



briefed. The trial court denied defendant's motion to reconsider, and this appeal followed.

¶ 4 Defendant believes the court erred in deferring to his direct appeal in denying his *nunc pro tunc* petition because, following the reasoning of *People v. Corredor*, 399 Ill. App. 3d 804, 808, 927 N.E.2d 1231, 1234 (2010), the court retained limited jurisdiction to correct clerical errors. The State counters that the decision to impose a sentence requiring defendant to serve 85% of his sentence is a not a clerical error but rather a judicial decision. The State concludes that a *nunc pro tunc* order therefore is improper, and the trial court properly denied defendant's petition.

¶ 5 "The purpose of a *nunc pro tunc* order is to correct the record of judgment, not to alter the actual judgment of the court." *Beck v. Stepp*, 144 Ill. 2d 232, 238, 579 N.E.2d 824, 827 (1991); *People v. Denny*, 238 Ill. App. 3d 819, 822, 605 N.E.2d 600, 602 (1992). It may not be used to supply omitted judicial action or to correct judicial errors under the pretense of correcting clerical errors. *Beck*, 144 Ill. 2d at 238, 579 N.E.2d at 827. A court order may not even be corrected to conform to the order the court would logically have intended to pronounce but did not. *People v. Stiger*, 69 Ill. App. 3d 188, 191-92, 387 N.E.2d 55, 57-58 (1979). Judgments may be modified *nunc pro tunc* only when the correcting order is based upon evidence such as a note remaining in the files or upon the record of the court. *Beck*, 144 Ill. 2d at 238, 579 N.E.2d at 827. "The evidence supporting a *nunc pro tunc* modification must clearly demonstrate that the order being modified fails to conform to the decree actually rendered by the court." *Beck*, 144 Ill. 2d at 238, 579 N.E.2d at 827. We agree with the State that the use of a *nunc pro tunc* order to correct defendant's alleged sentencing error would be improper under the circumstances presented here. Whether an order satisfies the legal criteria for a *nunc pro tunc* order is reviewed *de novo*. *In re Aaron R.*, 387 Ill. App. 3d 1130, 1139, 902 N.E.2d 171, 178 (2009).

¶ 6 At the sentencing hearing, defendant received a sentence of 16 years' imprisonment.

The sentencing order included the provision imposing the requirement that defendant serve 85% of his sentence. Given that the victim suffered great bodily harm during the home invasion, defendant clearly was eligible to serve the 85% requirement. The trial court made no oral finding of great bodily harm at defendant's sentencing, however. Defendant uses the lack of such a finding to argue that the imposition of the 85% requirement was purely a clerical error, but there is no definite and certain evidence which clearly demonstrates a clerical error. The possibility also exists that the court intended for defendant to serve 85% of his sentence and that the error was in failing to make the oral finding of great bodily harm at sentencing. We agree that the oral pronouncement and the judgment appear to be in conflict, but we must presume that the court properly performed its judicial function. Accordingly, we presume that the court intended to require defendant to serve 85% of his sentence. The entry of the order requiring defendant to serve 85% of his sentence was therefor a judicial action, and the complained-of error was not clerical. *Cf. People v. Adams*, 144 Ill. 2d 381, 394, 581 N.E.2d 637, 643 (1991) (failure to include certification in order of commitment). Judicial error is not the proper subject for *nunc pro tunc* correction. *Beck*, 144 Ill. 2d at 238, 579 N.E.2d at 827.

¶ 7 We agree with the State that what defendant should have done was to file a motion to reconsider his sentence based on the alleged sentencing error, and then, if that motion were denied, to raise the issue on appeal. The court explained to defendant at sentencing that if he wanted to challenge the correctness of the sentence he needed to file a motion to reconsider his sentence within 30 days. He further told defendant that any claim of error in sentencing that was not included in the motion to reconsider sentence would be deemed waived. Defendant did not file a motion to reconsider sentence and instead filed a direct appeal challenging only his conviction. Failure to object to the lack of an explicit finding of great bodily harm or to ask the court to articulate a basis for such a finding results in

forfeiture of the issue. *People v. Salley*, 373 Ill. App. 3d 106, 109, 867 N.E.2d 1261, 1264 (2007). Again, defendant did not object at sentencing; he did not file a motion to reconsider his sentence, and he did not raise the issue on direct appeal. Defendant, therefore, has forfeited any claim pertaining to the court's failure to make an explicit finding of great bodily harm in this instance.

¶ 8 For the foregoing reasons, we affirm the judgment of the circuit court of Massac County denying defendant's petition for *nunc pro tunc* judgment.

¶ 9 Affirmed.