NOTICE
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2026 IL App (5th) 250267-U

NO. 5-25-0267

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Champaign County.
	)	
v.	)	No. 22-CF-1242
	)	
JOHNATHON D. BROCK,	)	Honorable
	)	Matthew D. Lee,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE SHOLAR delivered the judgment of the court.
Justices McHaney and Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: Postplea counsel complied with Illinois Supreme Court Rule 604(d).

¶ 2 Defendant, Johnathon D. Brock, pleaded guilty to unlawful possession with intent to deliver a controlled substance. The trial court sentenced him to 20 years in the Illinois Department of Corrections (IDOC) with one year of mandatory supervised release. On appeal, defendant argues that his postplea counsel failed to comply with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024), where counsel failed to amend the motion to withdraw guilty plea to argue the trial court's consideration of an improper sentencing factor and adequately plead his ineffective assistance claim. For the reasons that follow, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Relevant to this appeal, the State charged defendant by information with unlawful possession with intent to deliver 1 gram or more but less than 15 grams of a controlled substance after law enforcement found suspected drugs in his pants pocket on September 16, 2022. On August 5, 2024, defendant entered into an open plea of guilty. The parties agreed that defendant would plead guilty, and the State capped its sentencing recommendation at 20 years while dismissing the remaining charges. The trial court admonished defendant that the offense was a Class 1 felony. The court noted that defendant was subject to an extended term sentencing range of 4 to 30 years. Following admonishments and after hearing a factual basis, the trial court accepted defendant's guilty plea.

¶ 5 On October 29, 2024, the matter proceeded to sentencing. In aggravation, the State called Officer Matthew Quinley, a police officer with the City of Urbana. In August 2022, Officer Quinley investigated defendant for selling narcotics. Law enforcement used a confidential source to purchase narcotics from defendant. On September 16, 2022, Officer Quinley saw defendant enter and drive a vehicle. Officer Quinley knew that defendant had a suspended license, and the front of the vehicle was missing a license plate. Officer Quinley conducted a stop of the vehicle. Officer Quinley searched defendant and found two bags of suspected drugs. Law enforcement sent the drugs to the Illinois State Police Crime Lab, which determined that one bag contained 55.8 grams of methamphetamine and the other bag contained 3.4 grams of fentanyl/heroin. People's Exhibit 1, the lab report from the Illinois State Police Crime Lab, was admitted.

¶ 6 Following Officer Quinley's testimony, the State sought to admit People's Exhibit 2, a 2023 annual report from the Champaign County Office of the Coroner. The State indicated that it planned to "use it during argument." Defense counsel did not object and noted that he "previously

reviewed it." The court noted that it would "consider" the exhibit, but stated that it did not plan to "read through the report from front to back". The court noted that it would allow the State to make its argument and the court would "refer to the exhibit as necessary."

¶ 7 During its arguments, the State sought a sentence of 20 years based on defendant's criminal history and the nature of the offense. The State argued that defendant had "the most abysmal record of being a drug dealer I've ever come across." Turning to the annual report, the State argued:

> "What I gave that coroner's report to you for, Judge, is that there are two tabs in that that I've marked there. And I want to be very clear on this. What I'm about to show you is that everybody in this community, and all communities, like to broad stroke gun violence as this big killer. And yet you're gonna see on those two pages in 2022 there were 17 homicide deaths by firearm. In 2023, there were 11. In 2024, so far there's been eight. Narcotics in 2022: 62 overdose deaths, over four times the amount. In 2023: 54, over five times the amount. And currently, there's been 23 which is over three times the amount of overdose deaths.
>
> Now I can't sit here and say that he is responsible for those overdose deaths. Flip side of that coin is we can't say in 2022, '23, '24 he's not. The point I'm making is that he is part of the larger problem of deaths going on in this community. Everybody likes to paint the picture about gun violence, but comparatively speaking to the drugs that are pushed in there, the drugs that are being pushed by people like him, he is ultimately part of the bigger problem of the deaths in this community, this state, and this country. Your Honor. That is the connection I'm making with that coroner's report. Not saying that he himself and his drugs were responsible, but he's part of the larger part of this many people dying when everybody wants to grab the headlines of gunshot violence. Nobody takes a look at what

the dealers are doing. Nobody is taking a look and putting that correlation to how many lives are being lost at a greater level than these people that are firing guns off. Because most of them couldn't hit the broad side of a barn from ten feet away. They're little baby toy gangsters."

¶ 8 In response, defense counsel argued that defendant struggled with drug addiction and lacked access to treatment. Counsel argued that defendant was "severely addicted, has maintained those addictions, and gone in and out of prison for those addictions." Counsel noted that defendant "never" "received any treatment for those addictions."

¶ 9 Defendant made a statement in allocution. Defendant stated that he had heart issues due to his addiction, and was "probably gonna die anyway in a few years." Defendant stated, "I ain't killed nobody. I just did drugs." He explained that he was in poor health and had been hospitalized recently.

¶ 10 Following defendant's statement, the trial court noted that it considered the presentence investigation report and the evidence presented at sentencing. The court noted that it considered "the exhibit with the coroner's report, as well as the testimony of Detective Quinley" and defendant's statement in allocution. The court also considered the arguments of counsel, the statutory and nonstatutory factors in aggravation and mitigation, as well as the history and character of defendant. The court noted that it had "due regard for the seriousness of the offense" and had the "objective of restoring" defendant to "useful citizenship."

¶ 11 Turning to the factors in mitigation, the court first stated:

"First of all, now Mr. McCallum has made a fairly compelling argument about the way that drug use has ravaged not only our community, but pretty much all communities across the country. That is absolutely true. That obviously Mr. Brock himself has

acknowledged that his drug use has ravaged his body and caused heart problems and he believes that he's gonna die soon which is really sad to hear. But that is the reality of people who use drugs and use it continuously. Some of them have health problems, some of them overdose, and it's a problem.

Now with that said, I think from a statutory basis, Mr. Brock's criminal conduct neither caused nor threatened serious physical harm to another in the limited sense that's intended in the statute which is that again he didn't—as Mr. Brock indicated—actually attack somebody or shoot at somebody or use a knife against somebody. That's what that particular factor means. So in that sense, Mr. Brock's criminal conduct was not violent. It doesn't mean that his conduct didn't cause harm to the community, but that's a different type of harm that again obviously I'll address in moment as well."

¶ 12 In mitigation, the court noted that defendant financially supported his three children. The court observed that the children did not live with him, nor was he the primary caretaker of the children. Nonetheless, the court determined that defendant's incarceration would be a "hardship" to them.

¶ 13 Turning to the factors in aggravation, the trial court noted that defendant had a prior history of delinquency and criminal activity. The court observed that this was defendant's eighth felony sentencing, and the fourth time that defendant was being sentenced on a drug dealing charge. The court noted that defendant's sentence was "necessary to deter others from committing like conduct." The trial court also found in aggravation that defendant was on parole when he committed the instant offense.

¶ 14 The trial court noted that defendant was an addict and a user. However, the court rejected defendant's statement in allocution that he only used drugs, not dealt them. The court stated:

> "So this conduct obviously is damaging to our community. Mr. Brock has previously been sentenced to major and lengthy terms in the department of corrections. And obviously, if you've ever been in a court situation, if you've watched court, it's not normal for us to go downward. In other words, if you've been sentenced to say ten years, the next time you get caught, you don't get less than ten years the next time usually."

The court continued:

> "So again I respect and recognize the dignity of this human being. It's not that he's some, you know, number or just another bad evil character that we need to lock away forever. But on the other hand, this is what has to happen. All right. Because again this type of behavior and this type of conduct and this type of activity spreading drugs in the community, it hurts many, many people. And, Mr. Brock, you're one of the people that it's hurt of course. But you've contributed to that as well. So it's one of those things where you kind of know how bad it is to be addicted to drugs and you're adding to that towards other people as well. And so you have to carry that on your shoulders too."

For these reasons, the trial court sentenced defendant to 20 years in prison.

¶ 15 Defendant filed a *pro se* motion to reconsider sentence on November 29, 2024. He amended the motion on January 13, 2025. Relevant to this appeal, in the amended motion, defendant argued that his plea counsel was ineffective for allowing the State to introduce a coroner's report containing statistics on drug overdose deaths. The trial court appointed a public defender to represent defendant postsentencing.

¶ 16 On February 13, 2025, postplea counsel amended the motion and alleged that defendant's sentence was probationable, and that he was ineligible for extended term sentencing. The motion also alleged that plea counsel was ineffective where he was "unprepared for sentencing, didn't

appear in court for sentencing causing undue delay and continuances, didn't provide mitigation to the court and did not object to certain evidence being presented by the State at the sentencing hearing." Postplea counsel also filed a certificate of compliance pursuant to Illinois Supreme Court Rule 604(d), stating that she (1) "consulted with the defendant in person, by phone, or by electronic means to ascertain the Defendant's contentions of error in the entry of the plea of guilty and in the sentence;" (2) "examined the trial court file and report of proceedings of the plea of guilty and the report of proceedings in the sentencing hearing;" and (3) "made any amendments to the motion necessary for the adequate presentation of any defects in those proceedings."

¶ 17 The trial court held a hearing on April 1, 2025, on defendant's motion to withdraw guilty plea. At the hearing on defendant's motion, postplea counsel argued that defendant was not subject to extended term sentencing. Postplea counsel stood on the remaining arguments in the motion. The trial court denied the motion.

¶ 18 On April 2, 2025, this timely appeal followed.

¶ 19 II. ANALYSIS

¶ 20 On appeal, defendant argues that his postplea counsel failed to comply with Illinois Supreme Court Rule 604(d), where counsel (1) failed to amend the petition to argue that his sentence was based on an improper factor implicit in his offense and (2) did not argue that plea counsel was ineffective for failing to object to the admission of an annual coroner's report. For the reasons that follow, we affirm.

¶ 21 Rule 604(d) provides that, in order to appeal from a judgment entered on a guilty plea, a defendant must file in the trial court either a motion to reconsider his sentence or a motion to withdraw his guilty plea. Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). The attorney filing that motion on defendant's behalf must also

> "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." *Id.*

Strict compliance with the certification requirement of Rule 604(d) is required and failure to do so results in a remand to the circuit court for the filing of a new motion and new hearing. *People v. Brown*, 2024 IL 129585, ¶ 48. A facially valid Rule 604(d) certificate will generally be sufficient to show compliance with Rule 604(d), but may be refuted by the record, requiring remand. *Id.* ¶ 49. Compliance with Rule 604(d) is reviewed *de novo*. *Id.* ¶ 48.

¶ 22 First, we consider defendant's claim that his postplea counsel failed to amend his petition to argue that his sentence was based on an improper factor implicit in his offense. Defendant argues that defendant's sentence was based on an improper factor implicit in his offense, where the trial court considered the societal harm caused by his conduct. Defendant included this claim in his *pro se* motion. On appeal, defendant contends that his postplea counsel failed to include this claim in the amended petition. The State responds that postplea counsel was not required to amend the petition, because the trial court did not base its sentence on an improper factor.

¶ 23 "A reasoned judgment as to the proper sentence to be imposed must be based upon the particular circumstances of each individual case." *People v. Perruquet*, 68 Ill. 2d 149, 154 (1977). Accordingly, the trial court might consider the defendant's criminal history, the defendant's potential for reform, and the interests in deterring further crime and protecting the public. *People v. McGath*, 2017 IL App (4th) 150608, ¶ 63. "However, a factor implicit in the offense of which

the defendant has been convicted cannot be used as an aggravating factor." *Id.* ¶ 63. Such consideration is known as a double enhancement and is prohibited since the legislature, in designating the appropriate range of punishment for a criminal offense, necessarily considered the factors inherent in the offense. *Id.* ¶ 64. Nevertheless, we presume the court based its sentencing decision on proper legal reasoning, and we will consider the record in its entirety, as opposed to a few words or statements the court made. *Id.* ¶ 64.

¶ 24 In the case before us, the record does not support defendant's claim that the trial court relied on an improper factor implicit in the offense. When discussing community harm, the court expressly distinguished the absence of individual physical harm from the broader societal impact of drug trafficking. The court noted that defendant was "not violent" and that he did not cause or threaten serious physical harm. Rather, the court's comments, taken as a whole, established that community harm was part of its consideration of the offense. However, the court's sentencing decision ultimately rested on the seriousness of the offense, defendant's history, and the need for deterrence.

¶ 25 In support of his position, defendant relies upon *People v. Maxwell*, 167 Ill. App. 3d 849 (1988), *People v. Corn*, 358 Ill. App. 3d 825 (2005), and *People v. Atwood*, 193 Ill. App. 3d 580, 592-93 (1990), for the position that generalized "societal harm" may not be used as an aggravating factor where it is inherent in drug offenses. However, more recent cases have since held "that factors inherent in the offense can sometimes be considered, along with other factors in aggravation and mitigation, as part of the nature and circumstances of the case." *People v. McGath*, 2017 IL App (4th) 150608, ¶ 73 (citing *People v. Winchester*, 2016 IL App (4th) 140781, ¶ 81; see also *People v. Raney*, 2014 IL App (4th) 130551, ¶ 35). A "trial court may discuss the impact a

drug offense has on the community without subjecting the defendant to double enhancement." *McGath*, 2017 IL App (4th) 150608, ¶ 73.

¶ 26 In this case, the court noted that defendant did not cause or threaten physical harm. Rather, as noted above, the court made comments about community impact to discuss the nature and circumstances of the offense as a whole and to explain deterrence. The sentencing decision ultimately rested on defendant's extensive criminal history, repeated drug-dealing convictions, deterrence, and parole status.

¶ 27 Our colleagues in the Fourth District considered a similar claim in *McGath*, which we find instructive in this matter. In *McGath*, the defendant was convicted of unlawful delivery of a controlled substance and sentenced to 25 years' imprisonment. *Id.* ¶ 1. In sentencing the defendant, the trial court stated the following:

> " 'I think you recognize just the out of control epidemic in our community and across the State and I think across the country with heroin addiction; and we are just losing the battle big time. I think there's been four or five overdoses in this county in the last several months from drug addiction. People that I've set a bond on have bonded out and overdosed and died. That bothers me tremendously as a person in this community.
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> And I'm saying that because I recognize that [the defendant] and based upon the information in the [PSI] clearly has struggled forever with substance abuse addictions and not just heroin. Cocaine, alcohol. You know, your PSI is just a nightmare. It just, it's really heartbreaking. And you were dealt with what I would say is a really, really crappy hand.
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> * * *
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> But dealing drugs threatens serious harm within our community, not just to the person that's doing the drugs who very well could overdose but to the responders when

they are addressing people with overdoses. That it creates potential for accidents. They are responding to an overdose, and that takes them away from other crimes. So, I mean—or not crimes but other investigations or calls that they can be responding to. It has a ripple effect in the community when you deal drugs.' " *Id.* ¶ 19.

¶ 28 On appeal, the defendant argued that the trial court improperly considered as an aggravating sentencing factor the societal harm caused by drugs and drug dealers. *Id.* ¶ 65. The Fourth District rejected that argument, noting, in context, the court's comments were made in response to defense counsel's argument that defendant's conduct did not cause or threaten serious physical harm and that defendant did not contemplate that his conduct would cause or threaten such harm. *Id.* ¶ 71. The Fourth District explained: "[F]actors inherent in the offense can sometimes be considered, along with other factors in aggravation and mitigation, as part of the nature and circumstances of the case." *Id.* ¶ 73. Accordingly, "a trial court may discuss the impact a drug offense has on the community without subjecting the defendant to double enhancement." *Id.*

¶ 29 Similarly, here, the trial court identified the aggravating factors upon which it relied. Specifically, the court considered defendant's criminal history, repeated drug-related convictions, the need for deterrence, and defendant's parole status. The court expressly rejected physical harm or violence as an aggravating factor, because they were not present in this offense. Rather, the court's references to societal harm were contextual and not considered as an aggravating factor. The record demonstrates that the court fashioned defendant's 20-year sentence based on appropriate statutory factors, and it was these factors, not community statistics or generalized societal harm, that influenced the court's sentencing decision.

¶ 30 Next, we consider defendant's claim that postplea counsel failed to amend his petition to argue that plea counsel was ineffective for failing to object to the admission of an annual coroner's report. Defendant filed a *pro se* motion to vacate his guilty plea, challenging the improper admission of a coroner's report. Defendant alleged that his plea counsel was ineffective for allowing the State to introduce the report containing statistics on drug overdose deaths. Defendant argues that postplea counsel amended the motion "vaguely arguing" that plea counsel was ineffective because he "did not object to certain evidence being presented by the State at the sentencing hearing."

¶ 31 The State responds that the coroner's report was relevant to the charge, because it was relevant to the seriousness of the offense. The State contends that the evidence was relevant and reliable evidence that was appropriately admitted during the sentencing hearing. Moreover, the State argued that the evidence was reliable where it was composed by an official agency and used real statistics from the community to reach its conclusions.

¶ 32 "The ordinary rules of evidence governing a trial are relaxed at the sentencing hearing." *People v. Williams*, 2018 IL App (4th) 150759, ¶ 17. Indeed, Illinois Rule of Evidence 1101(b)(3) (eff. Sept. 17, 2019), specifically provides that the Rules of Evidence do not apply at sentencing hearings. Ill. R. Evid. 1101(b)(3) (eff. Sept. 17, 2019). "Moreover, 'a sentencing judge is given broad discretionary power to consider various sources and types of information so that he can make a sentencing determination within the parameters outlined by the legislature.' " *Williams*, 2018 IL App (4th) 150759, ¶ 17 (quoting *People v. Williams*, 149 Ill. 2d 467, 490 (1992)). "At the sentencing hearing, evidence is admissible if it is relevant and reliable." *Id*.

¶ 33 Because the ordinary rules of evidence do not apply at sentencing hearings, "[t]he source and type of admissible information is virtually without limits." *People v. Varghese*, 391 Ill. App.

3d 866, 873 (2009). Even "criminal conduct not resulting in prosecution or conviction may be considered." *People v. Harris*, 375 Ill. App. 3d 398, 409 (2007). Our supreme court has held that "hearsay evidence, such as affidavits, may be admitted *** where relevant and reliable." *People v. Thompkins*, 181 Ill. 2d 1, 18 (1998). "The determination of whether evidence is relevant and reliable is left to the discretion of the sentencing judge." *People v. Hall*, 194 Ill. 2d 305, 352 (2000).

¶ 34 Initially, we note that when the State moved to admit the coroner's report, defense counsel stated that he had no objection to the introduction of the report where he "previously reviewed it." The court accepted the document and noted that it would only consider it as it related to the State's arguments. The court specifically stated that it would not read the report front-to-back. Thus, contrary to defendant's position, counsel reviewed the exhibit, understood the State's intentions in its argument, and chose not to contest its admission.

¶ 35 "To establish deficient performance, a defendant must show that his attorney's performance fell below an objective standard of reasonableness." *People v. Bates*, 2018 IL App (4th) 160255, ¶ 47. We employ a highly deferential assessment of counsel's performance on review. *Id.* To that end, a defendant "must overcome the strong presumption that the challenged action or inaction may have been the product of sound trial strategy," which includes decisions such as what matters to object to. *Id.* Strategic choices by counsel are " 'virtually unchallengeable.' " *Id.* (quoting *People v. Manning*, 241 Ill. 2d 319, 333 (2011)). Where counsel made a strategic choice not to object to the admission of the coroner's report, defendant would be unable to show that his performance was deficient.

¶ 36 More importantly, we also note that the trial court did not rely on the report in an improper way. The court stated that it "considered the exhibit with the coroner's report" but it also considered all other statutory factors. While the court referenced overdose-death statistics, it did

so in the context of its discussion about broader community harm, as discussed above. The court even noted that defendant himself was not tied personally to an overdose death. Ultimately, the court fashioned its sentence based on defendant's extensive criminal history, his repeated drug-dealing convictions, parole status, deterrence, and the seriousness of the offense. Rather, the State merely used its report in support of its sentencing argument. The trial court did not admit the report as any substantive evidence of guilt.

¶ 37 In support of his position, defendant relies on *People v. Williams*, 2023 IL App (4th) 221000-U, ¶¶ 31-32. This reliance is misplaced, where in *Williams*, the Fourth District concluded that counsel failed to strictly comply with Rule 604(d). *Id.* ¶ 1. In *Williams*, counsel raised ineffective allegations but failed to attach supporting affidavits for matters outside of the record. *Id.* ¶ 32. Moreover, counsel did not argue the relevant claim at the hearing. *Id.* Here, in contrast, postplea counsel filed a facially valid Rule 604(d) certificate. Counsel certified that she consulted with defendant, examined the plea and sentencing proceedings, and made amendments to the motion necessary for adequate presentation. On these facts, there is no Rule 604(d) noncompliance.

¶ 38 For these reasons, we cannot say that postplea counsel failed to comply with Rule 604(d). The sentencing court did not consider a factor implicit in the offense. Moreover, postplea counsel acquiesced to the admission of the coroner's report, which was admissible for the limited purpose of sentencing, and thus any argument that counsel was ineffective for failing to object to its admission would fail.

¶ 39 III. CONCLUSION

¶ 40 For the foregoing reasons, we affirm defendant's Champaign County conviction and sentence.

¶ 41 Affirmed.