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

2026 IL App (4th) 260034-U

NO. 4-26-0034

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 23, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Knox County
MARTHA M. GRACIA SANCHEZ,	)	No. 24CF595
Defendant-Appellant.	)	
	)	Honorable
	)	Andrew J. Doyle,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Doherty and Lannerd concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court vacated the trial court's order denying defendant's motion to withdraw her guilty plea and remanded for new postplea proceedings in compliance with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024) where counsel did not file an affidavit supporting facts outside the record and defendant was not provided a full evidentiary hearing.

¶ 2 In September 2025, defendant, Martha M. Gracia Sanchez, pleaded guilty to two counts of aggravated battery (720 ILCS 12-3.05(d)(4)(ii) (West 2024)), in connection with her alleged actions of kicking two police officers who had accompanied social workers from the Illinois Department of Children and Family Services (DCFS) to remove minor children from her home. Defense counsel moved to withdraw the plea and included an unsworn letter from defendant alleging her reasons as to why she wished to withdraw the plea, including allegations concerning conditions at the jail where she was held before pleading guilty, confusion about the finality of the plea, and actual innocence based on a video of the incident that led to the charges. After the matter

was continued for compliance with Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024), counsel never amended the motion, filed an affidavit, or presented any evidence or argument. Instead, counsel stood on the motion as filed with the attached unsworn letter. The trial court denied the motion.

¶ 3 On appeal, defendant contends the trial court abused its discretion in denying her motion to withdraw her guilty plea, arguing (1) the conditions at the jail rendered her plea involuntary, (2) the record shows she did not understand the finality of the plea, and (3) the court plainly erred by failing to substantially comply with Illinois Supreme Court Rule 402 (eff. July 1, 2012) in several respects, particularly by failing to state the nature of the charges and terms of the agreement in open court. She further argues defense counsel failed to strictly comply with Rule 604(d).

¶ 4 We vacate the trial court's order denying defendant's motion to withdraw her guilty plea and remand for strict compliance with Rule 604(d).

¶ 5 I. BACKGROUND

¶ 6 On November 8, 2024, defendant was charged with multiple counts of aggravated battery and aggravated domestic battery. On May 5, 2025, defendant did not appear for a pretrial conference and was subsequently arrested.

¶ 7 On May 12, 2025, defendant appeared in custody and was released but ordered to appear on June 2, 2025. On that date, defendant did not appear, and a warrant was issued. She was arrested again on June 9, 2025. The State filed a petition for sanctions, alleging defendant violated pretrial release conditions by failing to appear. At a June 11, 2025, status hearing, defendant appeared in custody, and an interpreter was sworn in. Defendant informed the trial court she was pregnant and had temporary epilepsy. By agreement, she was sentenced to three days in the county

jail, with credit for three days served, and was released.

¶ 8 On July 7, 2025, the trial court set a trial date of July 18, 2025. Defendant told the court she had a defense and stated, "Suggestion for it to be in English."

¶ 9 On July 18, 2025, defense counsel told the trial court defendant had a statement she wanted to read to the court. Counsel stated he read it, and it appeared to be evidentiary information. Defense counsel said defendant was hoping if she related the material to the court, there would be a dismissal. After further discussion, the court told defendant it seemed counsel would like more time to talk to the State and review her case. The court continued the matter to September 8, 2025. The court told defendant trial would be held in September if no agreement was reached. Defense counsel also told the court that defendant had a pending case with DCFS and was pregnant, with a due date around October.

¶ 10 On September 8, 2025, defendant stated she wanted to prove her innocence. The record contains multiple indiscernible statements but indicates the final pretrial conference was continued to September 19, 2025, for defense counsel to negotiate with the State. The trial court set September 22, 2025, as the trial date. The record also indicates defendant asked to see video of her arrest and was told she would see the evidence at trial.

¶ 11 On September 19, 2025, the date of the final pretrial conference, defendant did not appear at the scheduled time, and a warrant was issued. However, defendant appeared after a recess and informed the trial court she wanted to hire private counsel and requested a continuance. The State objected, stating it was ready for trial. The court remanded defendant to custody, stating defendant had failed to appear numerous times, had previously been sanctioned, and had felony and domestic violence cases pending. Defendant asked if she had to go to jail, and the court said, "Yes." Defendant told the court she had morning sickness. The court found she had failed to appear

and had been late too many times. Defendant remained in custody until September 22, 2025.

¶ 12 On September 22, 2025, the State filed an amended five-count information, charging multiple counts of battery, aggravated battery, and domestic battery. Counts I and II alleged defendant committed aggravated battery in that defendant made physical contact of an insulting or provoking nature when she kicked a police officer. Count V alleged battery against a social services worker.

¶ 13 The trial court called the matter for a jury trial but noted there had been some conversation about a potential agreement. Defendant then stated, referring to epilepsy as "epilepsia,"

> "I have a question. I have epilepsia in my temporal lobe, and it is well known that when we have epilepsia, things sometimes don't turn the best in the arrest. And at that time I was still in [postpartum]. And with epilepsia together and all the stress that was going on, sometimes it's—I don't answer as fast as the people demand under the arrest. And I would like that part from the medical opinion they'll bring into the table and don't be so severe with something that probably can be—can be looked under different loop or a little bit open-minded because I never meant to hurt anybody. I was not understanding what was going on, not at all, and I was not given the chance even to comprehend what was going on and—"

The court told defendant those were matters that she could testify to if there was a trial. The court told defendant she had three choices, (1) she could go to trial, (2) she could plead guilty and present her arguments in mitigation at a later sentencing hearing, or (3) she could enter into a plea agreement.

¶ 14 The trial court told defendant it needed to know which option she was choosing.

Apparently referring to a case involving defendant and her children with DCFS, defendant then stated, "Yep. Because I don't know the probation, if I pled guilty, would affect my fitness eventually, and that's something I'm trying to look forward because I have a baby coming and I'm trying to find a way to—with this baby under the consequences of this." The court told defendant she would have to prove her fitness in the DCFS case regardless. Defendant then stated, "Yeah, I'm already appealing to it. What I want to right now avoid is the jail because it is not the great place for a pregnancy in this advent, and—"

¶ 15 Defense counsel interrupted and informed the trial court it had explained to defendant the DCFS case was a separate matter. Counsel further stated he had told defendant the State's offer would not include jail time and would include a requirement for a mental health evaluation. The court told defendant she would receive probation if she pleaded guilty.

¶ 16 The following colloquy then occurred,

> "THE COURT: So, do you want to accept the agreement then and plead guilty today and be placed on probation? Is that what you want to do?
>
> [DEFENDANT]: And then for the next trial, it will be taken consideration the mental evaluation and the other—
>
> THE COURT: I think if you plead guilty today, we're completely done in this courtroom.
>
> Right?
>
> [STATE'S ATTORNEY]: That's correct.
>
> THE COURT: Yeah.
>
> [STATE'S ATTORNEY]: There would be nothing—
>
> THE COURT: So if you plead guilty today to whatever this offer is, this

other case is getting dismissed and then you're on probation. You've just got to meet with a probation officer, get that mental health evaluation, and stay out of trouble.

[DEFENDANT]: Because my concern is that pleading guilty, I understand what happened with the officer, but the other thing that the social workers state, it's not. And I think those extra things that didn't happen and then I've been proved that she lie about it is going to affect my record and eventually my professional career. Right now I was stand by because I was mom and doesn't begin under maternity, but eventually I have to go back and pursue my professional career. And with those felonies, I'm going to look like I'm a—and—you know, just aggressive person when it's not even my nature.

THE COURT: So is she pleading—is the offer to Count I or what's the offer to right now?

[STATE'S ATTORNEY]: We had talked about I, II, and V.

[DEFENDANT]: The what?

(Thereupon [defense counsel] confers with the defendant.)

[DEFENDANT]: Because I never hurt the social worker. I understand what happened and I can still do something about the officer, but with the social worker, it's too much.

(Thereupon [the state's attorney] and [defense counsel] confer.)

[DEFENDANT]: Because I—eventually I want to be able to work with kids, and I can still appeal the DCFS findings and get that expunged—

THE COURT: Okay. So—

[DEFENDANT]:—but this will affect it."

THE COURT: Did we just—did I overhear that you're willing to dismiss Count V and just plead to Count I and II?

[STATE'S ATTORNEY]: Yes.

THE COURT: Okay. So the State's willing to get rid of the Count V, dismissing it as well. If you want to plead guilty to Counts I and II, all the rest of the cases will be dismissed. And that'd be the two incidents with the police officers."

¶ 17 Defense counsel conferred with defendant, and defendant indicated confusion as to whether the terms "insulting" and "provoking" were in the charges. After further discussion with defense counsel., defendant told the trial court,

"In this case the difference between—

***

—provoking and the other one is a natural response of this epilepsia because I don't have—when I lose my conscious, it happen. I mean, it happened before where I just don't answer as fast as people wanted and I don't understand. That's the part that I would like to be considerate in this before I say, yeah, I plead guilty for these two when actually there was no—how can I put this—there was no consideration about these mental aspects."

Defense counsel told defendant those matters were taken into consideration by the State when it made an offer that did not include jail time.

¶ 18 Defendant asked additional questions stating, "If I go to the trial without the—a person, a mental evaluation, can testify here?" and indicated she had found people who would

testify. She also stated, "[A]lso as a future references that if I get arrested or whatever, be taken in consideration that it would have to be—like, I want to be treated with—" The trial court stated, "We're talking about totally different things now," and told defendant, "I've got to get this trial started, okay? There's 50 people that are ready to get up here and be on the jury." The court further stated,

> "I just need to know if you want a trial, let's get the trial going. If you've got a deal on the table to plead guilty to I and II, get out of jail today, and be on your way—
>
> ***
>
> —if we go trial—or—or if you plead. So I need to know if you want to plead guilty or you want to have a trial."

Defendant asked if a guilty plea would affect her case with DCFS, and the court answered, "No." Defendant then said, "Okay. It's fine then."

¶ 19 The trial court asked whether defendant could read, write, and understand English. She answered, "For the most part, yes." Defendant asked for a translator, stating, "[T]hat will be so much helpful," and, "[J]ust because I'm not really related with judge terms." The court stated it would see whether it could get a translator for her. A discussion was then held off the record. When the proceedings resumed, defense counsel stated defendant had indicated she would like to try to proceed without a translator, stopping the court or asking a question if confused, and counsel stated that throughout his representation of defendant, he had not had a translator present. The court asked defendant if she was comfortable proceeding in English. Defendant responded, "Yes." The court instructed defendant that if she did not understand something, she should raise her hand or alert her attorney, and the court would stop and explain it differently or slow down. The court stated for the record, "[T]he defendant's had multiple court appearances. We've failed to use an

interpreter at any previous court appearance, and so if she feels comfortable with it, the Court will proceed."

¶ 20 The trial court admonished defendant that by pleading guilty, she was giving up her rights to trial, confront and cross-examine witnesses, subpoena witnesses to testify on her behalf, testify, and have the State prove her guilty beyond a reasonable doubt. The court asked defendant, "Do you understand that by changing your plea to guilty, you're going to be giving up all those rights?" Defendant responded, "I do now." The court then asked whether anyone had forced, threatened, or promised defendant anything, other than the agreement, to change her plea. Defendant answered, "No."

¶ 21 The State provided the following factual basis:

> "On November 7th of 2024, Galesburg Police Officers Eyrn Pearson and Jessica Pawlak arrived at 176 South Academy Street with two social services workers, Kristi Morris and Kevina Buckner. The purpose of everyone being present at that location was to remove two minor children from the custody of this defendant at that time. After interacting with [defendant] for several minutes, ultimately the decision was made to arrest her.
>
> When the defendant found this out, she retreated into the house with her children. Thereafter, officers made—made repeated attempts to garner the defendant's compliance, and during the course of their attempts to arrest her and remove the children from her body, the defendant kicked both Officer Pearson and Officer Pawlak, and at the time they were in full uniform. They had explained their purpose there. They had explained to the defendant what they were doing and why they were doing it.

> And there was video of the interaction, and it clearly showed [defendant] making physical contact with the officers with her legs and in an attempt to get them away from her."

¶ 22 The trial court informed defendant that she would be pleading guilty to counts I and II, which were Class 2 felonies, punishable by three to seven years in the Illinois Department of Corrections, followed by one year mandatory supervised release (MSR). However, the court noted defendant was eligible for probation and would be sentenced to probation under the agreement. The court asked defendant whether she understood, and defendant indicated that she did.

¶ 23 Defendant was then provided with a document entitled "Felony Plea of Guilty with Counsel and Jury Waiver." In the document, defendant stated she had attended four years of school in Mexico. The document stated defendant had received and read the charging document, discussed it with her attorney, and understood each charge. The charge was identified as "Aggravated Battery (Class 2)." It did not list any other charges or give the full text of the charge listed. The document stated the trial court advised defendant of a sentencing range of two to seven years' imprisonment, a fine of up to $25,000, and an MSR period of one year. The document further stated defendant understood the possibility of consecutive sentences and extended-term sentencing. It also provided the constitutional rights defendant was waiving, including the right to a jury trial, confront witnesses, present a defense, remain silent, be presumed innocent, require proof beyond a reasonable doubt, and a presentence report. The document provided that, by signing, defendant declared her plea was offered "freely, voluntarily and of [her] own accord," she fully understood the proceedings, her attorney had done all that anyone could do, and she made no claim of innocence. Defendant told the court she had read and signed the document. The court asked if she still wished to plead guilty, and she stated, "It's fine. Yes." The court then accepted

the plea, finding it was knowingly and voluntarily made, with a sufficient a factual basis.

¶ 24 The trial court next addressed the terms of probation. The court asked whether defendant had a criminal record. The State told the court that she did not. The court stated there was a total assessment of $1,599, with a waiver filed. The court also stated defendant was required to serve 22 days in jail and had served 11 days, but she would not serve any additional jail time. The court told defendant that during the term of probation, she could not violate any criminal or traffic law or possess a firearm, ammunition, or dangerous weapons. The court informed defendant she was required to report to the probation department and could not leave the state or relocate without their permission. Defendant was also informed she could not consume illegal controlled substances and was required to undergo a mental health assessment. The court asked defendant if that was her agreement, and she stated, "Yes."

¶ 25 The trial court then asked defendant if she had any questions about the agreement, and the following colloquy occurred,

> "[DEFENDANT]: Once I plead guilty, I can, like, not plead guilty?
>
> THE COURT: Tell me that one more time.
>
> [DEFENDANT]: If I plead guilty today and then something comes to the trial—
>
> THE COURT: If you plead guilty today and you accept this agreement, then we're not having any trials. This is it.
>
> [DEFENDANT]: Um-hum. Today it's over?
>
> THE COURT: Yes.
>
> [DEFENDANT]: Oh, I thought we were to go to another, like, trial.
>
> THE COURT: No. Nope. Nope. This is it. If you plead guilty today and you

accept this agreement, you get put on probation and that's it. All your other cases are dismissed.

[DEFENDANT]: And if I don't plead guilty and I try to fight it to dismiss that is how I can go to prison, right, if I lose?

THE COURT: I mean, there's that—

[DEFENDANT]: There would—

THE COURT: There would be a chance that you could go to prison, correct.

[DEFENDANT]: Because once—if I don't plead guilty and I confront the witness and all this stuff, there was no—there's not going to be more—how do you say—deal? There would not be a deal the table, right?

THE COURT: Correct. That's my understanding is that if you went to trial, this deal is off the table.

[DEFENDANT]: The deal is off the table.

THE COURT: Right.

[DEFENDANT]: Okay. It's okay. Plead guilty.

THE COURT: Okay. So you want to plead guilty then and accept this probation, right?

[DEFENDANT]: Um-hum."

¶ 26 The trial court restated its finding that the plea was knowing and voluntary and stated it had "signed off on" the plea agreement. The court informed defendant of her appeal rights. Defendant told the court she had a doctor's appointment that day and asked if she could be released "kind of soonish." The court responded it was sure she would be released as quickly as possible.

¶ 27 The sentencing order stated defendant pleaded guilty to aggravated battery and

counts III through V were dismissed. The order provided defendant was to serve 24 months' probation, serve 22 days in jail, with credit for time served, and secure an appointment for a mental health assessment.

¶ 28 On October 6, 2025, defense counsel filed a short handwritten motion to withdraw the guilty plea, alleging defendant's plea was not knowing and voluntary based on an attached unsworn letter from defendant. In that letter, defendant wrote, in part, about concerns with the conditions of confinement at the jail, stating,

> "On September 19, 2025, it took me by surprise that the Plaintiff said that they were ready for trial after I asked for an extension of time so I could hire a lawyer. The same day that I was sent to jail the whole weekend for being late to court, my health was affected very fast due to the conditions that aren't properly or inadequate for a third trimester of pregnancy. Being in jail deteriorates my health very fast, and therefore my baby's as well. The emotional distress of uncertainty, not access to shower every day, which hygiene es a necessity in pregnancy, the diet, especially for pregnant woman contributes to complicate our glucose level, easy dehydration and high blood pressure can cause premature labor. By Monday midnight I started to feel bad, I let the staff know and request my blood pressure to be taken, it came elevate, I started to have pain and strong contractions, I stayed calm as I could but I was terrify of give birth, specially with a history or precipitous labor and preeclampsia, jail is not the place for give birth.
>
> The idea of being in jail and having a trial next day, giving birth with a pending trial could drive to my unborn child and I being separated was highly stressful.

The flashbacks and trauma of me being arrested and taking away from my children with lack of professionalism of the police handling the arrest in November 2024, was terrifying me."

¶ 29 Defendant also asserted an actual innocence claim, writing,

"After seeing the videos of the arrest from November 2024, of how when I was in confusion, sitting in the couch trying to remove my youngest baby from the shawl and say goodbye to them, I wasn't violent or aggressive, I was in panic even though, the excessive force from the police and how that cause my children being hurt, it was shocking, how was possible that I was charged with aggravated battery, provoking the nature of a police officer, domestic battery, when the video clearly shows that I was in panic, that I didn't attack the police neither the social worker, as they reported, even though I was still charge all this months and how it affected my parental fitness causing us to be separate almost 10 months without being able to see them.

How being arrest and held before even give a minute to surrender my children.

Is very sad how they charge me with those felonies but the police officer and the social worker have not been prosecute for misconduct, excessive force, perjury and indifference of my medical needs.

Was very threatening how after seen the video, the charges were not dropped and they still wanted to make an unfair deal, I feel that after that heartless and injustice situation, I didn't have another option than plead guilty, so I could walk freely that day, not going back to jail and being able to give birth properly to

my unborn child and keep him safe."

¶ 30 Defendant also alleged she was not given an opportunity to hire a lawyer when the State announced readiness for trial and did not receive a translator as she had requested. Defendant wrote her medical records were never requested and the felony conviction would affect her professional career and the DCFS case involving her children.

¶ 31 At an initial hearing on the motion, defense counsel stated, if defendant were to testify, she would do so in accordance with her letter attached to the motion, which counsel stated defendant had provided to him. Counsel presented no argument and stated he would stand on the motion. The trial court noted a Rule 604(d) certificate had not been filed. The court asked counsel whether he had examined the trial court file, the report of proceedings of the guilty plea, and the sentencing hearing. Counsel responded, "Judge, unless they've been ordered, I have not. It may have been the intention to have them by today's date but I'm not sure the motion was filed so that may require me to continue the case and get those transcripts." The court continued the matter and directed counsel to file a Rule 604(d) certificate before the next hearing.

¶ 32 At the next hearing, defense counsel appeared with defendant present and confirmed he had filed a Rule 604(d) certificate, stating he had (1) consulted with defendant in person, by mail, by phone, or by electronic means to ascertain her contentions of error in the entry of the guilty plea and in the sentence, (2) examined the trial court file and report of proceedings of the plea of guilty and the report of proceedings of the sentencing hearing, and (3) made any amendments to the motion necessary for the adequate presentation of any defects in those proceedings. The certificate also appears in the record.

¶ 33 Defense counsel had not amended the motion or added any documents. Counsel told the trial court the letter attached to the motion was a document he asked the defendant to

provide to him indicating why she felt she wanted to withdraw the plea. Counsel stated he thought the State would stipulate that if defendant testified, she would do so in accordance with what was written in her letter. The State presented a short argument and noted defendant brought up "numerous issues" that she did not present at the time of the plea. The State did not otherwise specifically address the allegations in the letter, other than to note defendant had not previously needed a translator. The State also did not address counsel's suggestion that it stipulate to the facts asserted in the letter. Counsel again offered no additional evidence or argument beyond the filed motion.

¶ 34 The trial court denied the motion, stating it had reviewed the motion and attached statement multiple times. The court recalled defendant had requested a translator but decided to proceed in English. The court noted it had proceeded at a slower pace than normal. The court acknowledged defendant was pregnant and that other concerns were discussed but stated that "ultimately, [defendant] decided her best course of action was to plead guilty and accept the disposition." The court also found the motion reflected the collateral consequences or potential collateral consequences of the plea. The court did not address the suggestion the State stipulate to the facts asserted in the letter and asked no questions of defendant.

¶ 35 This appeal followed.

¶ 36 II. ANALYSIS

¶ 37 On appeal, defendant contends the trial court abused its discretion in denying her motion to withdraw the guilty plea, arguing (1) the conditions at the jail rendered her plea involuntary, (2) the record shows she did not understand the finality of the plea, and (3) the court plainly erred by failing to substantially comply with Illinois Supreme Court Rule 402 (eff. July 1, 2012) in several respects, particularly by failing to state the nature of the charges and terms of the

agreement in open court. She further argues defense counsel failed to strictly comply with Rule 604(d).

¶ 38 "A defendant does not have an automatic right to withdraw her guilty plea, as '[a] plea of guilty is a grave act that is not reversible at the defendant's whim." *People v. Burge*, 2021 IL 125642, ¶ 37. In order to withdraw his or her plea, a defendant must establish a recognized basis for such withdrawal. *People v. Millsap*, 2022 IL App (4th) 210192, ¶ 17. Withdrawal is appropriate where the plea was entered through a misapprehension of the facts or of the law or where there is doubt as to the defendant's guilt and justice would be better served through a trial. *Id.*

¶ 39 " '[T]he decision to grant or deny a motion to withdraw a guilty plea rests in the sound discretion of the circuit court and, as such, is reviewed for abuse of discretion.' " *Id.* ¶ 18 (quoting *People v. Hughes*, 2012 IL 112817, ¶ 32). " 'An abuse of discretion will be found only where the court's ruling is arbitrary, fanciful, unreasonable, or no reasonable person would take the view adopted by the trial court.' " *Id.* (quoting *People v. Delvillar*, 235 Ill. 2d 507, 519-20 (2009)).

¶ 40 " 'Rule 604(d) governs the procedure to be followed when a defendant wishes to appeal from a judgment entered upon a guilty plea.' " *People v. Gray*, 2023 IL App (4th) 230076, ¶ 28 (quoting *In re H.L.*, 2015 IL 118529, ¶ 7). The motion must be in writing and state the grounds for withdrawing the plea. *Id.* ¶ 29; Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). The rule further requires that "[w]hen the motion is based on facts that do not appear of record[,] it shall be supported by affidavit." Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). Rule 604(d) imposes additional requirements on counsel, specifically,

> "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." *Id.*

¶ 41 Strict compliance with Rule 604(d) is required, and counsel's failure to strictly comply requires remand to the trial court. *Gray*, 2023 IL App (4th) 230076, ¶ 30 (citing *People v. Janes*, 158 Ill. 2d 27, 33 (1994)). Even where counsel has filed a facially valid certificate, courts may consult the record to determine whether counsel actually fulfilled his or her obligations under Rule 604(d). *Id.* "We review *de novo* whether defense counsel's certificate complied with Rule 604(d)." *Id.*; *People v. Grice*, 371 Ill. App. 3d 813, 815 (2007).

¶ 42 "Rule 604(d) contemplates more than the mere *pro forma* filing of a motion." *People v. Keele*, 210 Ill. App. 3d 898, 902 (1991). The purpose of the rule is to ensure that, before a criminal appeal can be taken from a guilty plea, the trial court that accepted the plea is given the opportunity to hear allegations of improprieties that took place outside the official proceedings and *dehors* the record, but nevertheless were unwittingly given sanction in the courtroom. *Id.* The rule also enables the trial court to ensure that counsel reviewed the defendant's claim and considered all relevant bases for the motion to withdraw the guilty plea. *Gray*, 2023 IL App (4th) 230076, ¶ 28. The trial court is the place for fact-finding to occur and for a record to be made concerning the factual basis a defendant relies on for the grounds to withdraw a guilty plea. *Keele*, 210 Ill. App. 3d at 903. "Strict adherence to the rule allows courts of review to ascertain the integrity of the parties' assertions of fact and law, all of which is essential to the expeditious and accurate determination of appeals." *Id.*

¶ 43 We note there is some support for defendant's argument she should be allowed to withdraw her plea where she persists in alleging she is not guilty and states she pleaded guilty because of oppressive reasons concerning her jail confinement. See *People v. Urr*, 321 Ill. App. 3d 544, 547-50 (2001). We also note defendant seemed confused at times concerning the language in the charges and the finality of her plea. She also contended she was actually innocent based on a video of the incident leading to the charges.

¶ 44 However, defendant has not presented sufficient evidence to support her claims because defense counsel failed to provide an affidavit, as required by Rule 604(d), or any other evidence to support the claims. Defendant's unartfully drafted letter attached to the motion to withdraw the plea was unsworn, the video referred to is not in the record, and defense counsel never offered any evidence at the hearing on the motion to withdraw the plea to support defendant's contentions, despite defendant being present and presumably able to give testimony. While counsel suggested the State would stipulate to the facts stated in the letter, the State never did so. Thus, the record is insufficient to support any of defendant's claims because counsel did not strictly comply with Rule 604(d). Accordingly, remand for strict compliance with Rule 604(d) is appropriate.

¶ 45 Meanwhile, defendant also argues for the first time on appeal there were deficiencies in the trial court's Rule 402 admonitions, including a failure of the court to inform her of and determine she understood the nature of the charges, state the agreement in open court, and confirm the terms of the plea agreement.

¶ 46 Rule 402(a) provides a list of required admonitions, including informing the defendant of and determining he or she understands the nature of the charge. Ill. S. Ct. R. 402(a)(1) (eff. July 1, 2012). Rule 402(b) provides, in part,

"If the tendered plea is the result of a plea agreement, the agreement shall be stated

in open court. The court, by questioning the defendant personally in open court, shall confirm the terms of the plea agreement, or that there is no agreement, and shall determine whether any force or threats or any promises, apart from a plea agreement, were used to obtain the plea." Ill. S. Ct. R. 402(b) (eff. July 1, 2012).

¶ 47 The failure to properly admonish a defendant under Rule 402 does not require automatic reversal. *People v. Davis*, 145 Ill. 2d 240, 250 (1991). Substantial, not literal, compliance with Rule 402 is required. *People v. Dougherty*, 394 Ill. App. 3d 134, 138 (2009). "Whether reversal is required depends on whether real justice has been denied or whether defendant has been prejudiced by the inadequate admonishment." *Davis*, 145 Ill. 2d at 250. Substantial compliance with Rule 402 is found where the record indicates that the defendant understandingly and voluntarily entered the plea, even if the trial court failed to admonish the defendant as to a specific provision. *Dougherty*, 394 Ill. App. 3d at 138.

¶ 48 Here, we note the manner in which the terms of the plea agreement were provided to defendant was disjointed. The charges were referred to only by their count numbers, without descriptions of the charges, and defendant expressed confusion about whether the terms "insulting" and "provoking" were in some of the charges and whether the agreement included those charges. The length of the term of probation was never stated on the record, and the conditions of probation were not given until after defendant entered her plea. However, defense counsel never raised any issues regarding Rule 402 in the motion to withdraw the plea. Thus, defendant has not alleged she did not understand the agreement after her questions to the trial court about the charges were answered. Because the matter was not raised, any factual questions regarding substantial compliance and potential prejudice to defendant were never addressed in the trial court.

¶ 49 Defendant argues we should review the matter for plain error. However, under these

circumstances, where the matter was never raised in the trial court and we have reasons to remand for Rule 604(d) compliance, it is appropriate to remand and allow defendant to include any Rule 402 claims in an amended motion to withdraw the plea. See *Keele*, 210 Ill. App. 3d at 903. Doing so ensures any necessary unresolved factual matters regarding defendant's understanding of the plea may be made part of the record.

¶ 50 Despite recognizing defense counsel's lack of strict compliance with Rule 604(d), at least in regard to defendant's claims concerning conditions at the jail, the State suggests remand in unnecessary because defendant had an adequate hearing on the matter. However, in doing so, the State relies on an argument that the facts were stipulated, when the State did not voice any such stipulation. Instead, defense counsel merely assumed it. Further, the video referenced in the unsworn letter was never provided to the trial court. The State also relies on a case in which the defendant was afforded a full evidentiary hearing and presented his own testimony. See *People v. Jones*, 2021 IL App (4th) 180497-U, ¶¶ 10, 22. Such was not the case here.

¶ 51 Here, the hearing was not an evidentiary hearing at all. Defendant was not called to testify, and defense counsel did not present any evidence. Additionally, counsel presented no argument beyond what was already contained in the short and unsupported motion to withdraw defendant's guilty plea. Thus, here, there simply was no evidence or meaningful argument presented at all. As such, *Jones* is distinguishable. See *People v. Wiley*, 2026 IL App (4th) 250445-U, ¶ 25.

¶ 52 Instead, we find the facts here akin to recent cases in which the appellate courts have rejected arguments that a defendant received a full and fair hearing when the defendant did not testify and defense counsel did not present any evidence or develop the defendant's claims through argument during the hearing. In such cases, the appellate courts have remanded for strict

compliance with Rule 604(d). See *id.* ¶ 29; *People v. Bruce*, 2025 IL App (4th) 240706-U, ¶ 37; *People v. Thornton*, 2024 IL App (1st) 220158-U, ¶ 33; *People v. Gately*, 2024 IL App (1st) 221461-U, ¶ 30. The appellate court has also remanded for compliance with Rule 604(d) when Rule 402 admonitions were at issue and the transcript of the negotiated plea hearing discerned a less-than-model acceptance of the plea under Rule 402 standards. *Keele*, 210 Ill. App. 3d at 901-03.

¶ 53 Here, defense counsel was required to consult with defendant to ascertain defendant's contentions of error in the entry of the plea of guilty, examine the trial court file and report of proceedings, and make any amendments to the motion necessary for an adequate presentation of any defects in those proceedings. The record refutes the contention counsel did so. Counsel here merely took an unsworn and unartfully written letter from defendant and presented it as evidence, with no amendments whatsoever. When the first hearing was held, counsel attempted to stand on the motion but admitted he had not reviewed the court file and report of proceedings. The court noted the lack of compliance with Rule 604(d) and continued the matter for compliance. But, upon his return, counsel again submitted the same materials without amendment and without offering any evidence.

¶ 54 Rule 604(d) does not contemplate a perfunctory type of motion and hearing such as occurred in this instance. See *id.* at 903. Our reading of the transcript of the negotiated plea hearing also discerns a less-than-model acceptance of the guilty plea under the circumstances of this case and the standards of Rule 402. That is not to suggest we have determined the plea was not knowing and voluntary. However, given the circumstances, and in light of counsel's lack of presentation of any evidence, we believe factual issues exist as to whether defendant knowingly and voluntarily pleaded guilty. *Id.* The appellate court is not the appropriate forum to solve such

factual issues. Instead, the trial court is. *Id.* Thus, we remand this cause to the trial court to allow defendant to file a proper motion to withdraw her guilty plea in order that a meaningful hearing on her motion can be held, as contemplated by Rule 604(d).

¶ 55 III. CONCLUSION

¶ 56 For the reasons stated, we vacate the trial court's judgment and remand for further proceedings.

¶ 57 Vacated and remanded for further proceedings.