of any defects in those proceedings." Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024).

¶ 18 "The filing of a Rule 604(d) certificate allows the circuit court to ensure counsel has reviewed the defendant's claim and considered all relevant bases for moving to withdraw the guilty plea or to reconsider the sentence." *Brown*, 2024 IL 129585, ¶ 47. "The attorney certificate thereby encourages the preservation of a clear record, both in the trial court and on appeal, of the reasons why a defendant is moving to withdraw his plea or to reduce sentence." (Internal quotation marks omitted.) *Id.* Our supreme court requires strict compliance with Rule 604(d)'s certification requirement. *Id.* ¶ 48. Where—as here—counsel files a facially compliant certificate, we may consult the record to determine whether counsel actually fulfilled the duty of strict compliance. *People v. Bridges*, 2017 IL App (2d) 150718, ¶ 8. Counsel's failure to strictly comply with the rule requires a remand to the trial court for the filing of a new motion to withdraw the guilty plea or

reconsider the sentence and a new hearing on the motion. *Id.* ¶ 6. Whether counsel has complied with Rule 604(d) is a question of law, which is reviewed *de novo*. *Brown*, 2024 IL 129585, ¶ 48.

¶ 19 Defendant makes several arguments to show that postplea counsel's representation in the postplea proceedings fell short of strict compliance with Rule 604(d). We reduce them to two main contentions: (1) the motion to withdraw the guilty plea contained only "generic allegations" and (2) the motion lacked affidavits or other evidentiary support. We address these in turn.

¶ 20 Defendant's first main argument is that counsel's motion was so generalized that counsel's arguments at the motion hearing must be deemed new arguments such that the record refutes the counsel's certification that he "made any amendments to the motion necessary for the adequate presentation of any defects in [plea] proceedings." We disagree. The motion alleged that (1) "[d]efendant did not knowingly, freely, and voluntarily enter into the plea"; (2) "[d]efendant did not fully understand the implication or the consequences of the plea he entered"; and (3) "[b]ecause of [d]efendant's limited understanding at the time of the plea, this [c]ourt should allow [d]efendant to withdraw the plea of guilty." At the hearing, counsel argued that defendant, because of his youth and lack of prior experience in the criminal justice system, did not understand the requirement of lifetime registration under the Act or any of the other terms or collateral consequences of his guilty plea.

¶ 21 We hold that counsel's motion satisfied Rule 604(d), and that counsel did not need to amend it with the arguments raised at the hearing. A motion containing only "propositions of law" that merely "hint at the issues counsel intended to raise in the motion" does not satisfy Rule 604(d). See *People v. Wilson*, 2025 IL App (4th) 241000-U, ¶¶ 9, 17. Defendant's motion, by contrast, included argument, albeit at a general level. Thus, this case is more analogous to *People v. Gomez*, 2025 IL App (2d) 240655-U, than to *Wilson*. In *Gomez*, the defendant's motion alleged that " 'he

did not knowingly and voluntarily enter into a guilty plea' " and that he " 'did not knowingly and voluntarily enter into the entered disposition.' " *Id.* ¶ 17. At the hearing on the motion, postplea counsel argued that the defendant was under the influence of PCP when he entered his plea. *Id.* ¶¶ 21-22. We rejected the defendant's argument that the record rebutted postplea counsel's Rule 604(d) certificate in that counsel failed to amend the motion to allege that the defendant was under the influence of PCP when he pleaded guilty. *Id.* ¶ 60. We held that the argument raised at the hearing "merely provided the factual basis for the involuntariness claim raised in the petition" and did not constitute a new claim. *Id.*

¶ 22 We hold likewise here. Defendant's general involuntariness argument in the motion was supplemented at the motion hearing by the more specific argument that defendant did not understand the consequences of his plea.

¶ 23 The case law defendant cites is unpersuasive. He cites *People v. Willis*, 2015 IL App (5th) 130020, ¶¶ 3-4, 8-9, where the defendant pleaded guilty to escape based on his reporting late to the county jail after a furlough. Later, while still represented by defense counsel, the defendant filed a *pro se* motion to withdraw the plea, "arguing that since he did not 'escape' from a penal institution, he could not be found guilty of escape." *Id.* ¶ 12. Postplea counsel filed a Rule 604(d) certificate, stating that he had " 'made amendments to the pleadings necessary for adequate presentation of any defects in the proceedings.' " *Id.* ¶ 13. At the hearing, counsel "admitted he did not make any amendments to [the] defendant's *pro se* motion, but asserted that the failure of the trial judge to recuse himself was an additional ground on which to permit the guilty plea to be withdrawn." *Id.* The appellate court held that counsel's raising a new argument at the motion hearing rebutted the representation that he had amended the motion to adequately present any defects in the plea proceedings. *Id.* ¶ 20.

¶ 24 *Willis* is distinguishable from both this case and *Gomez* because, in *Willis*, counsel's recusal argument at the motion hearing was not an elaboration of the motion's sole argument that the defendant could not be found guilty of escape.

¶ 25 Defendant also cites *People v. Johnson*, 250 Ill. App. 3d 887, 893 (1993), where the court stated that "[b]road and general allegations in a post-trial motion are inadequate to advise the court of the challenge being raised, and are inadequate to preserve an issue for appellate review." Based on *Johnson*, defendant argues that the "generic arguments" in counsel's plea-withdrawal motion "are not enough to satisfy counsel's obligations under Rule 604(d)." *Johnson* was in the context of an appeal following a trial. Defendant quotes *Johnson* without attempting to persuade us that it applies to appeals from guilty pleas, which are governed by a specific supreme court rule. Therefore, we disregard the citation to *Johnson*.

¶ 26 Defendant also asserts that the trial court was "confused as to what counsel's argument truly was," because the motion alleged, without specifics, that defendant "did not fully understand the implication or the consequences of the plea he entered," while counsel's argument at the hearing identified particular aspects of the plea terms or collateral consequences that defendant allegedly did not understand. But, as counsel acknowledges, the court clarified the scope of counsel's argument. And, as we have explained, counsel's arguments at the hearing fell within the general outlines of his motion and thus did not constitute new arguments.

¶ 27 Defendant's second main argument on appeal is that the record rebuts counsel's certificate because counsel did not produce affidavits or other evidentiary support. Rule 604(d) states that "[w]hen the motion is based on facts *that do not appear of record* it shall be supported by affidavit." (Emphasis added.) Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024).

¶ 28 Defendant relies on *People v. Winston*, 2020 IL App (2d) 180289, and *Bridges*. In both cases, counsel was held to have breached Rule 604(d)'s duty to amend because counsel's claim was based on facts outside the record and there were no supporting affidavits. See *Winston*, 2020 IL App (2d) 180289, ¶¶ 3-8, 15 (claim referenced potentially exculpatory witnesses); *Bridges*, 2017 IL App (2d) 150718, ¶¶ 2, 9 (claim contained detailed allegations that, *inter alia*, the defendant's guilty plea was coerced by acts of violence against his mother).

¶ 29 *People v. Blackledge*, 2023 IL App (4th) 220746-U, involved significantly different facts. There, postplea counsel's motion argued that the transcript of the plea hearing " 'showed that [the defendant] did not have full understanding at the time ***.' " *Id.* ¶ 10. At the motion hearing, counsel "argued that [the] defendant gave 'very vague answers when she was asked if it was her wish to waive her jury trial right,' and '[i]t does not seem that she understood the consequences of waiving her jury trial.' " *Id.* ¶ 11. Following the parties' arguments, the trial court denied the motion. *Id.* On appeal, the court rejected the defendant's argument that counsel breached Rule 604(d)'s duties by failing to attach an affidavit or other evidence supporting the motion's factual allegations. *Id.* ¶ 24. Distinguishing *Winston*, the court held that, given the nature of the claim, there was no need for affidavits or other supporting evidence:

> "Here, *** [the] defendant's claim is based entirely on facts that appear in the record. Unlike the defendant in *Winston*, [the] defendant does not identify an occurrence outside of the record or a specific individual with information outside of the record that would support her claim. Instead, [the] defendant asserted only that she was not adequately admonished about her right to a jury trial before waiving the right. The only evidence [the] defendant could have pointed to in support of her claim was the transcript of the report of proceedings for the hearing at which the court admonished [the] defendant about her right

> to a jury trial and [the] defendant waived her right. Counsel properly cited this transcript in the amended motion to withdraw the guilty plea. Because none of the allegations in [the] defendant's motion were based on facts outside of the record, counsel was not required to attach any affidavits or other evidence to the motion." *Id.* ¶ 29.

¶ 30 This case is far closer to *Blackledge* than to *Winston* or *Bridges*. Here, counsel claimed in the motion to withdraw that defendant did not knowingly, freely, and voluntarily enter the guilty plea; specifically, counsel claimed that defendant "did not fully understand the implication or the consequences" of his guilty plea and that his "limited understanding" rendered the plea invalid. At the hearing, counsel developed the claim by referencing defendant's age and lack of prior experience with the criminal justice system. Those were facts of record, just as counsel's references in *Blackledge* were to facts of record. Accordingly, no affidavit support was needed. See *People v. Audi*, 2026 IL App (4th) 250885-U, ¶¶ 35-38 (counsel's claim was based entirely on facts of record, *i.e.*, facts about (1) the message the defendant sent to the victim after the order of protection was issued, (2) the notice the defendant received about the order of protection, and (3) the impact of the defendant's guilty plea on his sentences in other cases).

¶ 31 Defendant, however, insists that counsel did not include necessary factual support for the motion. According to defendant, "the claims surrounding [his] confusion about the plea were based on facts outside the record, *likely* involving conversations between defense counsel and himself between pleading guilty on July 30, the filing of the motion to withdraw on August 18, and the motion hearing on September 12[.]" (Emphasis added.) Our limited concern here is whether counsel's allegations referenced extrinsic facts. Nothing in counsel's motion, or his argument at the hearing, attributes defendant's confusion to conversations he had with counsel or to any other extrinsic source. Defendant's assertion to the contrary is pure speculation.

¶ 32 In his reply brief, defendant argues that

> "an affidavit or testimony from [defendant] describing his subjective understanding of the plea, including what the sex offender registration requirement actually entailed, and his conversations with his counsel before and after the plea regarding the lifetime registration requirement, would have provided the court with something to evaluate alongside the plea transcript."

We would improperly broaden the issue on appeal if we asked whether postplea counsel should have given the trial court "something to evaluate alongside the plea transcript," or whether postplea counsel provided effective assistance of counsel as measured by the sixth amendment (see *Strickland v. Washington*, 466 U.S. 668 (1984)). As noted, counsel's claim did not reference conversations with defendant, so Rule 604(d) required no affidavit concerning such conversations. Nor did counsel's claim reference defendant's "subjective understanding" of the plea terms. Even at the hearing, counsel did not positively allege what defendant believed about the plea terms; he claimed merely that defendant " 'did not fully understand the implications of all of the consequences of [the] plea.' "

¶ 33 Moreover, although defendant claims that counsel should have produced an affidavit or testimony from defendant about his "subjective understanding" of the plea terms, defendant does not specify what such an affidavit or testimony would have conveyed. Thus, defendant has not established that counsel's omission impacted him. See *Gomez*, 2025 IL App (2d) 240655-U, ¶ 72, (rejecting claim of noncompliance with Rule 604(d) because, *inter alia*, "[the] [d]efendant has not alleged that any specific witness exists who could corroborate [the] defendant's claim that he had taken PCP on the morning of his plea or describe how [the] defendant behaved while on PCP. Thus, it is a matter of pure speculation that such evidence exists."); *People v. Blair*, 2024 IL App

(4th) 230880-U, ¶ 20 (rejecting claim of noncompliance with Rule 604(d): "If there are facts or arguments [postplea counsel] should have included, [the] defendant does not indicate what they are. We are not persuaded by purported information or arguments we do not know about.").

¶ 34 Finally, although defendant emphasizes that the trial court found no " 'evidence' " to support postplea counsel's claim, defendant has not persuaded us that counsel was obligated to provide evidence beyond the plea-hearing transcript or identified what specific evidence counsel could have provided. We note that the Post-Conviction Hearing Act (725 ILCS 5/122-1 *et seq.* (West 2024)) might provide a more appropriate avenue for defendant to seek relief based on alleged deficiencies in postplea counsel's performance.

¶ 35 We conclude that postplea counsel complied with Rule 604(d) and that the trial court properly denied defendant's motion to withdraw his guilty plea.

¶ 36 III. CONCLUSION

¶ 37 For the reasons stated, we affirm the judgment of the circuit court of Kane County.

¶ 38 Affirmed.