

No. 132278

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of
	)	Illinois, No. 4-24-0738.
Plaintiff-Appellant,	)	
	)	There on appeal from the Circuit Court
-vs-	)	of the Ninth Judicial Circuit, Knox
	)	County, Illinois, No. 21-CF-547.
	)	
TRAVIS TRYNELL WILLIAMS,	)	Honorable
	)	Andrew J. Doyle,
Defendant-Appellee.	)	Judge Presiding.
	)	

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLEE

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ISSUE PRESENTED FOR REVIEW

Whether this Court should affirm the appellate court's judgment that remanded Travis Williams's case for new proceedings pursuant to Illinois Supreme Court Rule 604(d) where the record affirmatively and conclusively refutes defense counsel's certification to the court that he fulfilled his obligations under that rule and the circumstances of Williams's specific case do not warrant outright dismissal of his direct appeal.

STATUTES AND RULES INVOLVED

Rule 604. Appeals from Certain Judgments and Orders

(d) Appeal by Defendant From a Judgment Entered Upon a Plea of Guilty.

No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment.

No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

The motion shall be in writing and shall state the grounds therefor. When the motion is based on facts that do not appear of record it shall be supported by affidavit unless the defendant is filing the motion *pro se* from a correctional institution, in which case the defendant may submit, in lieu of an affidavit, a certification as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109). The motion shall be presented promptly to the trial judge by whom the defendant was sentenced, and if that judge is then not sitting in the court in which the judgment was entered, then to the chief judge of the circuit, or to such other judge as the chief judge shall designate. The trial court shall then determine whether the defendant is represented by counsel, and if the defendant is indigent and desires counsel, the trial court shall appoint counsel.

If the defendant is indigent, the trial court shall order a copy of the transcript as provided in Rule 402(e) be furnished the defendant without cost. 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.

The motion shall be heard promptly, and if allowed, the trial court shall modify the sentence or vacate the judgment and permit the defendant to withdraw the plea of guilty and plead anew. If the motion is denied, a notice of appeal from the judgment and sentence shall be filed within the time allowed in Rule 606, measured from the date of entry of the order denying the motion. Upon appeal any issue not raised by the defendant in the motion to reconsider the sentence or withdraw the plea of guilty and vacate the judgment shall be deemed waived.

The certificate of counsel shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article VI Forms Appendix.

Rule 605. Advice to Defendant

(c) On Judgment and Sentence Entered on a Negotiated Plea of Guilty.

In all cases in which a judgment is entered upon a negotiated plea of guilty, at the time of imposing sentence, the trial court shall advise the defendant substantially as follows:

- (1) that the defendant has a right to appeal;
- (2) that prior to taking an appeal the defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion asking to have the judgment vacated and for leave to withdraw the plea of guilty, setting forth the grounds for the motion;
- (3) that if the motion is allowed, the plea of guilty, sentence and judgment will be vacated and a trial date will be set on the charges to which the plea of guilty was made;
- (4) that upon the request of the State any charges that may have been dismissed as a part of a plea agreement will be reinstated and will also be set for trial;
- (5) that if the defendant is indigent, a copy of the transcript of the proceedings at the time of the defendant's plea of guilty and sentence will be provided without cost to the defendant and counsel will be appointed to assist the defendant with the preparation of the motions; and
- (6) that in any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to vacate the judgment and to withdraw the plea of guilty shall be deemed waived.

For the purposes of this rule, a negotiated plea is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending.

STATEMENT OF FACTS

Introduction

Following a motor-vehicle accident that resulted in the death of Kenneth Yeater (“Yeater”), Travis Williams (“Williams”) pleaded guilty to one count of aggravated driving under the influence. (C. 35, 42, 49.) As charged, Williams was subject to sentencing under 625 ILCS 5/11-501(d)(2)(G), which provides a special sentencing range of 3 to 14 years in prison (if probation is not imposed). (C. 35, 49.) Before the appellate court and this Court, the parties agree that Williams was never subject to an extended-term sentence of 14 to 28 years in prison. (Illinois Supreme Court Opening Brief, p. 3-4; Illinois Supreme Court Response Brief, p. 4; Appellate Court Opening Brief, p. 16-18, Appellate Court Response Brief, p. 20.) With that understanding, Williams will now address his case in more detail.

The Charges

On November 3, 2021, the State initially filed a two-count information, charging Williams with aggravated driving under the influence and with reckless homicide. (C. 9-10.) The information notified Williams that the aggravated-driving-under-the-influence charge was subject to 3 to 7 years in prison, but up to an extended term of 7 to 14 years in prison. (C. 9.) At his first appearance on December 20, 2021, the circuit court admonished Williams that the aggravated-driving-under-the-influence offense was punishable by 3 to 7 years in prison. (R. 4.) After the waiver of Williams’s right to a preliminary hearing, the circuit court appointed counsel to represent Williams. (C. 4, 13; R. 16.) And, on July 6, 2022, the State filed a written notice of intent to seek an extended-term sentence under 730 ILCS 5/5-5-3.2(b)(1) based on Williams’s prior criminal history. (C. 22.)

After numerous continuances and Williams receiving representation by several different assigned attorneys, the State filed an amended two-count information on September 8, 2023. (C. 4-6.) The first count again alleged that Williams committed aggravated driving under the influence. (C. 32.) This time, however, the State asserted that the offense was penalized by a term of “3 To 14 Years, up to 28 years Extended Term[,] 2 Years Msr (Probation Up To 48 Months) (Must serve 85% of sentence)[.]” (C. 32.) The second count charged Williams with reckless homicide. (C. 33.)

A few days later, on September 12, 2023, the State filed a second amended information alleging that, in Count One, Williams committed aggravated driving under the influence based on his blood alcohol concentration; in Count Two, Williams committed aggravated driving under the influence based on being under the influence; and in Count Three, Williams committed reckless homicide. (C. 35-36.) For the aggravated-driving-under-the-influence charges in Counts One and Two, the State described the applicable penalties as follows: “3 To 14 Years, up to 28 years Extended Term, 1 Years Msr (Probation Up To 48 Months)[.]” (C. 35-36.)

The Guilty Plea

At the guilty-plea hearing on September 15, 2023, the State first acknowledged that the original information had “the incorrect prison sentence from—it’s 3 to 14, not 3 to 7.” (R. 64.) Assessing the charges, defense counsel assured the court that it went over them with Williams (R. 66-67.) Thereafter, defense counsel announced that they were entering into “a partial 402(d) plea.” (R. 67.) Defense counsel clarified that it would be an “open plea” to aggravated driving under the influence, with the rest of the charges dismissed. (R. 67.) However, the parties were “taking extended term as part of that off the table” and so “the sentencing range

would be 3 to 14.” (R. 67.) Additionally, the State agreed not to revoke Williams’s bond prior to sentencing unless there was “some new basis to do that.” (R. 67-68.) The discussing Williams’s rights with him, the factual basis for the offense, and his written plea of guilty, the circuit court accepted Williams’s guilty plea as to Count One. (R. 69-71.) The circuit court set the matter for sentencing. (R. 73.)

Sentencing

At the sentencing hearing on December 11, 2023, the circuit court, prosecutor, and defense counsel discussed the nature of Williams’s sentencing range. (R. 78.) In the process, the prosecutor and defense concurred that Williams was now subject to 3 to 14 years in prison. (R. 78-79.) More specifically, the following exchange occurred:

Defense Counsel: Well, it shows here on this the extended term—oh, that was the amended shows to 28—

Prosecutor: Right.

Defense Counsel: —is the Amended Information shows 3 to 14, extended term goes to 28. And we removed the Court’s—the Court agreed to remove its ability to do the extended term on the Amended Information, which shows the—what is it—14 to 28 or 15 to 28. I guess that’s the—

Circuit Court: So, just make sure we’re on the same page then, by agreement of the parties the sentencing range is 3 to 14 years in the Department of Corrections with on year MSR. Is that what—everybody on the same page as far as that goes?” (R. 78-79.)

Defense counsel and the prosecutor answered in the affirmative. (R. 79.) The parties then presented the pre-sentence investigation report, the traffic crash reconstruction report, Williams’s testimony and statement in allocution, and numerous victim impact letters from members of the community. (R. 80-82, 97, 110.)

Recommending 14 years in prison served at 85 percent, the State contended that, as statutory aggravation, Williams's conduct caused or threatened serious harm, he had a prior criminal history, and he was on federal parole when the present offense occurred. (R. 111, 113.) The State also posited that there were no mitigating factors in Williams's favor, and the circumstances leading to the offense were likely to reoccur, due to Williams's prior criminal history. (R. 114.) The State reiterated that it was seeking the maximum sentence permitted under its agreement with the defense. (R. 114.)

In turn, the defense urged the circuit court to impose a sentence of 5 years in prison, even though it was an offense subject to a term of probation. (R. 119.) In support of that position, the defense emphasized that Williams had changed since prior offenses in 2016 and that the current offense was due to his recklessness, rather than a desire to cause harm. (R. 117.) Countering the State's position, the defense asserted that the serious harm—Yeater's death—was already an inherent factor considered by the legislature in setting the range for the offense. (R. 117, 120-21.) For mitigation, the defense pointed out that Williams did not intend to cause anyone's death when driving, that Williams was insured so the family would be compensated, and that the offense was the result of circumstances that would not likely occur again. (R. 120-22.)

After a recess (R. 129), the circuit court explained that it understood that Williams's intent was not to cause harm and that it was giving that fact appropriate consideration. (R. 131.) The circuit court further determined that Williams was sincerely remorseful. (R. 132.) Turning to aggravating factors, the circuit court opined that "I do find obviously that there was a death that occurred here," and the court, after noting there was never an age where death was more appropriate

than others and Yeater “touched” many members of the community, stated “to see anybody’s life cut short is upsetting to the community as well as to this Court.” (R. 132.)

Additionally, in assessing the appropriate prison sentence, the circuit court reasoned as follows:

“I think to get to this point, there was a concession made that the State would not be seeking an extended-term sentence here, which could have been up to that 28 years, and to an extent I’m factoring that in in giving my ultimate ruling[.]” (R. 133.)

The circuit court continued that Williams had a significant prior criminal history, which included a previous 56-month sentence, and the court felt “there’s never really going back down.” (R. 133.) Thus, even though the circuit court pondered whether a sentence to the Department of Corrections would help anyone, it determined it was the court’s only option. (R. 134.) As a result, the circuit court sentenced Williams to 12 years in prison, served at 85 percent and followed by a year of mandatory supervised release. (C. 49; R. 134.)

Thereafter, the circuit court warned Williams:

“This does start the running of your right to appeal. If you think we did something wrong today, you have 30 days to file a motion withdrawing your guilty plea and vacating the judgment. If that motion’s granted, we’ll start back over where we were before the guilty plea was entered. If it’s denied, then you have 30 additional days to file a Notice of Appeal with the Appellate Court.” (R. 134-35.)

The Motion to Reconsider the Sentence

Two days later, defense counsel filed a motion to reconsider the sentence that alleged that the circuit court erred in sentencing Williams by failing “to find proper mitigating and aggravating factors in [Williams’s] sentencing and the sentence is not proper in consideration of the offense for which [Williams] plead[ed] guilty.” (C. 56.) While the motion was pending, Williams filed a *pro se* document

with the circuit court inquiring “I’m asking was an appeal filed on my behave [sic] for the case number above. Thank you[.]” (C. 60.)

At the hearing on the motion to reconsider the sentence, defense counsel reiterated the possibility of an “extended term to 28 years” but the parties agreed to limit the court’s consideration of sentences within the range of 3 to 14 years in prison. (R. 140.) Defense counsel noted Williams’s remorse, which the court credited, his ability to compensate Yeater’s family, and the fact that he did not contemplate causing harm. (R. 141.) Defense counsel continued that “[o]ne of the biggest errors though” was the court’s consideration in aggravation that the offense resulted in a death, which was an inherent factor of the charge. (R. 142.) Addressing the sentencing range, defense counsel argued:

“[T]he State agreed to reduce the extended term getting the 28-year maximum down to 14. That was as part of the negotiations; however, I think it is error for the Court to take that into consideration as an aggravating factor.” (R. 143.)

The day of the hearing, defense counsel also filed a facially compliant Rule 604(d) certificate that, *inter alia*, averred to the court that he “made any amendments to the Defendant’s motion necessary for the adequate presentation of any defects in those proceedings.” (C. 66.)

In response, the State emphasized Williams’s prior criminal history and that he knew the risk to others when driving intoxicated. (R. 144.) The circuit court denied the motion, believing the sentence imposed was appropriate given the totality of the circumstances. (R. 145.) Williams appealed. (C. 67, 72.)

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On appeal, Williams raised that the circuit court reversibly erred in denying his motion to reconsider the sentence and in sentencing him to 12 years in prison where it used a factor inherent in the offense—Yeater’s death—in aggravation and

misunderstood the appropriate sentencing range that applied to his case. (Appellate Court Opening Brief, p. 10.) In arguing that the sentencing court misunderstood his sentencing range, Williams pointed out that the legislature did not provide for an extended-term sentence of 14 to 28 years in prison for his offense and the circuit court failed to understand that he was never subject to a prison sentence of 28 years, regardless of the parties' plea agreement. (Appellate Court Opening Brief, p. 17-18.) Because the State did not make any actual sentencing concessions, Williams indicated that the appellate court could review the circuit court's denial of his motion to reconsider the sentence. (Appellate Court Opening Brief, p. 18.) Similarly, Williams also sought for the appellate court to review his claims, even if they were not properly preserved, because his defense counsel provided ineffective assistance of counsel and violated Illinois Supreme Court Rule 604(d) by failing to include these arguments in his written motion. (Appellate Court Opening Brief, p. 21.)

Alternatively, Williams asserted that, if his guilty plea was negotiated, then his defense counsel violated his obligations under Rule 604(d) by filing a motion to reconsider his sentence without seeking to withdraw his guilty plea. (Appellate Court Opening Brief, p. 26.) In making this argument, Williams asked the appellate court to apply its precedent remanding for new Rule 604(d) proceedings where counsel filed the incorrect motion as well as noted that the circuit court's admonishments failed to sufficiently comply with Illinois Supreme Court Rule 605(c) that governs appeal admonishments. (Appellate Court Opening Brief, p. 32-33.)

In issuing its ruling, the appellate court first determined that Williams was "correct, and the State does not dispute," that he was not eligible for a term of 28 years in prison. *People v. Williams*, 2025 IL App (4th) 240738, ¶ 33.

The appellate court continued that, while the matter would usually be considered a negotiated plea as Williams accepted the “State’s agreement to forgo seeking an 28-year extended term[,]” it was “clear the agreement was made based on a mutual mistake of law and fact.” *Williams*, 2025 IL App (4th) 240738, ¶ 39. Therefore, the appellate court found that “the State in effect gave nothing up in terms of sentencing concessions when it made the agreement.” *Id.*

Nevertheless, after recognizing the “lack of Illinois precedent” on point, the appellate court reasoned that “the proper remedy” for a sentence imposed based on “a legally faulty plea agreement” would be to return the parties to their original position and rescind the plea agreement. *Id.* at ¶¶ 40, 42. Given that withdrawing the plea was the proper remedy, the appellate court declined to construe the effect of the parties’ mutual mistake “as one that would transform the negotiated plea into an open plea and allow [Williams] to challenge his sentence without withdrawing the plea.” *Id.* at ¶ 42.

As to Williams’s alternative relief, the appellate court concluded that the erroneous filing of a motion to reconsider the sentence instead of the correct motion to withdraw the guilty plea rebutted defense counsel’s facially compliant Rule 604(d) certificate as the record clearly established that counsel did not adequately present Williams’s claims of error or preserve any of the contentions for further review. *Id.* at ¶ 49. Ultimately, the appellate court reversed the circuit court’s judgment and remanded for new post-plea proceedings. *Id.* at ¶ 53. The State then filed a petition for leave to appeal with this Court, which this Court granted.

ARGUMENT

This Court should affirm the appellate court's judgment that remanded Travis Williams's case for new proceedings pursuant to Illinois Supreme Court Rule 604(d) where the record affirmatively and conclusively refutes defense counsel's certification to the court that he fulfilled his obligations under that rule and the circumstances of Williams's specific case do not warrant outright dismissal of his direct appeal.

As recognized by the appellate court, Travis Williams ("Williams") struck a plea agreement with the State, principally avoiding the exposure to a 28-year prison term under the extended-term provisions allegedly provided by statute. However, there is no dispute that the circuit court, the prosecutor, and defense counsel were all mistaken: Williams was never subject to a potential extended-term sentence of 28 years in prison in the first place. As a matter of first impression, the appellate court determined that the proper remedy for Williams's case was an opportunity to withdraw his guilty plea rather than challenge his sentence. As a result, the appellate court remanded for new Illinois Supreme Court Rule 604(d) proceedings, as defense counsel falsely certified to the court that he made the necessary changes to preserve Williams's claims of error against his guilty plea and sentence.

Nevertheless, the State wants to strip Williams of his direct appeal and force him to litigate any challenge to his guilty plea or sentence under the Post-Conviction Hearing Act, depriving him of the protections afforded by Rule 604(d) proceedings. Given the clear mistake of law made by the parties before the circuit court, the fact that counsel's certification to the court was demonstrably false, and the faulty admonishments the circuit court gave under Illinois Supreme Court Rule 605(c), this Court should affirm the appellate court's judgment and remand for new Rule 604(d) proceedings before the circuit court. Alternatively, Williams asks this Court, using its supervisory authority, to order new post-plea litigation where he can raise his challenge against his guilty plea and sentence with the protections afforded by Rule 604(d).

1. Standard of Review

Whether the requirements of Rule 604(d) have been met is a legal question reviewed *de novo*. *People v. Easton*, 2018 IL 122187, ¶ 25.

2. The Appellate Court's Decision Remanding for Rule 604(d) Relief Should Be Affirmed.

It is well established that Illinois Supreme Court Rule 604(d) governs the procedures used when a defendant desires to appeal his conviction and sentence after pleading guilty. *Easton*, 2018 IL 122187, ¶¶ 20, 29. If the defendant enters a negotiated plea and desires to appeal his conviction and sentence, the plain language of that rule requires the defendant to first file a written motion to withdraw the guilty plea and vacate the judgment with the circuit court within 30 days of sentencing. Ill. S. Ct. R. 604(d). “As a general rule, *** the failure to file a timely Rule 604(d) motion precludes the appellate court from considering the appeal on the merits” and requires the dismissal of the direct appeal. *People v. Flowers*, 208 Ill. 2d 291, 301 (2003).

Yet that general rule “is not without exceptions.” *Flowers*, 208 Ill. 2d at 301. First, this Court has held that, in unique circumstances, fundamental fairness may excuse the failure to timely file a post-plea motion. *People v. Brooks*, 233 Ill. 2d 146, 155 (2009). Second, if the circuit court fails to comply with Illinois Supreme Court Rule 605 and the defendant subsequently attempts to litigate an appeal without filing the motions in the manner required by that rule, the “appropriate course is to remand the cause to the trial court for strict compliance with Rule 604(d).” *Flowers*, 208 Ill. 2d at 301.¹

¹ The State also identifies two further exceptions in its opening brief: (a) where the defendant's sentence is not authorized by statute, and (b) where the defendant challenged the applicable statute as facially unconstitutional and thus void *ab initio*. (Illinois Supreme Court Opening Brief, p. 11.) And, while not applicable here, this Court has further determined that “dismissal is too harsh a sanction” for a juvenile defendant that fails to comply with the written-motion requirements of Rule 604(d). *In re William M.*, 206 Ill. 2d 595, 605 (2003)

That being said, the filing of a post-plea motion is not the only requirement outlined by Rule 604(d). *People v. Janes*, 158 Ill. 2d 27, 34 (1994). Rather, in conjunction with filing the post-plea motion, Rule 604(d) further demands the following:

“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).

In so doing, the rule demands that post-plea counsel must actually accomplish, as well as certify his or her completion with, each of the requirements listed above. See *Easton*, 2018 IL 122187, ¶ 32 (explaining that the certificate serves as evidence that counsel completed the *required* tasks).

Now, assessing this process, this Court has determined that the rule sets forth “a simple, straightforward, and *mandatory* procedure designed to insure that those duties are performed[.]” *Janes*, 158 Ill. 2d at 35 (internal quotation omitted). As such, these obligations do “not place an onerous burden” on post-plea counsel, and it is incumbent on defense counsel to follow them. *Id.* Given the simple certification requirements of the rule, strict compliance is required. See *id.*

Nor are Rule 604(d)’s certification requirements immaterial; its purpose is to verify that counsel has actually reviewed the defendant’s claims and considered all relevant bases to include in the post-plea motion, be it a challenge to the defendant’s conviction or sentence. *People v. Tousignant*, 2014 IL 115329, ¶¶ 15-16. To that end, “the point of the rule is to *protect the defendant’s interests through adequate consultation*” with an attorney prior to completing the post-plea motion. *People v. Gorss*, 2022 IL 126464, ¶ 16 (quoting *Easton*, 2018 IL 122187, ¶ 32).

In so doing, Rule 604(d) ensures that any alleged improprieties that may have produced a guilty plea and the resulting sentence are reviewed by counsel and correctly brought to the circuit court's attention, in the proper manner, before any appeal is initiated. See *Tousignant*, 2014 IL 115329, ¶¶ 15-16.

To be sure, reviewing courts have warned that compliance with Rule 604(d) is not a mere technicality or a rote precursor to the filing of an appeal. See *People v. Bridges*, 2017 IL App (2d) 150718, ¶¶ 10-11. Instead, given the stringent waiver requirements imposed by Rule 604(d), the preparation of counsel's post-plea motion is very "significant" to the defendant. *People v. Neal*, 403 Ill. App. 3d 757, 761 (4th Dist. 2010); see *Janes*, 158 Ill. 2d at 35 (approving of appellate court decisions that recognize fundamental-fairness concerns require the defendant to have the assistance of counsel in litigating his post-plea motion given the "strict" waiver requirements of Rule 604(d)). Thus, defense counsel must not treat the post-plea process as merely an act "to clear a procedural hurdle" prior to the appeal. *Bridges*, 2017 IL App (2d) 150718, ¶ 11.

This Court has determined that defense counsel must certify that he or she has completed each of the three specific tasks identified in that rule in order to strictly comply with his or her obligations under Rule 604(d). *Gorss*, 2022 IL 126464, ¶ 29. However, this Court has also made it clear that, when examining a Rule 604(d) certificate, "our task is to determine whether counsel has actually satisfied that directive." *Easton*, 2018 IL 122187, ¶ 34. Thus, in assessing the certificate, the court is "charged with evaluating counsel's prior actions to determine whether the requirements of the rule have been satisfied." *Id.* In essence, "[t]he focus is to ascertain what counsel actually did to achieve compliance with the rule." *Id.*

In this way, reviewing courts have determined that defense counsel—along with certifying that he or she has completed the three tasks identified by that rule—must actually fulfil those obligations in order to strictly comply with Rule 604(d). *Bridges*, 2017 IL App (2d) 150718, ¶ 8; see *People v. Curtis*, 2021 IL App (4th) 190658, ¶ 36 (collecting cases). Thus, even where a Rule 604(d) certificate is facially valid, counsel’s representations may be refuted by the record as Rule 604(d) requires more than a mere *pro forma* filing of a motion and certificate. *People v. Suaste-Gonzalez*, 2023 IL App (2d) 220323, ¶ 24. Thus, strict compliance with Rule 604(d) is not narrowly limited to counsel filing a facially compliant certificate. See *Bridges*, 2017 IL App (2d) 150718, ¶ 8; see, e.g., *People v. Brown*, 2024 IL 129585, ¶¶ 49-54 (reviewing the defendant’s argument that the record rebutted counsel’s facially compliant Rule 604(d) certificate before determining that a second remand for strict compliance with Rule 604(d) was not warranted under the specific facts of the case).

As applied here, the State claims that defense counsel’s decision to file a motion to reconsider the sentence instead of a motion to withdraw the guilty plea requires outright dismissal of Williams’s direct appeal without examining whether defense counsel discharged his obligations under Rule 604(d). (Illinois Supreme Court Opening Brief, p. 8-14.) The State is wrong. Both exceptions identified above apply. Williams will address each in turn.

A. The Circuit Court’s Admonishments Were Not Sufficient to Permit Dismissal of Williams’s Appeal Rather Than Remand for Compliance with Rule 604(d).

In his opening brief before the appellate court, Williams pointed out that his case was distinguishable from cases dismissing a defendant’s direct appeal for non-compliance with the correct-motion requirement of Rule 604(d) because the circuit court’s admonishments under Rule 605(c) in his case were not sufficient to

permit the dismissal of his direct appeal. (Appellate Court Opening Brief, p. 32-33.) While the appellate court did not specifically address this argument in its decision, see *People v. Williams*, 2025 IL App (4th) 240738, ¶¶ 44-51, this Court, in determining the correctness of the appellate court’s decision, “is in no way constrained by the appellate court’s reasoning and may affirm on any basis supported by the record.” *In re Veronica C.*, 239 Ill. 2d 134, 151 (2010).

This Court has made it clear that Rule 604(d) is designed to work in conjunction with Rule 605. *People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 41 (2011) (noting that this Court “has explained that Rule 605 is a necessary corollary to Rule 604(d)). To that end, Rule 605 serves to ensure, *inter alia*, that a defendant knows of Rule 604(d)’s specific requirements regarding appeals following the entry of a guilty plea. *People v. Foster*, 171 Ill. 2d 469, 473 (1996). If sufficient Rule 605 admonishments have not been issued, it would violate a defendant’s procedural due process rights to hold him responsible for non-compliance with the stringent strictures of Rule 604(d). *Foster*, 171 Ill. 2d at 473; see *People ex rel. Alvarez*, 241 Ill. 2d at 41 (“Admonishing defendants regarding the requirements of Rule 604(d) ensures that the ramifications of noncompliance comport with due process”).

By its plain language, the admonishments contained in Rule 605(c) apply to negotiated pleas. Ill. S. Ct. R. 605(c). More specifically, Rule 605(c) provides as follows:

“In all cases in which a judgment is entered upon a negotiated plea of guilty, at the time of imposing sentence, the trial court shall advise the defendant substantially as follows:

- (1) that the defendant has a right to appeal;
- (2) that prior to taking an appeal the defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion asking to have the judgment vacated and for leave to withdraw the plea of guilty, setting forth the grounds for the motion;

(3) that if the motion is allowed, the plea of guilty, sentence and judgment will be vacated and a trial date will be set on the charges to which the plea of guilty was made;

(4) that upon the request of the State any charges that may have been dismissed as a part of a plea agreement will be reinstated and will also be set for trial;

(5) that if the defendant is indigent, a copy of the transcript of the proceedings at the time of the defendant's plea of guilty and sentence will be provided without cost to the defendant and counsel will be appointed to assist the defendant with the preparation of the motions; and

(6) that in any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to vacate the judgment and to withdraw the plea of guilty shall be deemed waived.

For the purposes of this rule, a negotiated plea is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending." Ill. S. Ct. R. 605(c).

While the circuit court need not conduct a strict *verbatim* reading of the rule, it still must substantially advise the defendant of the rule's contents. *People v. Dominguez*, 2012 IL 111336, ¶ 19. Where the circuit court's failure to admonish the defendant under Rule 605 prevents the appellate court from dismissing a defendant's appeal despite the defendant's non-compliance with the written-motion requirement of Rule 604(d), then "in such situations the appellate court is required to remand the cause to the trial court for strict compliance with Rule 604(d)." *Foster*, 171 Ill. 2d at 474.

In the present case, following sentencing him to 12 years in prison, the circuit court warned Williams as follows:

"This does start the running of your right to appeal. If you think we did something wrong today, you have 30 days to file a motion withdrawing your guilty plea and vacating the judgment. If that motion's granted, we'll start back over where we were before the guilty plea was entered. If it's denied, then you have 30 additional days to file a Notice of Appeal with the Appellate Court." (R. 134-35.)

There were a myriad of deficiencies in the circuit court's admonishments, and it did not substantially convey the essence of Rule 605(c), precluding the dismissal of Williams's case rather than remanding it for strict compliance with Rule 604(d). First, by stating "[i]f you think we did something wrong *today*," the circuit court indicated to Williams that a post-plea motion to withdraw his guilty plea was only necessary to challenge the entry of his sentence. (R. 134, emphasis added.) Indeed, at no point did the circuit court instruct Williams that he could challenge errors that occurred earlier in his case—the entry of his guilty plea independent of any challenge to his sentence—or that a post-plea motion was absolutely necessary to preserve any challenge to the entry of his guilty plea. (R. 134-35.) See Ill. S. Ct. R. 605(c)(2); *People v. Bell*, 2026 IL App (4th) 250994, ¶ 54 (holding that this admonishment did not comply with Rule 605(c) as it did not clearly state that the defendant "must" file a motion to withdraw the guilty plea before filing an appeal).

In this way, the circuit court did not effectively relay to Williams that his right to appeal any challenge to his guilty plea was specifically conditioned on the filing of a post-plea motion See Ill. S. Ct. R. 605(c)(2) (advising the defendant that, prior to taking an appeal, he *must file* a written motion to withdraw his guilty plea with the circuit court); *Bell*, 2026 IL App (4th) 250994, ¶ 54. Nor did the circuit court, as required by the rule, inform Williams that his motion must be in writing and include all the grounds in support of his position. See Ill. S. Ct. R. 605(c)(2).

The circuit court also did not expressly inform Williams, as demanded by the rule, that, if his motion was granted, the State could seek to reinstate charges that were dismissed by the plea agreement. (R. 134-35.) See Ill. S. Ct. R. 605(c)(4). And the circuit court's instructions that, if his post-plea motion was denied, Williams

must file a notice of appeal with the appellate court within 30 days was also erroneous. (R. 135.) In fact, Williams was required to file a notice of appeal with the circuit court within that time frame. See Ill. S. Ct. R. 606(a), (b).

But more importantly, the circuit court did not comply in any meaningful way with Rule 605(c)(5) and (6). (R. 134-35.) The circuit court wholly failed to advise Williams that, as he was indigent, a copy of the sentencing and guilty plea transcripts would be provided without cost to him and that counsel would be appointed to assist him in the preparation of his post-plea motions. See Ill. S. Ct. 605(c)(5); *People v. Cone*, 2025 IL App (2d) 240474, ¶ 24 (determining that a circuit court fails to substantially comply with this provision when the court gives “the respective defendants no reason to believe they had any right to counsel to assist them with postplea motions”). Likewise, the circuit court never relayed to Williams that any claim of error that was not raised in a written post-plea motion was waived. See Ill. S. Ct. R. 605(c)(6); *People v. Perry*, 2014 IL App (1st) 122584, ¶¶ 16-17 (holding that the court did not comply with Rule 605(c) where it did not address subsection (4) and (6) and, at times, was unclear when tackling the substance of the other provisions). This Court should not condemn Williams for failing to preserve his arguments in a written motion to withdraw his guilty plea to avoid their waiver when he was never informed that he was required to do so in the first place. See, e.g., *Bell*, 2026 IL App (4th) 250994, ¶¶ 53-54 (concluding that the given admonishments, nearly identical to this case, did not substantially comply with Rule 605(c)).

Just as importantly, the circuit court’s faulty admonishments here were not cured by written instructions that were given to, and signed by, Williams. Therefore, this Court cannot rely on written instructions that clarified any errors or confusing instructions contained within the circuit court’s oral admonishments to the defendant, as occurred in *Dominguez*, 2012 IL 111336, ¶ 36.

Unlike *Dominguez*, there were no assurances that Williams received any information about the required steps to preserve his claims against his guilty plea and sentence, outside of the court's oral instructions. Nor was Williams ultimately required to show that any prejudice that resulted from the circuit court's improper admonishments under Rule 605(c). See *Cone*, 2025 IL App (2d) 240474, ¶ 30 (citing *Dominguez*, 2012 IL 111336, ¶ 21 n.4, for the proposition that Rule 605(c) does not require a showing of prejudice or a denial of real justice to permit remand for additional post-plea proceedings).

In all, the circuit court's admonishments to Williams, following the entry of his sentence, did not sufficiently warn him on necessary steps to protect his right to appeal under Rule 605(c). This deficiency precludes the dismissal of Williams's direct appeal for failing to comply with the written-motion requirement of Rule 604(d). Where, as here, the inadequate Rule 605 admonishment prevents the appellate court from dismissing the defendant's direct appeal, the appellate court "is required to remand the cause to the trial court for strict compliance with Rule 604(d)." See *Foster*, 171 Ill. 2d at 474. The appellate court's decision remanding for strict compliance with Rule 604(d) (*Williams*, 2025 IL App (4th) 240738, ¶ 53) can be, and should be, affirmed on this basis alone.

B. Fundamental Fairness Permits Remand for Rule 604(d) Compliance Rather than Outright Dismissal of Williams's Direct Appeal.

As acknowledged above, the general rule provides that the defendant's failure to file the correct post-plea motion in his endeavor to appeal his guilty plea and sentence usually results in the dismissal of his appeal if he was correctly admonished under Rule 605. See *Flowers*, 208 Ill. 2d at 301. The State contends that this general rule should apply to Williams's case, resulting in the loss of his direct appeal, relying primarily on *People v. Wilk*, 124 Ill. 2d 93 (1988); *People v. Evans*, 174 Ill. 2d 320 (1996); *People v. Linder*, 186 Ill. 2d 67 (1999); *People v. Diaz*, 192 Ill. 2d 211 (2000);

and *People v. Johnson*, 2019 IL 122956. (Illinois Supreme Court Opening Brief, p. 8-11, 14-15.) The State's conclusion that these cases squarely foreclose remand for Rule 604(d) relief is incorrect given the unique circumstances of Williams's case. Instead, this Court, following its own precedent, should conclude that Williams's case falls outside the scope of the dismissal rule and affirm the appellate court's decision to remand for additional post-plea proceedings.

i. The Plea Agreement Barred the Circuit Court From Imposing a 14 to 28 Year, Extended-Term Prison Sentence.

But first a brief interlude. In its opening brief before this Court, the State portrays that the prosecutor and Williams negotiated to bar the State from seeking an extended-term sentence of 7 to 14 years in prison and that subsequently Williams strove unilaterally to keep the benefit of this bargain by moving to reconsider the sentence rather than withdraw his guilty plea. (Illinois Supreme Court Opening Brief, p. 4, 11.) First, the State never argued before the appellate court that the plea was negotiated because the parties bargained to prevent the State from seeking an extended-term sentence of 7 to 14 years in prison. (Appellate Court Response Brief, p. 4-5, 20, 26.) In fact, in its brief before the appellate court, the State specifically accepted that, in exchange for Williams's guilty plea, the State agreed that it "would not seek an extended-term sentence of 14 to 28 years in prison." (Appellate Court Response Brief, p. 4.) Therefore the State's suggestion, raised for the first time here, that the State and Williams mutually negotiated away the State's right to seek an extended term of 7 to 14 years in prison, rather than an extended term of 14 to 28 years in prison, was actually contrary to its arguments before the appellate court.

Second, and even more importantly, the record affirmatively and conclusively establishes that the State gave up its purported right to seek an extended-term sentence of 14 to 28 years in prison, not an extended-term sentence of 7 to 14 years

in prison. In support of this point, the State, immediately before the entry of the guilty plea, filed amended informations pertaining to Count One, the aggravated-under-the-influence offense at issue. (C. 32, 35.) The first information alleged that, for Count One, the penalty was “3 To 14 Years, up to 28 years Extended Term[.]” (C. 32.) Similarly, the second amended information likewise alleged that Williams’s potential penalty was “3 To 14 Years, up to 28 years Extended Term[.]” (C. 35.) Therefore, when the parties entered a guilty plea that precluded the circuit court from considering Williams’s extended-term eligibility, it was necessarily referring to the 14 to 28 year range. (C. 32, 35; R. 67.)

Indeed, prior to sentencing, defense counsel summarized the parties’ plea agreement by stating “the Court agreed to remove its ability *to do the extended term on the Amended Information*, which shows the—what is it—*14 to 28 or 15 to 28.*” (R. 79, emphasis added.) The prosecutor did not contradict this statement, as one would expect if defense counsel’s recitation was incorrect or not reflective of the parties’ agreement. (R. 79.) So even though Williams was never eligible to serve an extended-term sentence of 14 to 28 years in prison,² the record shows that the State agreed only to prevent the court from imposing a sentence within the range of 14 to 28 years in prison, securing Williams’s guilty plea. (R. 67, 79.) Therefore, this Court should reject any indication, as a factual matter, that the parties negotiated away the State’s right to seek an extended-term sentence of 7 to 14 years in prison, as opposed to an extended-term sentence of 14 to 28 years in prison. See *Williams*, 2025 IL App (4th) 240738, ¶ 39 (noting the record was clear the parties were referring to avoiding a 28-year extended term before the circuit court).

² Nor was the State permitted to receive convictions and sentences for all three charged offenses. While the State also dismissed two other counts as a result of the plea agreement (a second count of aggravated driving under the influence resulting in death and one count of reckless homicide), the State was not entitled to receive a conviction and sentence on each of the three counts as doing so would violate the one-act, one-crime doctrine. *People v. Stutzman*, 2015 IL App (4th) 130889, ¶ 39.

ii. The State's Cases Do Not Require this Appeal's Dismissal.

Returning back to the State's substantive arguments, the cases relied on by the State are distinguishable, and they do not require this Court to dismiss Williams's appeal. (Illinois Supreme Court Opening Brief, p. 8-11, 14-15.) At the onset, this Court, in *Johnson* and in *Diaz*, never addressed whether defense counsel's failure to comply with Rule 604(d) by filing the wrong post-plea motion warranted remand for new Rule 604(d) proceedings or dismissal of the defendant's appeal. Instead, the sole question before this Court in *Johnson* was whether the appellate court could reach the actual merits of the defendant's sentencing challenge (the appellate court remanded for a new sentencing hearing) where the defendant raised sentencing errors in a motion to reconsider the sentence that occurred following a negotiated plea (and actually withdrew any challenge to the entry of his guilty plea). See *Johnson*, 2019 IL 122956, ¶¶ 4, 16, 19, 22, 36. As the defendant affirmatively waived any challenge to his guilty plea, this Court in *Johnson* was thus never called to determine whether the circumstances warranted a remand for additional Rule 604(d) proceedings against the defendant's negotiated guilty plea. *Johnson*, 2019 IL 122956, ¶ 36.

Likewise, in *Diaz*, this Court examined whether the appellate court reversibly erred in remanding for a new sentencing hearing where the defendant entered into a negotiated plea with the State and did not move to withdraw the guilty plea. See *Diaz*, 192 Ill. 2d at 218-19. In that process, this Court rejected the defendant's argument that his guilty plea was open rather than negotiated and thus permitted the appellate court to address the errors that occurred during his sentencing hearing on appeal. *Id.* at 222. The *Diaz* Court held that the appellate court reversibly erred when awarding the defendant sentencing relief when he

entered a negotiated guilty plea and did not seek to withdraw his guilty plea. *Id.* at 224-225. Despite that holding and the fact that defense counsel filed the wrong post-plea motion to preserve his appeal, the *Diaz* Court did not dismiss his appeal. *Id.* at 227-28.

Rather, the *Diaz* Court remanded to the circuit court to permit the defendant to file a new motion to withdraw the guilty plea before the circuit court. *Id.* In this process, the *Diaz* Court noted that, at the time the defendant entered his guilty plea and sentence, there was confusion as to whether the defendant's plea was open or negotiated and, as a result, the proper post-plea motion that should have been filed to appeal the defendant's case. *Id.* The *Diaz* Court also examined the circuit court's appeal admonishments, which did not sufficiently direct the defendant on how to preserve his challenge to his guilty plea and sentence for further review. *Id.* As such, *Diaz* hardly supports the position that this Court must vacate the appellate court's decision and outright dismiss Williams's appeal. See *id.*

Now, in *Wilk*, *Evans*, and *Linder*, this Court did examine whether defense counsel's failure to follow the motion requirement of Rule 604(d) warranted dismissal of the appeal or remand for strict compliance with Rule 604(d). More specifically, this Court ordered the dismissal of the defendants' appeals in *Wilk*, where the defendants did not file *any* timely Rule 604(d) motion with the circuit court prior to filing a notice of appeal. See *Wilk*, 124 Ill. 2d at 99, 109.³ Relatedly, the defendants in *Evans* and *Linder* only filed a motion to reconsider the sentence following the entry of a negotiated plea, and this Court dismissed their appeals rather than grant the defendants relief under Rule 604(d). See *Evans*, 174 Ill. 2d at 333-34; *Linder*, 186 Ill. 2d at 74.

³ For two defendants, however, the *Wilk* Court determined that a timely motion to reconsider the sentence was filed, and it remanded to the appellate court for consideration of the circuit court's denial of that motion. *Wilk*, 124 Ill. 2d at 110.

However, this Court need not apply *Wilk*, *Evans*, and *Linder* to dismiss Williams's appeal, as they are inapplicable for three reasons. First, this Court in those respective cases did not address the appeal admonishments provided by the circuit court (see *Wilk*, 124 Ill. 2d at 100-02; *Evans*, 174 Ill. 2d at 333-34; *Linder*, 186 Ill. 2d at 74), and it is well established that the circuit court's improper admonishments under Rule 605(c) preclude the reviewing court from dismissing a defendant's appeal rather than remand for new Rule 604(d) proceedings. (Illinois Supreme Court Response Brief, p. 16-21.) See *Foster*, 171 Ill. 2d at 474. Second, these decisions did not examine a rebutted Rule 604(d) certificate, where defense counsel's affirmative representation to the circuit court that he or she fulfilled his or her obligations under Rule 604(d) was resolutely false. Third, the respective cases in *Wilk*, *Evans*, and *Linder* did not involve a plea agreement where the parties were mutually mistaken as to a fundamental term of the plea agreement, and so the same concerns with preventing any fundamental unfairness to the State by the defendant filing a wrong motion are not present here. Because Williams has already argued that this Court should affirm the appellate court's judgment due to the circuit court's failure to comply with Rule 605(c), he will just address the latter two points listed above.

As for the rebutted certificate, *Wilk*, *Evans*, or *Linder* did not involve counsel filing a certificate that was challenged as affirmatively refuted by the record. See *Wilk*, 124 Ill. 2d at 100-02 (no certificate); *Evans*, 174 Ill. 2d at 322-24 (no certificate); *Linder*, 186 Ill. 2d at 69-70 (in one case no certificate and in the other a certificate that was unsuccessfully challenged as technically deficient). There is irrefutable proof in this case that defense counsel did not discharge his obligations under Rule 604(d) despite representing to the circuit court that he did so. (C. 66.) Unlike cases involving

the lack of a certificate or a technically deficient certificate—where there is uncertainty on whether the defendant received the consultation, review, and assistance envisioned by the rule—there is no uncertainty in Williams’s case.

This matters. The circuit court accepting false certificates undermines any confidence in a system that relies on valid certificates to assure us that defendants are receiving timely consultation, evaluation of their claims, and assistance in amending their motions in the manner necessary to permit further judicial review of their cases. It risks reducing the filing of a certificate to a mere formality prior to appeal, without regard to whether the requirements of Rule 604(d) were actually met. Not only that, permitting conclusively false Rule 604(d) certificates to stand interferes with the court’s inherent duty to ensure the orderly administration of the law in its courtroom. See *People v. Bimbo*, 314 Ill. 449, 454 (1924) (explaining generally that a circuit court has a duty to see that proceedings are conducted in such a manner as will inspire respect for law and the administration of justice).

Just as importantly, *Wilk*, *Evans*, or *Linder* are also inapplicable as they did not involve the defendant seeking a remand to file the motion to withdraw the guilty plea before the circuit court where the parties were mutually mistaken about critical aspects of the plea-negotiation process. In *Wilk*, this Court dismissed the defendants’ appeals where they did not timely file *any* post-plea motion before the circuit court at all, and the defendants did not identify any equitable considerations that would excuse their substantial non-compliance with the requirement that they file a motion with the circuit court before filing a notice of appeal. *Wilk*, 124 Ill. 2d at 108-09.

In *Evans*, the first defendant (Meeks) admitted to the circuit court through counsel that he did not want to disturb his guilty plea and he only wanted to challenge his sentence, despite it following a negotiated plea. *Evans*, 174 Ill. 2d at 322.

And the second defendant (Evans) had his negotiated guilty-plea conviction affirmed on a prior appeal, while his case was remanded for resentencing, from which he again appealed. *Id.* at 323-24. Thereafter, the *Evans* Court determined that for a defendant to challenge their sentences pursuant to a negotiated plea agreement they must move to withdraw the guilty pleas and show that the granting of such a motion is necessary to correct a manifest injustice, so as to prevent the defendant from unfairly and unilaterally altering a plea agreement entered into with the State. *Id.* at 332. Under those circumstances (that is, the defendant refusing to disturb his negotiated guilty plea (Meeks) and the defendant unable to challenge his negotiated guilty plea as it was already affirmed on appeal (Evans)), this Court determined that the circuit court correctly held that the defendants were not entitled to any reduction of their sentences following negotiated guilty pleas, regardless of counsel's lack of compliance with Rule 604(d). *Id.* at 333-34.

As for *Linder*, the first defendant (Linder) entered a negotiated guilty plea, only filed a motion to reconsider the sentence, and argued on appeal that he was entitled "to a new sentencing hearing" due to counsel's failure to file a Rule 604(d) certificate. *Linder*, 186 Ill. 2d at 69. The second defendant (Rice) argued on appeal for a new hearing on his motion to reconsider the sentence following his negotiated plea. *Id.* at 70; see *People v. Rice*, 291 Ill. App. 3d 9, 10 (2d Dist. 1997). Given that these defendants were "challenging only the sentences [they] received," they were expressly waiving any argument that might have entitled them to a remand for the sole purpose of filing a proper motion to withdraw their guilty plea. See *Linder*, 186 Ill. 2d at 72. Under those circumstances, this Court concluded that the appeal should be dismissed because it would be unfair to the State to allow the defendants to challenge their sentence without first withdrawing their negotiated guilty pleas. *Id.* at 74.

Quite simply, the defendants in these cases did not either (a) file any Rule 604(d) motion before the circuit court or (b) seek a remand for filing the correct post-plea motion to remedy a mutual mistake in the plea process. Instead, in *Evans* and *Linder*, the defendants sought to retain negotiated guilty pleas while nonetheless challenging their sentences, rather than ask the appellate court to file a new motion to withdraw the guilty plea. Contrary to *Evans* and *Linder*, there is no concern that Williams is seeking to retain the benefits of his negotiated plea agreement and unfairly hold the State to its end of the bargain; here, the State's concession of forgoing a 28-year, extended-term prison sentence was completely illusory.

iii. This Court Has Allowed Remand in Cases Involving a Mutual Mistake.

Rather than *Wilk*, *Evans*, or *Linder*, Williams's case is more similar to *People v. Belcher*, 199 Ill. 2d 378 (2002). In *Belcher*, the defendant pleaded guilty pursuant to a negotiated guilty plea, and the defendant's subsequent motion to reconsider the sentence was denied. *Belcher*, 199 Ill. 2d at 379. The appellate court declined the defendant remand for leave to file a motion to withdraw the guilty, but instead remanded for strict compliance with Rule 604(d) as to the defendant's motion to reconsider the sentence. *Id.* Following the circuit court's denial of the motion to reconsider on remand, the defendant again appealed and sought leave to file a motion to withdraw the guilty plea in the circuit court, which the appellate court denied. *Id.*

On appeal, this Court noted that the defendant's failure to file a timely motion to withdraw the guilty plea would usually result in the dismissal of the defendant's appeal. *Id.* at 382. However, this Court noted that the unusual facts and circumstances of the case before it found that the ends of justice would be better served by allowing the defendant to file a motion to withdraw the guilty plea,

despite non-compliance with the motion requirement of Rule 604(d). *Id.* In so doing, this Court explained that the defendant was found sane by a court-appointed expert under a version of the law that was later declared unconstitutional in violation of the single subject rule. *Id.* at 382-83. Reviewing the case, this Court explained that the circuit court relied on the court-appointed expert's opinion in accepting the defendant's guilty plea. *Id.* at 383. However, this Court continued: "it now appears that the court's expert, the court and defendant may have been operating under a misapprehension of law." *Id.* And this Court recognized that the defendant raised this error before the appellate court at the earliest opportunity and did not wait until the "eleventh hour" to raise the issue. *Id.* Due to "[t]hese unusual circumstances[,]" this Court reversed the appellate court's decision and remanded to the circuit court as "the defendant should be given an opportunity to file a motion to vacate his guilty plea." *Id.* at 383-84.

Therefore, in *Belcher*, this Court has recognized that the parties' mutual mistake concerning central aspects of a guilty plea may excuse the defense's filing of a motion to reconsider the sentence instead of a motion to withdraw the guilty plea and may permit remand for new Rule 604(d) proceedings. *Id.* As established above, the record is "clear" that the plea agreement "was made based on a mutual mistake of law and fact" that Williams could receive an extended-term, 28-year prison sentence. *Williams*, 2025 IL App (4th) 240738, ¶ 39. And, the circuit court freely admitted that it based Williams's ultimate sentence, at least in part, on the fictional belief that he was subject to a 28-year prison sentence prior to the entry of the plea agreement. (R. 133.) Given the parties' and the circuit court's mutual misapprehension of a point of law that permeated the circuit-court proceedings, Williams's case more closely resembles *Belcher* rather than *Wilk*, *Evans*, and *Linder*.

Nor could one realistically expect Williams to raise this matter in a motion to withdraw the guilty plea before the circuit court. To that end, Williams was represented by defense counsel and so did not control the post-plea litigation before the circuit court. See *Garza v. Idaho*, 586 U.S. 232, 245 (2019) (explaining that, while it is the defendant's prerogative whether to appeal a conviction or sentence, it is not the defendant's role to decide what arguments to press). It would also be problematic to expect defense counsel to recognize and assert his own ineffectiveness. See, e.g., *People v. Salame*, 2023 IL App (2d) 220312, ¶ 71 (finding that counsel had an actual conflict of interest when trying to raise that his own ineffectiveness resulted in the defendant's guilty plea). Quite simply, the failure to file a timely motion to withdraw the guilty plea prior to taking an appeal was not a problem created by Williams. Compare with *People v. Frey*, 67 Ill. 2d 77, 85 (1977) (justifying the dismissal of the defendant's appeal when non-compliance with Rule 604(d) was a problem they personally created by refusing to file the required post-plea motion, despite being *pro se*, or accepting the appointment of post-plea counsel).

iv. The Post-Conviction Hearing Act Is Not an Adequate Remedy to Correct a Mutual Mistake.

Because the failure to comply with Rule 604(d) was not his fault and he recognized the parties' mutual mistake at the earliest opportunity before the appellate court, it is not proper to limit Williams to the Post-Conviction Hearing Act. Indeed, litigating the matter in a future post-conviction proceeding is not tantamount to receiving new Rule 604(d) proceedings outright. See *People v. Jamison*, 181 Ill. 2d 24, 30 (1998) (recognizing that post-conviction proceedings are a more restrictive forum, and not the same as, direct-appeal litigation).

Forcing defendants such as Williams to plead his claims later in a post-conviction petition subjects them to initial pleading standards not applicable to defendants pleading under Rule 604(d). *People v. Edwards*, 197 Ill. 2d 239, 256-57 (2001).

To that end, a defendant pleading for relief under Rule 604(d) will not have his motion dismissed as frivolous, as it would be contrary to the rule’s purpose to draw conclusions about the defendant’s case before he has consulted with an attorney. See *Edwards*, 197 Ill. 2d at 256-57. Whereas, petitioners filing post-conviction petitions run the risk of running afoul of the Post-Conviction Hearing Act’s pleading requirements, no matter how low the threshold is, resulting in summary dismissal of their *pro se* petitions prior to any consultation with an attorney. See 725 ILCS 5/122-2.1(a)(2) (authorizing a circuit court to summarily dismiss a petition if it determines it is frivolous or patently without merit); see, e.g., *People v. Knotts*, 2026 IL App (5th) 240844-U, ¶¶ 11, 18 (affirming the circuit court’s summary rejection of a post-conviction petition that “alleged that plea counsel rendered ineffective assistance by failing to preserve the defendant’s right to seek postplea relief and appellate review following sentencing” because the petition did not plead sufficient facts about counsel’s and the defendant’s post-sentencing behavior).

The disparity between ordering new Rule 604(d) proceedings and demanding that petitioners first navigate the Post-Conviction Hearing Act is further reflected by the lack of counsel for post-conviction petitioners at the initial stages. By its plain language, Rule 604(d) directs that, after the initiation of post-plea litigation, the circuit court “shall then determine whether the defendant is represented by counsel” and to appoint counsel for indigent defendants. Ill. S. Ct. R. 604(d). In comparison, there is no constitutional right to post-conviction counsel, and the circuit court appoints counsel to represent a defendant only if the petition survives

the initial pleading stage. See 725 ILCS 5/122-4. Not only that, once appointed, post-conviction counsel owes a petitioner only a reasonable level of assistance, a lesser standard than those afforded to post-plea litigants. See *People v. Addison*, 2023 IL 127119, ¶ 19.

Condemning Williams’s claims against his guilty plea and sentence to post-conviction proceedings will also likely result in significant delays in his case. To that end, Rule 604(d) demands that a post-plea motion “shall be presented promptly” to the circuit court as well as that the motion “shall be heard promptly[.]” Ill. S. Ct. R. 604(d). Yet, for post-conviction proceedings, the circuit court has 90 days to conduct its initial first-stage review of the petition before docketing it for additional proceedings. See 725 ILCS 5/122-2.1(a). Thereafter, the State has at least 30 days before filing any responsive pleadings, and the circuit court has discretion to allow any additional pleadings or extensions of time that it deems appropriate, prior to setting the matter for any hearing on the petition’s merits. See 725 ILCS 5/122-5. Considering the delays associated with collateral review, mandating post-conviction proceedings before restoring Williams’s right to a direct appeal does little to further Rule 604(d)’s purpose of permitting the circuit court to conduct fact finding when witnesses are available and memories are still fresh, or to facilitate the timely disposition of his claims against the entry of his guilty plea or sentence. See *Gorss*, 2022 IL 126464, ¶ 15 (noting that one purpose of Rule 604(d) is to promote fact finding near the time of the entry of the guilty plea or sentence).

Under the circumstances, the appellate court did not reversibly err in remanding Williams’s case for new Rule 604(d) proceedings that strictly comply with that rule. As established above, the circuit court’s post-sentencing admonishments were insufficient to warrant the dismissal of Williams’s appeal.

Additionally, it would constitute a manifest injustice to dismiss Williams’s appeal when his guilty plea and sentence were likely entered into following a mutual mistake of the law by all parties and defense counsel’s Rule 604(d) certificate made to the circuit court was positively and conclusively rebutted by the record.

C. The State’s Asserted Policy Reasons Do Not Compel Dismissal of Williams’s Appeal or Reversal of the Appellate Court’s Judgment.

In its opening brief, the State also justifies the dismissal of Williams’s appeal based on policy reasons. (Illinois Supreme Court Opening Brief, p. 14-18.) First, the State contends that allowing a remand in Williams’s case would promote “needless” trips back and forth between the courts and undermine Rule 604(d)’s purpose of promoting the finality of guilty-plea judgments. (Illinois Supreme Court Opening Brief, p. 16.) Second, the State argues that facially compliant certificate in Williams’s case irrefutably established that his counsel complied with his obligations under Rule 604(d) and that appellate courts are utterly prohibited from ascertaining whether counsel actually fulfilled his duties under that rule. (Illinois Supreme Court Opening Brief, p. 17.) The State is wrong on both matters, and neither reason demands the dismissal of Williams’s direct appeal.

Addressing the State’s argument that forcing Williams to file a post-conviction petition prevents needless remands to the circuit court, Williams first takes issue with the State’s suggestion that any further litigation of his claim would be “needless.” (Illinois Supreme Court Opening Brief, p. 16.) The record establishes that Williams pleaded guilty with the parties’ and the court’s understanding that he was eligible for an extended-term sentence of 14 to 28 years in prison and that his plea agreement severely limited his prison exposure by 14 years; when, in reality, it did not alter the maximum potential sentence at all, and the State gave up “nothing”

in terms of sentencing concessions when making the agreement. *Williams*, 2025 IL App (4th) 240738, ¶¶ 33, 39. Therefore, Williams’s case involves a claim with likely merit concerning the denial of his rights to due process and the assistance of counsel, warranting further litigation. See *People v. Jameson*, 387 Ill. 367, 377 (1944) (reasoning that, where it appears the defendant has pleaded guilty “under a well-founded misapprehension of law” or “where the ends of justice will be best served[,]” the circuit court should allow the defendant to withdraw his guilty plea). The State does not support its bald assertion that any remand for further litigation would be needless and would not serve to ensure that Williams actually received the rights that are guaranteed to him in the guilty-plea process. (Illinois Supreme Court Opening Brief, p. 16.) Williams asks this Court to thoroughly reject the State’s speculation that any further proceedings in this case would be needless.

And while the State is correct that one of the purposes of Rule 604(d) cited by this Court in its jurisprudence on that rule is to promote the finality of guilty-plea judgments (Illinois Supreme Court Opening Brief, p. 14), that consideration is not the sole motive underlying this Court’s creation of Rule 604(d). Indeed, Rule 604(d) was designed *both* to protect the defendant’s due-process and other rights in addition to eliminating unnecessary appeals. *People v. Shirley*, 181 Ill. 2d 359, 362 (1998); see *In re Omar A.*, 335 Ill. App. 3d 732, 733 (2d Dist. 2002) (stating that one of the purposes of Rule 604(d) is to protect defendants from the ineffective assistance of counsel). Rule 604(d) thus necessarily was designed to provide an adequate and fair forum for the defendant to obtain substantive relief for errors in the entry of his guilty plea and sentence. Given that the rule strives to strike an appropriate balance between these two competing interests, one cannot—like the State does here—ignore this other countervailing factor in assessing whether

the appellate court's decision contravenes Rule 604(d)'s purpose. (Illinois Supreme Court Opening Brief, p. 14-16.) See generally *In re Omar A.*, 335 Ill. App. 3d at 733 (considering the State's contentions that any non-compliance by counsel with Rule 604(d) could be, and must be, litigated in a post-conviction proceeding in order to conserve judicial resources, as one of Rule 604(d)'s aims is to protect defendants from their counsel's ineffectiveness).

In short, the appellate court's decision here does not contravene Rule 604(d)'s purpose. The interests behind Rule 604(d) are not best served by precluding direct appeals on cases, like here, where the record provides that the guilty plea was entered based on an apparent mistake of law by all parties involved and that counsel then failed to take any necessary step to protect Williams's right to appeal despite an affirmative certification that he had done so (and Williams's desire for an appeal of his case (C. 60)). In arguing to the contrary, the State worries that the appellate court's decision creates "open-ended" appeals where appellate counsel can comb the record for any semblance of error and raise them on appeal regardless of whether they were considered by post-plea counsel. (Illinois Supreme Court Opening Brief, p. 15.)

The State's worry is unfounded. The appellate court, in reviewing for compliance with Rule 604(d), refused to consider the merits of Williams's appeal and remanded for any claims against his guilty plea to be raised in front of the circuit court. See *Williams*, 2025 IL App (4th) 240738, ¶ 51. In fact, allowing remand where the record rebuts the certificate filed by defense counsel would not permit appellate counsel to scour the record and raise new claims before the appellate court. To the contrary, the parties' litigation would focus on whether counsel filed the correct motion in the correct manner to abide by Rule 604(d)'s strictures.

If counsel did not, then it would preclude review on the merits of the defendant's claims, necessitating remand for compliance with Rule 604(d) rather than affording the defendant any substantive relief. See *Foster*, 171 Ill. 2d at 474 (rejecting the defense's position that the circuit court may nonetheless consider the merits of the defendant's appeal where there is non-compliance with Rule 604(d), as "the appellate court has no discretion and must remand for strict compliance therewith"). Given that appellate court decisions like in *Williams* actually preclude the defendant from receiving a withdrawal of his guilty plea or the reduction of his sentence on appeal, it does not tempt defendants from waiting to an appeal to invent new claims before the appellate court.

The State's other cited purposes of Rule 604(d)—to provide the circuit court with an opportunity to correct any errors before it and make a sufficient record of the matter while memories are still fresh and witnesses are available (Illinois Supreme Court Opening Brief, p. 15-16)—are all consistent with remanding Williams's case for additional Rule 604(d) proceedings as opposed to forcing him to file a post-conviction petition. At the very least, these goals are no better served by first diverting Williams's claims into post-conviction litigation to restore his direct-appeal rights. In so doing, the different stages and requirements of the Post-Conviction Hearing Act would only delay when the circuit court engages in any fact-finding necessary to resolve Williams's contentions and hinder the court's ability to correct its—and the parties'—mutual mistake as to Williams's potential sentencing exposure on the charged offense. Compare Ill. S. Ct. R. 604(d) (directing that a post-plea motion "shall be heard promptly"), with 725 ILCS 5/122-2.1(a) (stating that the circuit court shall provide its initial first-stage review of a petition and enter an order thereon within 90 days of its filing), and 725 ILCS 5/122-5

(explaining that the State shall answer or move to dismiss the defendant's petition within 30 days after the court enters its order pursuant to Section 122-2.1, except that the court may allow any extensions of time it deems just and appropriate, prior to even setting the matter for any dispositional hearing).

As a broader point, forcing defendants in Williams's position to first file post-conviction petitions to restore their direct-appeal rights will not likely limit litigation or preserve judicial resources in a meaningful way. It is true that such a requirement will operate as initial procedural hurdle for defendants to navigate in order to obtain direct review of their cases, a hurdle defendants must initially overcome without counsel. But see generally *People v. Gooch*, 2014 IL App (5th) 120161, ¶ 23 (agreeing with the position that "courts should avoid a bright-line rule that places meaningless procedural obstacles in the path of an appeal"). Yet, as here, where the record establishes that defense counsel filed the incorrect motion despite the defendant's desire to appeal and that the parties were confused about a central component of the plea agreement, the State's position will just force additional and slow-moving post-conviction litigation, without the protections of Rule 604(d), before the restoration of the defendant's appeal rights.

Relatedly, the State's argument that Rule 604(d) serves the important function of ending needless litigation ignores that allowing direct-appeal review of Williams's claims, instead of forcing him to initiate additional post-conviction proceedings, accomplishes that same objective. By permitting review of Williams's claims on direct appeal, it would necessarily limit the potential claims raised in any future litigation asserted in a post-conviction petition. See *People v. Moore*, 133 Ill. 2d 331, 340 (1990) (opining that permitting the reinstatement of the defendant's lost direct appeal, rather than forcing him to litigate the matter in post-conviction

proceedings, is beneficial in that many of the defendant's issues will be raised and resolved during the direct-appeal litigation, thus narrowing the scope of the later post-conviction proceedings and facilitating the post-conviction petition's timely disposition in the event one is commenced). Looking at it from that framework, the appellate court's decision actually facilitates the policy reasons identified by the State in its opening brief. (Illinois Supreme Court Opening Brief, p. 14-17.)

The second policy justification for reversing the appellate court's judgment raised by the State is its unsubstantiated theory that appellate courts cannot review the record to determine whether defense counsel actually completed his or her duties under Rule 604(d); instead, according to the State, the appellate court must accept a facially compliant certificate no matter how thoroughly the record rebuts that certificate. (Illinois Supreme Court Opening Brief, p. 17-18.) In taking this position, the State, in a dangerous manner, elevates form over substance, as it would require only that counsel certify that he or she has completed her obligations under Rule 604(d), rather than actually complete them. The State's stance is untenable for numerous reasons.

First, prioritizing the certificate over counsel's actual performance ignores the due-process concerns underlying Rule 604(d)'s requirement that a defendant have the assistance of counsel during post-plea litigation. As recognized by this Court, "fundamental fairness requires that the defendant have the assistance of counsel in preparing and presenting his [post-plea] motion" because of "the strict waiver requirements" of the rule. *Janes*, 158 Ill. 2d at 35. Rule 604(d) thus identifies three specific duties of counsel whose performance is necessary "to protect the defendant's interests" in the preservation of issues for appeal; that is, consulting with the defendant about the errors in the entry of his guilty plea and sentence,

reviewing the court file and the transcripts of the guilty plea and sentencing, and making the amendments to the motion necessary for adequate presentation of any defects in those proceedings. See *Easton*, 2018 IL 122187, ¶¶ 27, 29, 32.

In light of the potential application of Rule 604(d)’s stringent waiver provisions, these due-process concerns are only assuaged by counsel’s completion of these tasks identified by the rule and actual assistance in litigating the post-plea motion. Thus, these three tasks are designed to facilitate counsel’s protection of the defendant’s interests, which can only occur through actual, rather than potential, compliance with the rule. *Id.* at 32 (in examining the mandate that counsel certify she or he has consulted with the defendant about the claims of error in the entry of the guilty plea and sentence, stating that “[t]he point of the rule is to protect the defendant’s interests through adequate consultation”). In this way, the Rule 604(d) certificate is not an end in itself but a means to the desired end of the defendant receiving counsel’s assistance and the right to due process.

On that point, this Court has recognized that, where the rule dictates the practices that must be followed by counsel in post-plea proceedings, the certificate is a mechanism by which the court may verify that counsel has fulfilled the rule’s requirements. *Id.* Indeed, the objective of the certificate is to describe what counsel actually did to achieve compliance with the rule and serves as evidence thereof. *Id.* Clearly counsel’s certificate provides evidence that the defendant received the assistance envisioned by the rule. But it remains just that: evidence of compliance and not compliance itself. See *id.*

Second, the State asks this Court to overrule numerous appellate court cases holding that a certificate may be rebutted by the record without examining any of these decisions. (Illinois Supreme Court Opening Brief, p. 17-18.) See, e.g., *People v. Winston*, 2020 IL App (2d) 180289, ¶ 14 (determining that,

“even when the [Rule 604(d)] certificate is valid on its face, a remand will be necessary if the record refutes the certificate”); *Bridges*, 2017 IL App (2d) 150718, ¶¶ 8-9, 12 (deciding that “the record refute[d] counsel’s certification that she made any amendments to the [post-plea] motion necessary for adequate presentation of any defects” where she “added new, detailed allegations” but did not support them, as required by Rule 604(d), with attached evidence); *People v. Little*, 337 Ill. App. 3d 619, 621-22 (4th Dist. 2003) (reasoning that the Rule 604(d) certificate was disproved where it was filed nearly a month before the report of proceedings from the plea hearing was available for review). These decisions recognize that the rule requires more than the mere *pro forma* filing of motions with certificates before the circuit court. See *Little*, 337 Ill. App. 3d at 621. Instead, the purpose of Rule 604(d) is thwarted where counsel does not substantively complete the rule’s requirement to review the defendant’s claims, consult the record, and make the necessary changes to present those allegations to the circuit court. See *People v. Love*, 385 Ill. App. 3d 736, 738 (2d Dist. 2008) (describing that the certificate requirement is designed to supply proof of *actual compliance with the rule*, not merely an intent to comply); *People v. Coleman*, 2023 IL App (4th) 220714-U, ¶ 30 (noting that reviewing courts have routinely rejected the State’s view that a certificate repeating *verbatim* the words of Rule 604(d) must be “unassailable, regardless of counsel’s actual performance of the requirements”).

Nevertheless, as the State would have it, a certificate that makes the required assertions would control and preclude any remand for Rule 604(d) relief, no matter how thoroughly and conclusively the record affirmatively establishes that counsel did not fulfill one or more of counsel’s duties under that rule. For the State, the filed certificate would irrefutably establish strict compliance with Rule 604(d) even in situations where counsel otherwise freely acknowledges, in other written

filings or oral statements before the court, that counsel did not actually complete the tasks listed by Rule 604(d). This is not hypothetical; it happens. See, e.g., *Suaste-Gonzalez*, 2023 IL App (2d) 220323, ¶ 28 (holding that a facially compliant certificate was rebutted because counsel admitted in the written motion filed with the court that the transcripts from the case or plea had not yet been furnished to her even though she had already certified that she reviewed the report of proceedings from those proceedings); *Love*, 385 Ill. App. 3d at 737 (finding no strict compliance with Rule 604(d) where defense counsel’s in-court statement that she “prepared a motion to file today; however, I think I need to review the transcript of the plea itself in order to proceed” undermined her certificate’s averment that she had already reviewed the guilty-plea transcript); *People v. Lima*, 2024 IL App (4th) 230490-U, ¶¶ 10, 23 (concluding that defense counsel’s compliant certificate was rebutted where she orally informed the circuit court, when filing the certificate, that “[o]bviously I haven’t done everything I could with the motion to withdraw guilty plea”). Yet the State’s position would deny defendants in these situations with Rule 604(d) remand even though there was no reasonable belief that, despite the facially valid certificate, counsel actually completed the mandated duties under Rule 604(d).

To be sure, the State’s cited cases do not hold that a Rule 604(d) certificate must be credited no matter how extensively the record belies it either. (Illinois Supreme Court Opening Brief, p. 17-18.) In fact, the State has not identified a single case where the reviewing court has held that strict compliance with Rule 604(d) is satisfied by the filing of the certificate even where the record proves that counsel did not complete the duties listed in the rule. The State’s cases instead focus on whether the timing of, or the wording used, in the certificate were sufficient

under the rule. (Illinois Supreme Court Opening Brief, p. 17-18.) See *Gorss*, 2022 IL 126464, ¶¶ 6, 8, 10, 12 (the appeal challenged the certificate’s wording); *In re H.L.*, 2015 IL 118529, ¶¶ 1, 3-4 (the appeal challenged the certificate’s timing); *People v. Fitzgibbon*, 184 Ill. 2d 320, 321-24 (1998) (the appeal challenged the certificate’s wording); *Shirley*, 181 Ill. 2d at 365-67 (the appeal challenged the certificate’s timing); *Janes*, 158 Ill. 2d at 35 (the appeal challenged the lack of a certificate at all). Or they involved the contours of a remand for initial noncompliance with Rule 604(d). (Illinois Supreme Court Opening Brief, p. 18.) See *People v. Lindsay*, 239 Ill. 2d 522, 523 (2011) (the appeal challenged whether counsel was required to file a new post-plea motion on remand for Rule 604(d) compliance).

Importantly, none of these decisions hold that reviewing courts cannot look beyond a facially valid certificate to ascertain whether the defendant received the consultation, the review, and the assistance in filing his post-plea motion envisioned by the rule. In this process, Williams disputes the State’s characterizations of these cases. Taking *Lindsay*, for instance, the State cites it as “every requirement of Rule 604(d) [i]s fully complied with’ when post-plea counsel ‘file[s] the requisite certificate.” (Illinois Supreme Court Opening Brief, p. 18, citing *Lindsay*, 239 Ill. 2d at 531.) *Lindsay* involved this Court determining whether post-plea counsel must or is merely allowed to file a new motion after remand for Rule 604(d) compliance. *Lindsay*, 239 Ill. 2d at 530-31. The State’s quotation is taken from the following passage:

“Here, defendant filed, through his appointed counsel, a timely motion to reconsider the sentence. That motion was presented to the trial court, which heard the motion and denied it. Unfortunately, defense counsel had neglected to file a Rule 604(d) certificate, so the appellate court reversed and remanded the cause for compliance with Rule 604(d). On remand, defense counsel filed the requisite certificate,

stating that she had consulted with defendant to ascertain his contentions of error, had examined the trial court file and report of proceedings, and had made any necessary amendments to the motion. The trial court then considered the motion a second time, and once again denied it. At this point, every requirement of Rule 604(d) was fully complied with, and nothing more would have been accomplished or achieved by the filing of a new motion.” *Id.*

Lindsay did not tie strict compliance with Rule 604(d) to the mere formality of whether or not a certificate was filed, but rather it looked at the entire process of counsel filing a post-plea motion, counsel filing the necessary certificate, and the defendant receiving full consideration on that motion, before determining that the rule was fully complied with. See *id.* *Lindsay* simply did not equate full compliance with every aspect of Rule 604(d) by the mere filing of the certificate. See *id.* In the end, while these decisions generally stand for the proposition that strict compliance with Rule 604(d) requires a valid certificate filed with the circuit court, they do not address whether that certificate can be challenged by the record on appeal in any way or if the certificate *alone* discharges defense counsel’s obligations under that rule.

In comparison, in *People v. Brown*, 2024 IL 129585, this Court examined whether defense counsel, following an initial remand for failing to comply with Rule 604(d), once again did not strictly comply with the requirements of Rule 604(d) even though counsel filed a facially compliant certificate. *Brown*, 2024 IL 129585, ¶ 49. Instead of ending its discussion of the argument by relying on counsel’s certificate or limiting its examination of the matter to whether counsel certified completion of each task identified by the rule, this Court thoroughly reviewed the record and counsel’s conduct before concluding that defendant received a full and fair opportunity to present his post-plea claims. *Id.* at ¶¶ 49-54. After doing so, this Court reasoned that a second remand for Rule 604(d) compliance would

be an empty and wasteful formality and not warranted under the circumstances of the case. *Id.* at ¶ 54.

Brown lends support for the argument that a reviewing court may look to the record—even with a filed certificate—to ascertain whether counsel actually fulfilled the specific obligations imposed by that rule. Given this Court’s thorough review of the record, the decision suggests this Court was more concerned with whether counsel substantively performed the required duties rather than the timing or content of counsel’s certificate. And *Brown* counters the State’s interpretation of this Court’s jurisprudence as holding that the certificate is the exclusive measure of counsel’s compliance with Rule 604(d).

The State’s position—that a Rule 604(d) certificate may never be rebutted—would also weaken the protections afforded to defendants under that rule to an amount lesser than those given to post-conviction petitioners under Illinois Supreme Court Rule 651(c). See *People v. Smith*, 2022 IL 126940, ¶ 29 (explaining that the filing of a Rule 651(c) certificate merely creates a rebuttable presumption that the petitioner received reasonable assistance of counsel). Even though there is no constitutional right to counsel in post-conviction proceedings (*People v. Custer*, 2019 IL 123339, ¶ 30) and counsel only owes petitioners reasonable, not effective, assistance (*Addison*, 2023 IL 127119, ¶ 19), reviewing courts still examine the record to determine whether the defense attorney has complied with the strictures of the rule, despite a facially valid certificate. The State’s argument thus would strip post-plea defendants of rights that are even permitted to post-conviction petitioners, even though post-conviction proceedings are a collateral challenge to a conviction and no substitute for a direct appeal.

In short, the purposes underpinning this Court's Rule 604(d) do not warrant dismissing Williams's appeal where the record affirmatively demonstrates that counsel's certificate was untrue and the parties were mutually mistaken about critical aspects of Williams's sentencing range before the circuit court. Nor are the interests of justice are best served by forcing Williams, without counsel, to navigate the initial procedural hurdles created by, and the lengthy delay associated with, the Post-Conviction Hearing Act to litigate his potentially meritorious claim concerning his plea agreement. This Court should affirm the appellate court's decision remanding for new post-plea proceedings that strictly comply with Rule 604(d). See *Williams*, 2025 IL App (4th) 240738, ¶ 53.

3. Alternatively, this Court Should Exercise its Supervisory Authority and Remand Williams's Case for New Post-Plea Proceedings.

Finally, in the event that this Court determines that the appellate court reversibly erred and that it was required to outright dismiss Williams's direct appeal, Williams asks this Court to exercise its supervisory authority and remand his case for new Rule 604(d) proceedings before the circuit court. To that end, this Court is granted by the Illinois Constitution supervisory authority over all lower courts in the state. Ill. Const. 1970, art. VI, sec. 16. This Court's supervisory authority is unlimited in extent and hampered by no specific rules or concrete requirements for its exercise. *In re Estate of Funk*, 221 Ill. 2d 30, 97 (2006). That being said, this Court exercises restraint in granting supervisory orders and such an order "is appropriate when the normal appellate process will not afford adequate relief and the dispute involves a matter important to the administration of justice or intervention is necessary to keep an inferior tribunal from acting beyond the scope of its authority." *People v. Dobbins*, 2026 IL 131187, ¶ 32 (internal quotations omitted).

In Williams’s case, it was “clear” that his plea agreement was made based on a mutual mistake of law and fact (the application of an extended-term sentence of 14 to 28 years in prison) and that the State “gave nothing up in terms of sentencing concessions when it made the agreement.” *Williams*, 2025 IL App (4th) 240738, ¶ 39. By its plain language, the circuit court used this mistake in fashioning Williams’s ultimate sentence. (R. 133.) Thereafter, Williams was represented by the same counsel in the post-plea proceedings, who could not be expected to raise, and in fact did not, his own ineffectiveness. (C. 6, 56.) Nonetheless, thereafter at the first opportunity, Williams asserted on appeal that the appellate court should remand his case to the circuit court (a) for a correction of his sentence if it was an open plea, or (b) for an opportunity to move to withdraw his guilty plea if it was a negotiated plea. (Appellate Court Opening Brief, p. 10, 26.)

Ultimately, requiring Williams to now file a post-conviction petition will force him to navigate the initial pleading stage without counsel and endure the cumbersome and lengthy post-conviction process before receiving any consideration of the merits of his challenge to his guilty-plea and sentence. There is a real chance that Williams’s meritorious claim will be lost in that process. In that event, the courts will have sanctioned a process where the State was permitted to induce Williams’s guilty plea with the threat of an illusory extended-term sentence of 28 years in prison, and thereafter the circuit court actually based his ultimate sentence on that misstatement of the law. In the alternative, Williams thus asks that this Court, under the unique circumstances of his case, to exercise its supervisory authority and remand for new Rule 604(d) proceedings. See generally *Diaz*, 192 Ill. 2d at 227-28; *Belcher*, 199 Ill. 2d at 383-84.

CONCLUSION

For the foregoing reasons, Travis Williams (“Williams”) respectfully requests that this Court affirm the appellate court’s judgment. In the alternative, Williams asks this Court to exercise its supervisory authority to remand his case for new proceedings pursuant to Illinois Supreme Court Rule 604(d), including the filing of an un rebutted Rule 604(d) certificate, a new post-plea motion, a new hearing on that motion, and for strict compliance with Rule 604(d).

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

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

/s/Edward J. Wittrig
EDWARD J. WITTRIG
Assistant Appellate Defender

No. 132278

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of
	)	Illinois, No. 4-24-0738.
Plaintiff-Appellant,	)	
	)	There on appeal from the Circuit Court
-vs-	)	of the Ninth Judicial Circuit, Knox
	)	County, Illinois, No. 21-CF-547.
	)	
TRAVIS TRYNELLE WILLIAMS,	)	Honorable
	)	Andrew J. Doyle,
Defendant-Appellee.	)	Judge Presiding.
	)	

NOTICE AND PROOF OF SERVICE

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On July 22, 2026, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellee in an envelope deposited in a U.S. mail box in Springfield, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

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