

NOTICE
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2026 IL App (5th) 250669-U
NO. 5-25-0669
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Macon County.
	)	
v.	)	No. 24-CF-884
	)	
THELMA G. LAWSON,	)	Honorable
	)	Phoebe S. Bowers,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Justices Boie and Hackett concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm defendant’s conviction for driving under the influence where the trial court did not err in denying defendant’s challenges for cause to two prospective jurors. We vacate defendant’s sentence for driving under the influence where the driving abstract was ambiguous and remand for the trial court to determine defendant’s eligibility for a Class 4 felony sentence.

¶ 2 Following a jury trial in the circuit court of Macon County, defendant, Thelma G. Lawson, was found guilty of aggravated driving under the influence (DUI) of alcohol (625 ILCS 5/11-501(a)(2) (West 2022)) and driving with a revoked or suspended license (*id.* § 6-303(a)). The trial court sentenced defendant to 10 days of periodic imprisonment and 12 months of probation. Defendant appeals, arguing that (1) the trial court erred by denying her challenges for cause to two prospective jurors who indicated they would tend to believe the testimony of a police officer, and (2) the State failed to prove at sentencing that the revocation of her driver’s license was in effect

at the time of the alleged offense, which was necessary to elevate the misdemeanor DUI to felony aggravated DUI. For the following reasons, we affirm in part, vacate in part, and remand for further proceedings.

¶ 3

I. BACKGROUND

¶ 4 On May 16, 2024, the State charged defendant by information with one count of aggravated DUI, a Class 4 felony (*id.* § 11-501(d)(1)(G)), alleging that defendant drove or was in actual physical control of a vehicle while under the influence of alcohol during a period in which her driving privileges were revoked for driving under the influence. The State also charged defendant with one count of driving with a revoked or suspended license.

¶ 5 On June 11, 2025, defendant's two-day jury trial commenced. Defendant elected to represent herself at trial. During *voir dire*, the trial court asked the prospective jurors if they believed that police officers, by the nature of their job, were truthful and accurate in their reports and testimony. Several prospective jurors responded in the affirmative. The court then asked those prospective jurors additional questions. The following colloquy took place between the court and those prospective jurors after the court asked the jurors to explain their thoughts:

“PROSPECTIVE JUROR JOBE: That they—that they are truthful in what they do?
I just assume that's their job they—

THE COURT: Okay. And you believe they always tell the truth and adequately state what happens in every situation?

PROSPECTIVE JUROR JOBE: As best they can, yeah.

THE COURT: So you—okay. So you would believe what a police officer says no matter what?

PROSPECTIVE JUROR JOBE: Within reason, yeah.

THE COURT: Okay. So I am hearing this and I'm understanding that, and we will have an officer testify, and you would tend to believe that officer more than any other witness?

PROSPECTIVE JUROR JOBE: Yeah.

THE COURT: Okay. Okay. Ms. Bement?

PROSPECTIVE JUROR BEMENT: They took an oath to protect and serve, and hopefully they're, you know, doing their job.

THE COURT: Okay.

PROSPECTIVE JUROR BEMENT: Unless it goes against, you know, the moral code according to God's word, then I'm probably going to take their—take the benefit of the doubt, give them the benefit of the doubt.

THE COURT: Okay. Okay. Anybody else in that front row? Okay. Mr. Hodge?

PROSPECTIVE JUROR HODGE: I mean I—I would think as a law officer they're documenting things from the minute they arrive on scene, so their—their observations of what's going on, I mean I think that that would be a serious thing, you know, they would take serious and write down truthful information.

THE COURT: Uh-huh. Okay. So it's your belief that they would be telling the truth, you wouldn't be able to assess their credibility, you would automatically believe them?

PROSPECTIVE JUROR HODGE: I mean in a court of law, yeah. I mean just an average officer out on the street, yeah, just having the casual conversation, but when it comes to documenting a potential, you know, case of somebody's life, I think they should be as truthful as they can.

THE COURT: Okay. Well, should and do are—

PROSPECTIVE JUROR HODGE: Okay. Yeah.

THE COURT: Okay. All right. Anybody else in that back row? Okay.

PROSPECTIVE JUROR COLLINGWOOD: In a court of law under oath I would assume they're telling the truth.

THE COURT: Okay. But would you assume that of everybody?

PROSPECTIVE JUROR COLLINGWOOD: You would assume you would have to look at the evidence.

THE COURT: Right. Right. So would you be able to judge the credibility of a law enforcement officer just as much as the credibility of any layperson off the street, anybody, or would you tend to believe the police officer more? That's the question.

PROSPECTIVE JUROR COLLINGWOOD: I would have to balance it between the evidence that's presented.

THE COURT: Okay.

PROSPECTIVE JUROR COLLINGWOOD: You know, I couldn't say one way or the other.

THE COURT: Okay. Okay.

PROSPECTIVE JUROR COLLINGWOOD: Get the complete picture.

THE COURT: Okay. But you would be able to hear all of the evidence—

PROSPECTIVE JUROR COLLINGWOOD: I would hear all—

THE COURT: —and then make a credibility determination?

PROSPECTIVE JUROR COLLINGWOOD: Certainly.”

¶ 6 The trial court later advised the prospective jurors that they may hear conflicting testimony from the witnesses. The court asked the prospective jurors if they would “promise to weigh all of the testimony equally and decide who [was] telling the truth rather than just believing one side over the other? If you can't do that, please raise your hand.” No prospective jurors raised their

hands. The court additionally asked the potential jurors if there was “anything about this case that [the jurors] feel like [they] could not be fair or impartial?” The four prospective jurors referenced above each responded, “No.”

¶ 7 Defendant subsequently challenged for cause the prospective jurors referenced above. When the trial court asked defendant’s reasons for challenging each of those jurors, defendant noted that those jurors indicated that they would believe “exactly what the police officer says.” The State responded that “they finally got around to where they were which was to understand that they may have respect for law enforcement. They may think that law enforcement ought to be following the rules.” The State went on to note that those prospective jurors believed that police officers “ought to be following their oath, but when ultimately asked if they could evaluate each of them as a person, as a human being, could they evaluate based upon their testimony, none of them at the end said, well, notwithstanding all of that I still am going to believe them.” In response, the court stated, “Uh-huh. Okay. So my feeling is Mr. Hodge never came around.” The court added, “The others I believe indicated that they could be fair and impartial and hear everybody’s testimony and judge credibility based on that, so for Mr. Hodge, No. 4, I will take him out for cause. I did not feel like he ever indicated he could be fair and impartial.” The court denied defendant’s challenge for cause as to the other three jurors.

¶ 8 Defendant used her last peremptory challenge on Collingwood. Jobe and Bement were selected to the final jury panel.

¶ 9 Hubert O’Neal Jr. testified for the State. O’Neal previously dated defendant. In the early morning hours of May 12, 2024, defendant came to his residence and began screaming. She was driving a white vehicle. O’Neal told defendant to leave and called police. Defendant rammed her vehicle into O’Neal’s vehicle and left. O’Neal again called police. O’Neal went inside his home

and defendant pulled up in a dark truck at approximately 3 a.m. O'Neal was in his driveway and observed defendant slurring her words while screaming obscenities. O'Neal believed defendant was under the influence of alcohol.

¶ 10 Officer Clayton Graven testified that he responded to O'Neal's call. When he arrived at O'Neal's residence, he heard an argument and observed defendant. Defendant was trying to get into a vehicle and stated she had driven the vehicle. When Officer Graven asked defendant to perform field-sobriety tests, defendant initially agreed but then declined. Officer Graven opined that defendant's speech was consistent with other impaired individuals he had previously investigated. Officer Graven further observed that defendant's eyes were glassy and watery, which was consistent with alcohol impairment, and that she also smelled of alcohol. Officer Graven placed defendant under arrest because he believed she was intoxicated.

¶ 11 The State sought to admit People's Exhibit No. 3 into evidence at trial. The State explained that it was "a Certified Driver's Abstract of the defendant, showing her prior conviction of DUI" and asked that the court "enter it as evidence as People's 3 but not show it or mention it to the jury." When the trial court asked if defendant had any objection to People's Exhibit 3, defendant responded, "No, ma'am." The court admitted People's Exhibit No. 3 into evidence, explaining that the exhibit would "not be allowed to go in front to jury."

¶ 12 People's Exhibit 3 was defendant's driving abstract from the Secretary of State. The abstract reflected the following: a June 24, 2012, suspension based on defendant's failure to perform an alcohol test on May 9, 2012; an October 11, 2012, DUI conviction; a revocation effective October 31, 2012; an April 24, 2014, financial responsibility insurance suspension; a "revocation rescinded" notation with a reference to the October 31, 2012, revocation and a "RES-DT" of July 23, 2014; a March 30, 2021, financial responsibility insurance suspension; and a June

27, 2024, suspension based on defendant's failure to perform an alcohol test on May 12, 2024. The abstract concluded with a statement indicating that "revocation was in effect on 05-12-2024."

¶ 13 Defendant testified that she drove to O'Neal's residence. Defendant testified that she had a couple glasses of wine hours before she drove to O'Neal's residence. Following deliberations, the jury found defendant guilty of both offenses.

¶ 14 At the conclusion of the trial, defendant indicated that she wanted to be represented by counsel. The trial court appointed the public defender to represent her.

¶ 15 On July 25, 2025, appointed counsel filed a motion for judgment notwithstanding the verdict or, alternatively, for a new trial. Counsel asserted, *inter alia*, that the evidence was insufficient to prove defendant guilty beyond a reasonable doubt of the aggravated DUI charge. Counsel did not raise an issue regarding the trial court's denial of defendant's challenge for cause as to the four jurors.

¶ 16 On August 8, 2025, the trial court denied defendant's motion and proceeded to sentencing. The court ultimately sentenced defendant to 10 days of periodic imprisonment and 12 months of probation for aggravated driving under the influence, a Class 4 felony. Defendant filed a timely notice of appeal.

¶ 17 II. ANALYSIS

¶ 18 On appeal, defendant argues that (1) the trial court erred by denying her challenges for cause to prospective jurors Jobe and Bement, and (2) the State failed to prove at sentencing that the revocation of defendant's driver's license was in effect at the time she committed the offense of driving under the influence. We address defendant's arguments in turn.

¶ 19

1. Challenges for Cause

¶ 20 Defendant first argues that the trial court erred by denying her challenges for cause to prospective jurors Jobe and Bement because those jurors were biased in favor of police officers. Defendant maintains that a trial before a biased jury is a structural error that requires this court to reverse and remand for a new trial.

¶ 21 Defendant acknowledges that she forfeited review of this issue by failing to include the issue in her posttrial motion. See *People v. Enoch*, 122 Ill. 2d 176, 186 (1988) (generally, to preserve an issue for appellate review, a defendant must both object to the issue at trial and include it in a written posttrial motion). Defendant asserts, however, that this court may review the issue under the second prong of the plain-error doctrine. The second prong of the plain-error doctrine permits review of a forfeited error where a clear or obvious error occurred that was so serious it affected the fairness of the trial and challenged the integrity of the judicial process. *People v. Moon*, 2022 IL 125959, ¶ 20. A defendant bears the burden of persuasion in establishing plain error, and the first step is to determine whether a clear or obvious error occurred at all. *Id.* ¶¶ 20, 22. Illinois has equated second-prong plain error with structural error. *Id.* ¶ 28. Trial before a biased jury is structural error subject to automatic reversal and satisfies the second prong. *People v. Lopez*, 2012 IL App (1st) 101395, ¶ 94 (citing *People v. Thompson* 238 Ill. 2d 598, 610 (2010)). However, a reviewing court will not presume bias, and the defendant must establish that the jury was in fact biased. *Id.* ¶ 95 (citing *Thompson*, 238 Ill. 2d at 614).

¶ 22 “[O]ne of the most priceless safeguards of individual liberty is the right to trial by a panel of impartial jurors.” *People v. Washington*, 104 Ill. App. 3d 386, 390 (1982). “[T]he purpose of *voir dire* examination is to filter out prospective jurors who are unable or unwilling to be impartial.” *Id.* A defendant may challenge prospective jurors for cause or peremptorily. *People v.*

Bowens, 407 Ill. App. 3d 1094, 1098 (2011). A challenge for cause is a “ ‘challenge supported by a specified reason, such as bias or prejudice, that would disqualify that potential juror.’ ” *Id.* (quoting Black’s Law Dictionary 245 (8th ed. 2004)). “A venireperson should be removed for cause if his or her state of mind is such that one of the parties will not receive a fair and impartial trial with that venireperson as a juror.” *People v. Williams*, 173 Ill. 2d 48, 67 (1996). “Simply giving an equivocal response, however, will not require that a venireperson be excused for cause.” *Id.* “Rather, whether a venireperson can be impartial should be determined from the venireperson’s entire *voir dire* examination.” *Id.*

¶ 23 “A court’s refusal to excuse a juror for cause is a matter of discretion.” *People v. Sims*, 244 Ill. App. 3d 966, 987 (1993); *Williams*, 173 Ill. 2d at 67. “On review, the court’s determination of a person’s competence to sit as a juror will not be overturned unless the court’s decision is against the manifest weight of the evidence.” *Sims*, 244 Ill. App. 3d at 978; *Williams*, 173 Ill. 2d at 67. “In reviewing the trial judge’s determination, the entire *voir dire* examination of the potential juror should be considered, as opposed to selected responses.” *Williams*, 173 Ill. 2d at 67. “Because the trial judge is in the best position to observe the potential juror’s demeanor and ascertain the meaning of his or her remarks, the trial judge’s determination will not be disturbed on review unless it is against the manifest weight of the evidence.” *Id.* More recently, our supreme court has noted that a trial court’s decision of whether to excuse a prospective juror for cause is reviewed for an abuse of discretion. *People v. Ramsey*, 239 Ill. 2d 342, 419 (2010)

¶ 24 Here, defendant claims that Jobe and Bement were biased in favor of police officers. When asked if police officers always told the truth and adequately stated what happened in every situation, Jobe responded, “As best they can, yeah.” When the trial court asked Jobe if Jobe would believe what a police officer said “no matter what,” Jobe responded, “Within reason, yeah.” When

Jobe was asked if Jobe would tend to believe a police officer more than any other witness, Jobe responded, “Yeah.” Bement stated that police officers “took an oath to protect and serve, and hopefully they’re, you know, doing their job.” Bement added, “Unless it goes against, you know, the moral code according to God’s word, then I’m probably going to take their—take the benefit of the doubt, give them the benefit of the doubt.”

¶ 25 While defendant maintains that the trial court should have granted her challenge for cause based on the responses given by Jobe and Bement, her claim that she was tried by a biased jury because Jobe and Bement sat on the jury is entirely speculative. Defendant cites no legal authority that establishes the responses given by Jobe and Bement during *voir dire* would have automatically disqualified them. In contrast, we note that this court has concluded that there was no error in a trial court’s refusal to excuse a juror who gave similar responses. See *Sims*, 244 Ill. App. 3d at 987-89 (affirming the trial court’s denial of the defendant’s challenge to a juror for cause where the prospective juror acknowledged he would give more weight to police officers and stated that a police officer’s testimony “would be more credible”). We note that Jobe and Bement’s responses to the “hypothetical questioning” about the weight they would give to unknown testimony of an unknown police officer versus the possible testimony of another unknown witness was insufficient to demonstrate that they would not be fair or impartial. See *id.* at 989 (the trial court’s denial of the defendant’s challenge for cause based on a juror’s “pro-police” statements was not against the manifest weight of the evidence “simply because [the juror] became entangled in the frequently occurring imbroglio of the hypothetical questioning as to what weight should a potential juror give to the unknown testimony of an unknown police officer versus the unknown testimony of an unknown witness”).

¶ 26 Moreover, in this case, the record reveals that the trial court carefully considered defendant's challenge for cause and granted defendant's request as to one potential juror based on that juror's bias in favor of police officers. Although both Jobe and Bement indicated that they would tend to believe a police officer's testimony, they did not unequivocally state that they would believe a police officer's testimony over any other person's testimony under any circumstance. Instead, both indicated that there would be circumstances where they may not believe a police officer's testimony. Specifically, Jobe testified that he would believe a police officer "[w]ithin reason," and Bement indicated that he would believe a police officer unless it went against the "moral code." More importantly, neither Jobe nor Bement raised their hand when the court subsequently asked if they would be unable to weigh all of the testimony equally and decide who was telling the truth, rather than just believing one side over the other. In addition, when the court asked Jobe and Bement if they felt they could not be fair or impartial in the case, both jurors responded, "No." See *People v. Jarosiewicz*, 55 Ill. App. 3d 1057, 1060-61 (1977) (concluding that the trial court properly denied the defendant's challenge for cause where, after the juror stated that "he did not believe a police officer would commit an unprovoked act of violence on a citizen," the juror "reaffirmed he would be fair and impartial"). Accordingly, the court could have reasonably found that Jobe and Bement were willing to be fair and impartial. Thus, we conclude that the court's denial of defendant's challenge for cause was neither against the manifest weight of the evidence nor an abuse of discretion.

¶ 27 We find defendant's reliance on *Ramsey* unpersuasive. In *Ramsey*, the defendant argued that the trial court erred by excusing a potential juror for cause at the State's request based on the juror's indication that he opposed the death penalty. *Ramsey*, 239 Ill. 2d at 418. Our supreme court held that the trial court did not abuse its discretion by excluding the juror for cause, noting that the

juror made statements that suggested “he would not have been able to carry out his duties” and that the trial court was in the best position to determine if the potential juror was credible as to those statements. Unlike *Ramsey*, where the defendant was arguing that a juror should not have been excused for cause, defendant, here, is arguing that Jobe and Bement should have been excused for cause. *Ramsey* supports our determination that it is appropriate to defer to the trial court’s determination, as it is in the best position to evaluate the credibility of the statements made by potential jurors.

¶ 28 Because there was no error, there could have been no plain error. Thus, we honor defendant’s procedural forfeiture.

¶ 29 2. Sufficiency of the Evidence

¶ 30 Defendant next contends that the State failed to prove at sentencing that the revocation of her driver’s license was in effect at the time she committed the DUI offense on May 12, 2024—the fact required to elevate misdemeanor DUI to felony aggravated DUI. Defendant, thus, requests that this court reduce the conviction to a misdemeanor and remand for resentencing.

¶ 31 Defendant again acknowledges that she failed to preserve this issue for review where she failed to object at sentencing and failed to include the issue in her posttrial motion. See *Enoch*, 122 Ill. 2d at 186. However, defendant again invokes the plain-error doctrine. The right to be lawfully sentenced is a substantive right affecting the fundamental right to liberty, and a claim that the State failed to prove eligibility for an enhanced sentence is reviewable as second-prong plain error. *People v. Brown*, 2023 IL App (3d) 210460, ¶ 97. In the sentencing context, “an error is reversible under the second prong where that error was so egregious as to deny the defendant a fair sentencing hearing.” (Internal quotation marks omitted.) *People v. Mitok*, 2018 IL App (3d) 160743, ¶ 8.

¶ 32 Section 11-501(a)(2) of the Illinois Vehicle Code sets forth the elements of DUI of alcohol. 625 ILCS 5/11-501(a)(2) (West 2022). A first violation is ordinarily a Class A misdemeanor. *Id.* § 11-501(c)(1). The aggravating circumstances set forth in subsection (d)—including subsection (d)(1)(G), which applies where the State alleged that defendant committed the DUI while her driving privileges were revoked for a prior DUI, and subsection (d)(2)(A), which elevates that offense to a Class 4 felony (*id.* § 11-501(d)(1)(G), (2)(A))—are sentencing enhancement factors, not essential elements the State must prove to the jury at trial. *People v. May*, 2021 IL App (4th) 190893, ¶ 32. A license revocation based on a DUI is the functional equivalent of a prior conviction for purposes of the recidivist exception of *Apprendi*,¹ so it need not be proved to the jury but is instead reserved for the sentencing court. *People v. Owens*, 2016 IL App (4th) 140090, ¶ 39. At sentencing, the State must prove the defendant’s eligibility for an enhanced sentence by a preponderance of the evidence. *Brown*, 2023 IL App (3d) 210460, ¶ 98.

¶ 33 A certified driver’s abstract is competent and reliable proof of these facts. A certified Secretary of State abstract “shall be admitted as proof of any prior conviction,” and the abstract of a person’s driving-record status “shall be *prima facie* evidence of the facts therein stated.” (Internal quotation marks omitted.) *People v. Gully*, 2020 IL App (1st) 180275, ¶ 32. Illinois places such public records in a superior evidentiary position, and a sentencing court may properly rely on the abstract, including “the reason stated by the Secretary in his records for that revocation,” without offending *Apprendi*. *Id.* ¶ 31.

¶ 34 Here, the State admitted People’s Exhibit No. 3 into evidence at trial. People’s Exhibit No. 3 was a certified driver’s abstract and, thus, was *prima facie* evidence of the facts it stated. *Id.* ¶ 32.

¹In *Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000), the United States Supreme Court held that “[o]ther than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.”

The abstract reflected a suspension based on defendant’s failure to perform an alcohol test on May 9, 2012; a DUI conviction on October 11, 2012; a corresponding revocation effective October 31, 2012; and the Secretary’s statement that “revocation was in effect on 05-12-2024”—the date of the offense at issue in this case. While we agree that the abstract clearly stated that the revocation was in effect on May 12, 2024, we note that the abstract also stated “revocation rescinded” as it related to the October 31, 2012, sanction date and listed a reinstatement date of July 23, 2014. The abstract further reflected that defendant had a financial responsibility insurance suspension that went into effect on March 30, 2021. Lastly, the abstract indicated that a suspension went into effect on June 27, 2024, based on defendant’s refusal to perform an alcohol test on May 12, 2024—the date of the offense at issue in this case. After careful review, we conclude that the information contained in the driving abstract was ambiguous.

¶ 35 Other reviewing courts have concluded that abstracts indicating that revocation was in effect on the date of the offense with which defendants were charged, standing alone, were insufficient proof of the defendant’s eligibility for an enhanced sentence. See *Brown*, 2023 IL App (3d) 210460, ¶ 100 (concluding that “a driving abstract indicating only that ‘[r]evocation was in effect on [the date of the offense],’ along with a PSI listing 43 prior convictions of driving while license revoked or suspended,” was insufficient, where neither document indicated “the basis for [the] defendant’s most recent license revocation”); *People v. Shoemaker*, 2022 IL App (3d) 210216-U, ¶ 14 (concluding that the State failed to present any evidence to support the felony enhancement of the offense, where the driving abstract indicated that the defendant’s license was revoked on the date of the offense but did not provide the basis for or date of the revocation). We note that, unlike the abstracts found insufficient in *Brown* and *Shoemaker*, People’s Exhibit No. 3 showed the DUI basis for the revocation, the effective date of the revocation, and indicated that

the revocation remained in effect on the date of the charged offense. However, People's Exhibit No. 3 included additional information indicating that the revocation had been rescinded. Had People's Exhibit No. 3 not included this additional information, we would find the State proved defendant's eligibility for an enhanced sentence by a preponderance of the evidence. Because the driving abstract contained conflicting information regarding the rescission of the revocation, there was ambiguity in the evidence as to whether the revocation was in effect at the time of the aggravated DUI at issue here. See *People v. Roberson*, 2026 IL App (5th) 241271-U, ¶ 28 (reading "*Brown* to hold that when there is ambiguity in the evidence as to which revocations were in effect at the time of a DWLR violation, the case must be remanded for determination of enhanced sentencing eligibility").

¶ 36 Given the ambiguity in the driving abstract, we conclude that defendant's Class 4 felony enhancement was improper. While defendant asks this court to reduce her conviction to a misdemeanor, we find the best course of action is to remand the matter back to the trial court to resolve the ambiguity in the evidence. Specifically, we remand the matter back to the trial court to determine defendant's eligibility for a Class 4 felony sentence and to allow the parties to supplement the record for purposes of that determination. See *Brown*, 2023 IL App (3d) 210460, ¶ 103. We note that the remand does not offend double jeopardy, because a prior conviction used only to enhance a sentence is not a trial element, and the defendant is not placed in jeopardy at an ordinary sentencing hearing. *People v. Washington*, 195 Ill. App. 3d 520, 530-31 (1990).

¶ 37 III. CONCLUSION

¶ 38 For the foregoing reasons, we affirm the judgment of the Macon County circuit court as to defendant's DUI conviction but vacate defendant's sentence and remand the matter back to the trial court to determine defendant's eligibility for a Class 4 felony sentence.

¶ 39 Affirmed in part and vacated in part; cause remanded.