

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) 250885-U

NO. 4-25-0885

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
April 16, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	Woodford County
KRISTOFER S. J. AUDI,)	No. 25CF97
Defendant-Appellant.)	
)	Honorable
)	Michael L. Stroh,
)	Judge Presiding.

JUSTICE VANCIL delivered the judgment of the court.
Presiding Justice Steigmann and Justice Grischow concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, finding counsel complied with the requirements of Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024) in amending defendant’s motion to withdraw his guilty plea.

¶ 2 Defendant, Kristofer S. J. Audi, appeals from the trial court’s denial of his motion to withdraw his guilty plea. He argues that remand is required because plea counsel failed to strictly comply with the requirements of Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024) in amending his motion. Specifically, he argues that counsel failed to present any evidence or argument in support of his claims.

¶ 3 We disagree and affirm.

¶ 4 I. BACKGROUND

¶ 5 On June 3, 2025, defendant was charged with violating an order of protection—subsequent offense, a Class 4 felony (720 ILCS 5/12-3.4(a)(1), (d) (West 2024)). The charge

alleged that defendant, after having been served with notice of the contents of an order of protection, knowingly contacted a protected party, V.H., through a third party. It further alleged that defendant had previously been convicted of domestic battery. Defendant was later indicted on the same offense. On August 8, 2025, the bill of indictment was amended to reflect that defendant had previously been convicted of violating an order of protection (subsequent) rather than domestic battery.

¶ 6 On June 6, 2025, the State filed a petition to detain defendant pretrial. At a hearing on the petition, the trial court received defendant's pretrial investigation report, which detailed his past criminal offenses, including that he was currently on mandatory supervised release (MSR) for multiple instances of violating an order of protection. The State asked the court to take judicial notice of the order of protection that defendant had allegedly violated in the instant case and to recognize that defendant had been served with "the same" document.

¶ 7 The State proffered that the order of protection listed a Steak 'n Shake restaurant where V.H. worked as a manager as a protected address. It proffered that, on May 26, 2025, defendant messaged one of V.H.'s subordinate employees and discussed V.H., calling her several vulgar names. The State proffered the exact content of defendant's message was as follows: " 'You're a fat, ugly bitch just like the one I used to date. I'm glad I'm not with a crack-head, meth-smoking bitch that works at Steak 'N Shake. Hell, I don't even live in Illinois any more. Thank God. One day that bitch will get what she deserves.' " The State specifically noted that the message did not reference V.H. by name but argued that it could be inferred this was who defendant was referencing.

¶ 8 Defense counsel proffered, in part, that defendant had never been served with the full order of protection. Instead, he had received a "short-form notification" that listed the protected

address but did not specify that it was a Steak 'n Shake or “contain any terms about anything that would lead anybody to believe that [V.H.] work[ed] at Steak 'N Shake or [defendant] ha[d] to stay away from Steak 'N Shake.” Defense counsel argued that defendant had messaged the third party without knowing the third party worked at Steak 'n Shake and, thus, without knowing that his message would be passed to V.H. Counsel therefore argued that the State had failed to show the proof was evident or presumption great that defendant committed the charged offense.

¶ 9 The trial court disagreed. Ultimately, defendant was denied pretrial release.

¶ 10 On July 18, 2025, defendant sent a handwritten letter to the trial judge. In it, he stated that his current public defender was not representing his best interests for various reasons. He also presented a plea deal that he would be willing to accept. On August 1, 2025, a response was sent to defendant informing him that his letter had been screened and was determined to contain inappropriate material for communication with a judge. Accordingly, it had been forwarded to the attorneys involved in the case.

¶ 11 On August 6, 2025, the parties appeared before the trial court to present a fully negotiated plea agreement. Before addressing the plea agreement, the court questioned defendant on his previous statement that he was dissatisfied with his attorney. Defendant indicated he wished to withdraw the letter he had sent to the court and proceed with the guilty plea.

¶ 12 The trial court was then presented with the plea agreement. Defendant confirmed that he had signed the agreement and reviewed it with his attorney prior to signing. On questioning by the court, he further confirmed that he had a high school diploma, did not have any disability that would inhibit his ability to participate in the proceedings, and was not taking any medication that would affect his ability to understand what was happening. Defendant additionally confirmed his understanding of the effect of the plea on any future sentences he might receive, restricting

where he might work or live, his ability to obtain a firearm, his ability to obtain various licenses, and his status if he were not a citizen of the United States.

¶ 13 The trial court then read the terms of the agreement. Under the agreement, defendant would plead guilty to the amended bill of indictment, be sentenced to two years in the Illinois Department of Corrections (DOC), and be ordered to pay \$1,000 in fines and costs. Upon release, he would be required to serve four years of MSR. Defendant confirmed that these terms matched his understanding of the agreement.

¶ 14 The trial court then explained to defendant that he was charged with a Class 4 felony, punishable by a term of imprisonment in DOC of not less than one nor more than three years. However, the court advised him that, because he had been convicted of the same or greater class of offense within the last 10 years, he was eligible for an extended term of up to six years in DOC. The court additionally informed him that if other offenses were pending against him, he could be sentenced to a consecutive sentence, requiring one sentence to be served before his others began. Defendant confirmed that he understood.

¶ 15 The trial court further advised defendant of the trial rights he would give up if he proceeded with accepting the guilty plea, such as the right to be tried by a jury and the right to confront witnesses against him. Again, defendant confirmed he understood.

¶ 16 The State presented a factual basis for the plea, stating that if the case proceeded to trial, witnesses would testify that V.H. had obtained an order of protection against defendant in February 2025. The order of protection listed a Steak 'n Shake in Peoria, Illinois, at which V.H. was a manager, as a protected address. Defendant had contacted one of the other employees at the Steak 'n Shake and made vulgar comments about V.H. Defendant also had a prior conviction for violating an order of protection. Defense counsel agreed that the State had witnesses that would

substantiate the factual basis.

¶ 17 The trial court accepted defendant's plea and sentenced him according to its terms.

¶ 18 On August 11, 2025, defendant sent a letter to the circuit clerk, requesting that he be appointed new counsel to file a motion to withdraw his guilty plea. Two days later, he sent another letter to the circuit clerk, making the same request. In this letter, he elaborated that he had attempted to contact his attorney multiple times about withdrawing his guilty plea but was unable to reach him. He stated that he wanted to go to trial to see the evidence against him and face his accuser.

¶ 19 On April 15, 2025, defendant's attorney filed a motion to withdraw the guilty plea on defendant's behalf. In the motion, counsel argued that defendant believed he should be allowed to withdraw his guilty plea on the following three grounds: (1) there was doubt as to his guilt because the message that was the basis for the order of protection violation did not directly name or address V.H., (2) he was not served with "full notice" of the order of protection and was only served with the short-form notification that did not list V.H.'s employer as Steak 'n Shake, and (3) he was under a misapprehension of how the plea would affect the time counted on his parole violation in another case. With respect to the third basis, the motion noted that defendant "believe[d] that the shorter plea here cause[d] consecutive time whereas a three year plea would have been concurrent."

¶ 20 On August 21, 2025, counsel filed a certificate pursuant to Rule 604(d), verifying that he consulted with defendant to ascertain defendant's contentions of error in the entry of the guilty plea and sentence, examined the trial court file and report of proceedings for the guilty plea and the sentencing hearing, and made any amendments to the motion that were necessary for the adequate presentation of any defects in those proceedings.

¶ 21 On the same day counsel filed his certificate, the trial court held a hearing on defendant's motion to withdraw his guilty plea. The court began by again questioning defendant on his professed dissatisfaction with his attorney. Defendant informed the court that the problem had been resolved because counsel had come to see him after he sent his letters and had agreed to file the motion to withdraw his guilty plea.

¶ 22 The trial court then proceeded on defendant's motion. Defense counsel repeated the assertions that were raised in defendant's motion and argued that they represented bases for withdrawing defendant's plea. He therefore asked the court to grant the motion. In arguing the motion, counsel did not elaborate on defendant's arguments beyond what was alleged in the written motion.

¶ 23 With respect to defendant's first two contentions, the State argued that defendant was aware of the factual basis for the guilty plea at the time it was entered and had not objected to it. With respect to the third, the State argued that any effect his guilty plea had on his parole in a different case was a collateral consequence of his plea and therefore not an appropriate basis for withdrawal.

¶ 24 The trial court agreed with the State. It discussed the circumstances in which a court should allow a withdrawal of a guilty plea and found that, in the instant case, "[n]o allegations [had] been set forth" that would allow withdrawal. With respect to defendant's first two allegations, it noted that "[n]o testimony [had] been presented to allow [the] court to make a determination as to whether there [was] a doubt of [defendant's] guilt." It found the claims were "strictly conclusory allegations with no support." It further agreed with the State that defendant's third contention concerned a collateral consequence of his plea and thus was not a basis for withdrawal. It also noted that, despite the fact that it was not required to do so, it had admonished

defendant as to the collateral consequences of his plea. The court therefore denied defendant's motion.

¶ 25 This appeal followed.

¶ 26 II. ANALYSIS

¶ 27 A. The State's Brief

¶ 28 Before addressing the issue of counsel's compliance with Rule 604(d), we must first address the State's brief on appeal. On appeal, defendant raises the argument that his plea counsel failed to comply with the requirements of Rule 604(d). However, in its responsive brief, the State fails to address this argument and instead focuses its analysis exclusively on the merits of the claims in defendant's motion to withdraw his guilty plea. The merits of these claims are not relevant for our purposes. See *People v. Geer*, 2023 IL App (5th) 220069-U, ¶ 24 (finding the State's arguments on the merits of defendant's motion to withdraw his guilty plea had no bearing on the dispositive question of whether counsel strictly complied with Rule 604(d)). Defendant has not alleged that the trial court abused its discretion in denying his motion to withdraw his guilty plea. The only issue he has raised concerns plea counsel's compliance with Rule 604(d). This is therefore the only issue before us, and the State has failed to address it.

¶ 29 Where an appellee fails to address arguments raised by the appellant, the appellee's position "should be equivalent to that as if she had not filed a brief at all." *Plooy v. Paryani*, 275 Ill. App. 3d 1074, 1088 (1995). The failure of an appellee to file a brief does not require automatic reversal, as the appellant still bears the burden of establishing error. *TSP-Hope, Inc. v. Home Innovators of Illinois, LLC*, 382 Ill. App. 3d 1171, 1173 (2008). Rather, when the record is simple and the claimed errors are such that the reviewing court can easily decide them on the merits without the aid of an appellee's brief, the court should do so. *Id.* at 1173-74. As we find this to be

the case before us, we will turn to discussion of defendant's argument.

¶ 30 B. Counsel's Compliance with Rule 604(d)

¶ 31 Rule 604(d) governs appeals from judgments entered upon a plea of guilty. *People v. Gray*, 2023 IL App (4th) 230076, ¶ 28. It requires a defendant to file a motion to withdraw his plea and vacate his sentence in the trial court within 30 days of the date on which he was sentenced. Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). Rule 604(d) is designed both to protect a defendant's due process rights and to eliminate unnecessary appeals. *People v. Shirley*, 181 Ill. 2d 359, 362 (1998). Its purpose is to ensure that any potential errors in the entry of a guilty plea are brought to the trial court's attention before an appeal is filed. *People v. Easton*, 2018 IL 122187, ¶ 29.

¶ 32 When a motion to withdraw a guilty plea is based on facts that "do not appear of record," Rule 604(d) requires that the motion be supported by affidavits. Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). Additionally, Rule 604(d) imposes certain requirements on counsel. *Gray*, 2023 IL App (4th) 230076, ¶ 29. Namely, counsel must file a certificate with the trial court 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, 2025).

¶ 33 Strict compliance with Rule 604(d) is required. *Gray*, 2023 IL App (4th) 230076, ¶ 30. Even when counsel files a facially valid Rule 604(d) certificate, a reviewing court may nevertheless consult the record to determine whether he actually fulfilled his obligations under the

rule. *People v. Bridges*, 2017 IL App (2d) 150718, ¶ 8. Where counsel has failed to comply with the requirements of the rule, we must remand the case to the trial court for the filing of a new motion to withdraw and a new hearing on the motion. *People v. Grice*, 371 Ill. App. 3d 813, 815 (2007). We review the issue of counsel's compliance with Rule 604(d) *de novo*. *Id.*

¶ 34 Defendant here acknowledges that counsel's certificate is facially compliant with the requirements of Rule 604(d), and we agree. However, he asserts that, despite the certificate's apparent compliance, counsel's failure to attach supporting evidence to his motion or make arguments as to the merits of his claims proves that he did not make all necessary amendments to adequately present his arguments.

¶ 35 We disagree. First, although defendant argues that his claims were based on facts that were outside of the record, and thus required supporting affidavits, this does not appear to be true. Defendant's first claim is that the message he sent to V.H. that violated the order of protection did not mention V.H. by name. This information was in the record. At defendant's pretrial detention hearing, the State proffered the exact contents of the message defendant sent and even noted to the court that the message did not include an explicit reference to V.H. See *People v. Stone*, 2023 IL App (4th) 220406-U, ¶ 26 (finding facts that were ascertained in a psychiatric evaluation prior to the guilty plea were on the record for purposes of Rule 604(d) compliance).

¶ 36 Defendant's second claim was that he received insufficient notice because he was only served with the short-form notification that did not list V.H.'s employer as Steak 'n Shake. This information was also in the record because, at the detention hearing, defense counsel proffered that defendant had not been served with the full order of protection and had instead received only a "short-form notification" that lacked relevant information. Indeed, counsel even requested that the court take notice of the short-form notice that defendant had received.

¶ 37 Finally, defendant's third claim is that he was under a misapprehension of how the plea would affect the time counted on his parole violation in another case. Again, the relevant facts were in the record. Defendant's pretrial sentence report, which was introduced at the detention hearing, included specifics of defendant's past convictions, including the fact that he had been convicted of violating an order of protection in 2022 and 2023 and was currently on mandatory supervised release in those cases. Whatever statutory language that defendant believed mandated his plea time to be served concurrently to his MSR, and the facts of the MSR itself, were not matters outside of the record. See *People v. Coleman*, 2023 IL App (4th) 220714-U, ¶ 32 (finding the defendant's claim that he misunderstood whether he was eligible for extended-term sentencing was a matter of "statutory interpretation rather than a matter outside the record").

¶ 38 Given that all of defendant's claims were based on facts that were on the record, counsel was not required to file affidavits in support of these claims. See *People v. Blackledge*, 2023 IL App (4th) 220746-U, ¶ 29 ("Because none of the allegations in 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.").

¶ 39 Defendant, however, argues that the trial court effectively confirmed that his first two claims lacked evidentiary support when it stated, "No testimony has been presented to allow this court to make a determination as to whether there is a doubt of his guilt. These are strictly conclusory allegations with no support." Even if this is true, and the court overlooked the relevant facts in the case file, this does not mean that counsel did not comply with the requirements of Rule 604(d). This would instead present a basis on which defendant could appeal the correctness of the trial court's ruling. However, defendant did not do so in this case; he only appealed based on

counsel's alleged noncompliance with Rule 604(d). We do not find any noncompliance in this regard.

¶ 40 Defendant further argues that counsel failed to comply with Rule 604(d) by failing to make any argument as to how his claims would merit withdrawal of his guilty plea. He asserts that counsel's failure to explain or argue how the grounds to withdraw his plea were met resulted in him being denied a meaningful hearing on his claims. He relies on *Bridges* and *People v. Winston*, 2020 IL App (2d) 180289, for support.

¶ 41 In *Bridges*, defense counsel amended the defendant's *pro se* motion to withdraw his guilty plea to include claims that the defendant's plea was made under duress due to threatened violence against his mother and that it was involuntary due to his being unmedicated. *Bridges*, 2017 IL App (2d) 150718, ¶ 2. Counsel did not attach any supporting affidavits to the motion. *Id.* At a hearing on the plea, the defendant was not present, and defense counsel presented no evidence. *Id.* ¶¶ 3, 4. When asked if she wanted to continue the hearing for argument on the substantive issues, counsel declined, stating that the motion " 'laid [the substantive] issues out.' " *Id.* ¶ 3. The court continued the matter to a later date to announce its ruling. *Id.* At this later hearing, the trial court denied defendant's motion. *Id.* ¶ 1.

¶ 42 The Second District found that defense counsel's facially compliant Rule 604(d) certificate was rebutted by the record. *Id.* ¶ 9. In addition to a lack of supporting affidavits, the court found that the hearing on the motion was "inadequate to satisfy Rule 604(d)'s strict-compliance standard." *Id.* ¶ 10. The court noted that a hearing on a motion must be "more than a charade performed only to allow an appeal to proceed." *Id.* It found that "counsel's failure to offer any argument or evidence in support of the motion functioned as a concession that the motion was without merit. Thus, the hearing in this case served little purpose other than to clear a

procedural hurdle to this appeal.” *Id.* ¶ 11. Accordingly, it remanded for strict compliance with Rule 604(d). *Id.* ¶ 12.

¶ 43 In *Winston*, the defendant pled guilty, and her attorney filed an amended motion to withdraw the plea, raising multiple claims. *Winston*, 2020 IL App (2d) 180289, ¶ 3. At the hearing on the defendant’s motion, counsel raised an additional claim concerning the sufficiency of the evidence proving the defendant’s guilt. *Id.* ¶ 15. Also at the hearing, counsel sought to admit certain written statements from police reports as exhibits. *Id.* ¶ 8. The State objected to the exhibits’ admission, and the trial court sustained the objection. *Id.* ¶ 9. The court asked defense counsel if he wanted to bring in additional witnesses to the hearing, and counsel responded that he did not. *Id.* The trial court denied the defendant’s motion to withdraw her guilty plea. *Id.* ¶ 10.

¶ 44 The Second District found that defense counsel, despite filing a facially valid Rule 604(d) certificate, had not complied with the rule. *Id.* ¶ 15. The court noted that although counsel had raised the sufficiency-of-the-evidence argument at the hearing on the defendant’s motion, he had not amended the written motion to include that claim. *Id.* ¶ 18. The court stated, “We fail to see how counsel could raise a new claim at the hearing and yet deem it unnecessary to amend the motion to include that claim.” *Id.* The court likened the case to *Bridges*, seemingly with respect to the failure of the *Bridges*’ defense counsel to file supporting affidavits. *Id.* ¶ 16. The court remanded the case for compliance with Rule 604(d). *Id.* ¶ 21.

¶ 45 We find both *Winston* and *Bridges* distinguishable. In *Winston*, counsel for the defendant failed to amend the defendant’s motion to include a claim he raised at a hearing on the motion and also failed to attach necessary supporting affidavits. Neither of these factors is present in the instant case, where affidavits were not necessary and defense counsel amended defendant’s motion to include all of the claims raised at the later hearing.

¶ 46 Similarly, in *Bridges*, the court concluded that the hearing on defendant’s motion was a “charade,” filed only as a perfunctory initial step toward appeal. The court specifically noted that “counsel’s failure to offer any argument or evidence in support of the motion functioned as a concession.” *Bridges*, 2017 IL App (2d) 150718, ¶ 11. In the instant case, as we have stated, all of the relevant facts were within the record, and counsel was therefore not required to offer further evidence in support of them. This distinguishes it from *Bridges*, in which the facts underlying the defendant’s claims were not included in the record and, absent any evidence offered by counsel, the trial court was forced to rely solely on “its own recollection of defendant’s demeanor during the plea proceedings” in support of those claims. See *id.* ¶ 9. Indeed, counsel’s argument was apparently sufficient to allow the trial court to decide defendant’s third claim on the merits. With respect to defendant’s first and second claim, we again emphasize that the trial court’s failure to acknowledge the factual basis for the claims that appeared in the record does not render counsel’s Rule 604(d) certificate deficient or suggest that these arguments were so undeveloped as to result in a “charade” hearing.

¶ 47 In sum, we conclude that the facts underlying defendant’s claims in his motion to withdraw his guilty plea were included in the record. Accordingly, counsel was not obligated under Rule 604(d) to attach supporting affidavits to the motion. Additionally, we find that counsel’s presentation of the arguments to the trial court at the hearing on defendant’s motion was sufficient enough so as not to render the hearing a “charade,” performed only for the purpose of initiating an appeal.

¶ 48 III. CONCLUSION

¶ 49 For the reasons stated, we affirm the trial court’s judgment.

¶ 50 Affirmed.