2014 IL App (2d) 121397-U
No. 2-12-1397
Order filed June 26, 2014

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. JAMIE L. WILLOUGHBY, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Carroll County. Nos. 12-CF-5 12-CF-6 Honorable Val Gunnarsson, Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court.
Justices Hudson and Spence concurred in the judgment.

ORDER

¶ 1 *Held*: The admission of other-crimes evidence in this case did not amount to plain error or ineffective assistance of counsel.

¶ 2 Following a jury trial, the defendant, Jamie Willoughby, was convicted of unlawful possession of methamphetamine precursor (720 ILCS 646/20(a)(1) (West 2012)) and unlawful possession of methamphetamine manufacturing materials (720 ILCS 646/30(a) (West 2012)). The defendant was sentenced to nine years' imprisonment. On appeal, the defendant argues that he was denied a fair trial and that he received ineffective assistance of counsel. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On January 27, 2012, the defendant was charged by criminal complaint with unlawful possession of methamphetamine precursor (720 ILCS 646/20(a)(1) (West 2012)) and unlawful possession of methamphetamine manufacturing materials (720 ILCS 646/30(a) (West 2012)). The State alleged that that defendant possessed pseudoephedrine hydrochloride tablets (methamphetamine precursor), Coleman fuel, Curad instant cold packs, Liquid Lightning drain opener and Sea Foam, with the intent that these materials be used to manufacture methamphetamine.

¶ 5 Prior to trial, the defendant filed two motions *in limine*. The first motion sought to preclude the State from using evidence of the defendant's 2004 conviction of unlawful delivery of cannabis for impeachment purposes. The trial court granted the motion, finding that such evidence would predispose the jury to convict the defendant. The defendant's second motion sought to preclude evidence that, at the time of his arrest in this case, there was an outstanding arrest warrant for his failure to appear in an unrelated case in Jo Daviess County. (The record indicates that the defendant failed to appear in court in Jo Daviess County on an unrelated drug charge.) The trial court denied the motion, finding that the evidence of the outstanding warrant was needed to explain the steps in the police investigation.

¶ 6 A jury trial commenced on July 30, 2012. At trial, Deputy Sheriff Ryan Kloepping testified that he initiated the criminal investigation regarding the defendant on January 26, 2012, after receiving a telephone call. He first checked the status of the defendant and learned that there was an outstanding arrest warrant. The trial court overruled defense counsel's objection to this response. Kloepping also requested assistance from Deputies Mike Holland and James Hiher, Chadwick Police Chief Ryan Lambert, and Blackhawk Task Force Agent John Loechel.

Kloepping gave them the description of the car in which the defendant was alleged to be traveling. Thereafter, he and Lambert proceeded in a marked squad car to the south side of Thomson. They spotted a vehicle that matched the description of the car. Ultimately, they followed the car into an alley, where it came to a stop. Two people were in the front seat of the car and one person was in the back seat.

¶ 7 Kloepping and Lambert approached the car. The driver's side door was open by then and the defendant was in the driver's seat. The defendant appeared nervous and told Kloepping that his driver's license was suspended. Kloepping asked the defendant to get out of the car and placed the defendant under arrest. Kloepping later learned that the front seat passenger was Andrew Margis and the back seat passenger was Terrence Hudson. Deputies Holland and Hiher removed the two passengers from the car.

¶ 8 The officers observed a blue smoking device on the floor of the car and proceeded to search the vehicle. The officers found: a can of Sea Foam fuel treatment in the center console, two Walmart bags containing Coleman fuel and Curad cold packs on the passenger floor next to a receipt for the fuel, another Walmart bag containing 20 120-milligram pseudoephedrine tablets in the glove compartment, and a bottle of Liquid Lightning drain opener behind the sidewall in the trunk of the car. A second Walmart receipt was found in Hudson's pocket.

¶ 9 Hudson testified that in 2004 he was convicted in Cook County for a felony offense of cocaine possession and was placed on probation. He was charged with the same offenses as the defendant in connection with the events that occurred on January 26, 2012. He pled guilty to the charges without any plea agreement. He had been served with a subpoena to testify in this case.

¶ 10 Hudson testified that on the day in question he was living in an apartment in Hanover. The defendant came over to his apartment and used the phone. During the hour or so that the

defendant was present in the apartment, Margis also arrived. Prior to Margis' arrival, the defendant said there was a warrant for his arrest in Jo Daviess County and that he was getting out of town. The defendant also asked Hudson if he had a State identification card and told him that if he purchased some pseudoephedrine, that a person named "Jay" would pay Hudson $50 for it. Hudson agreed.

¶ 11 Hudson further testified that Margis drove Hudson and the defendant to 1010 North Street in Thomson. The defendant went inside the house, while Hudson and Margis waited in the vehicle. Hudson went in the house a half hour later to charge his phone. He saw the defendant give a greeting to Jennifer Moore. Hudson understood the house to be the residence of Moore and Jay. After he was in the house for about a half hour, he, Margis and the defendant drove to the Walmart in Clinton. Hudson testified that Margis drove the entire way to the Walmart.

¶ 12 Hudson testified that, prior to getting out of the vehicle at the Walmart, the defendant gave him money and told him to buy a box of pseudoephedrine. Hudson went inside and did so. When he returned to the car, the defendant was in the driver's seat and Margis was in the passenger seat. Hudson gave Margis the change and the pseudoephedrine, which Margis immediately placed in the glove compartment. The defendant then drove away from the Walmart, but returned shortly thereafter. The defendant then entered the store with Margis. When they returned to the car, Margis was carrying two Walmart bags. The defendant then drove them back to Thomson.

¶ 13 Margis testified that he was charged with the same offenses as the defendant as a result of the events on January 26, 2012. Pursuant to an agreement with the State, he entered a plea of guilty to possession of methamphetamine materials and agreed to testify in the defendant's trial.

Margis testified that the car they were driving on the day in question belonged to his sister, Megan Gaffney. Gaffney was the defendant's girlfriend.

¶ 14 Margis testified that he drove Hudson and the defendant to 1010 North Street in Thomson on the day in question. The defendant entered the house and Hudson later followed to find out what was taking the defendant so long. When the defendant and Hudson returned to the car, the defendant asked Margis for a ride to Clinton. According to Margis, the defendant drove to Clinton because Margis did not want to drive.

¶ 15 Margis further testified that after pulling into the Walmart parking lot, the defendant gave him ten dollars to buy Coleman fuel and Curad cold packs. The defendant also gave money to Hudson to buy pseudoephedrine. Margis testified that the defendant went into Walmart with him to buy the items. Margis gave the change to the defendant, returned to the car, and drove back toward Thomson. On the way, the defendant stopped in an alley to look for bottles in trash cans. When they realized the police were behind them, Hudson handed the pseudoephedrine to the defendant. The defendant placed the pseudoephedrine in the glove compartment.

¶ 16 Moore testified that she was also charged with the same offenses as the defendant in connection with the events on January 26, 2012, and the search of her residence on that date. She was also charged with unlawful use of property. She entered a plea of guilty to the charges without the existence of a plea agreement.

¶ 17 Moore testified that she lived with Jay Morlock at 1010 North Street in Thomson. She made and used methamphetamine at her house on the night before the events in question with the defendant, Hudson, Margis, and Gaffney. The defendant came back to her house the next day and they discussed the need for more methamphetamine supplies. Either she or Morlock gave

the defendant the money for more supplies. Moore testified that Hudson and Margis both came inside for about 10 or 15 minutes before leaving with the defendant.

¶ 18 Carroll County Deputy Sheriff Mike Holland testified that on the night in question, he was called to assist in the investigation of the defendant. He was in the alley when the defendant was approached and questioned. The driver's side door of the car was left open and he saw a small metal blue pipe on the floor beside the driver's seat. After asking Hudson and Margis to exit the vehicle, he patted them down and found a Walmart receipt in Hudson's pocket.

¶ 19 Village of Chadwick Chief of Police Ryan Lambert testified that he also assisted Kloepping and the other officers on the evening in question. After the defendant was placed under arrest, Lambert transported him to the Carroll County jail. During the ride to the jail, the defendant made a number of unsolicited remarks. Lambert testified that the defendant said he was "attempting to straighten out his life because he had a prior sentence in the Illinois Department of Corrections." The State then asked Lambert if the defendant had made any comments about his girlfriend. Lambert responded that the defendant had stated that his girlfriend was "attempting to get her life straightened out and is also a methamphetamine addict." The defendant did not object to Lambert's testimony.

¶ 20 Following Lambert's testimony, the trial court excused the jurors from the courtroom. The trial court then asked the defendant if he wanted a limiting instruction regarding Lambert's testimony that the defendant had a prior prison sentence. The trial court stated that it presumed the State had not elicited Lambert's testimony on purpose. The State replied that it did not purposely elicit the testimony and that "[t]he statement that was in the police report was that he was trying to straighten his life out, but there was no reference to DOC." The trial court

acknowledged that a limiting instruction could draw attention to the testimony. After conferring with the defendant, defense counsel opted against the issuance of a limiting instruction.

¶ 21 Officer John Clark from the Illinois State Police methamphetamine response team testified that items found in the subject car on the night in question, and items found as a result of the search at 1010 North Street in Thomson, were consistent with those used in the manufacture of methamphetamine.

¶ 22 The defendant testified that he went to Moore's house on the night in question because she asked him to babysit her children. The defendant also stated that he wanted to avoid the outstanding arrest warrant in Jo Daviess County. The defendant insisted that on the night in question he had no intent to manufacture methamphetamine or to aid in the purchase of materials for such manufacture. The defendant testified that he lived in Hanover and owned his own construction business. He was working on a roofing project in Chicago on January 25, 2012, and was thus not in Thomson on that date. He was due in court in Jo Daviess County on the morning of January 25th. When he realized he had missed court, he repeatedly called the State's Attorney to request a continuance. Instead of granting a continuance, there was a warrant issued for his arrest. He was supposed to receive a paycheck the next day (January 26th), and his plan was to use it to pay off his warrant.

¶ 23 The defendant further testified that he arrived at 1010 North Street on the day in question and immediately went inside to talk to Moore about babysitting. Hudson and Margis had exited the car and were talking to Morlock and another individual. While he was inside talking to Moore, Hudson entered and asked Moore to get Morlock's ATM card. Thereafter, he, Hudson, and Margis followed Moore, who was in a separate car, to the Thomson Bank. At the bank, Moore withdrew money from the ATM machine and handed the defendant 40 dollars through the

window of the car. Moore indicated that 10 dollars was for the defendant for babysitting and that the rest was to be used by Margis for gas and other items at Walmart. At this point, the defendant gave a portion of the money to Margis.

¶ 24 The defendant testified that Margis was driving erratically on the way to the Walmart. At the Walmart, the defendant went inside with Hudson, purchased soda, candy bars, and peanuts, and returned to the car. The defendant gave the change to Margis and waited while Margis went into the Walmart. When Margis returned, Margis proceeded to drive the car out of the Walmart. After leaving the parking lot, Margis received a phone call and returned to the Walmart. He and Margis went into the Walmart for a second time. Once inside, they split up and the defendant went to the washroom. When they returned to the car, the defendant told Margis it would be safer for the defendant to drive back to Thomson. At some point, Hudson handed Margis a Walmart bag and some change. Margis put the change in his pocket and placed the Walmart bag in the glove compartment.

¶ 25 The defendant recalled being transported by Lambert after he was arrested. The defendant asked Lambert whether there was any "dope" found in the car because he believed Margis had methamphetamine in his possession at the time and he was worried that his girlfriend's car would be taken if drugs were found. The defendant recalled saying that his girlfriend was trying to "get her life back together," but denied saying that she was "also a methamphetamine addict." The defendant acknowledged that when he was arrested he was driving on a suspended license. He admitted that the blue pipe in the car was his and that it was used to smoke cannabis. He also admitted that there was an open can of beer in the car and that he had been drinking it on the way back from Walmart.

¶ 26 Following deliberation, the jury found the defendant guilty of unlawful possession of methamphetamine precursors and unlawful possession of methamphetamine manufacturing materials. On October 3, 2012, the defendant was sentenced to nine years' imprisonment on each charge, to be served concurrently. Following the denial of his motion to reconsider his sentence, the defendant filed a timely notice of appeal.

¶ 27 II. ANALYSIS

¶ 28 On appeal, the defendant argues that he was denied the right to be tried solely on the basis of the charged crimes where (1) Lambert improperly testified regarding the defendant's prior prison sentence and his prior bad acts, *i.e.*, that the defendant and his girlfriend were attempting to straighten their lives out and that the defendant's girlfriend was "also a methamphetamine addict," and (2) the trial court erroneously allowed evidence of the defendant's outstanding arrest warrant.

¶ 29 The defendant acknowledges that he never challenged in a posttrial motion the testimony regarding his prior prison sentence, prior bad acts, or the admission about his outstanding arrest warrant. Thus, he forfeited these contentions. See *People v. Cosby*, 231 Ill. 2d 262, 271 (2008) (to preserve an alleged error for review, a defendant must raise a timely objection at trial and raise the error in a written posttrial motion). Recognizing this, the defendant asks this court to review his claims for plain error or under the theory that his trial counsel was ineffective for failing to preserve his claims.

¶ 30 The plain-error doctrine permits this court to address an unpreserved error "when either (1) the evidence is close, regardless of the seriousness of the error, or (2) the error is serious, regardless of the closeness of the evidence." *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005). Under either prong, the first step in determining whether the plain-error doctrine applies is to

determine whether any reversible error occurred. *People v. Patterson*, 217 Ill. 2d 407, 444 (2005). "The ultimate question of whether a forfeited claim is reviewable as plain error is a question of law that is reviewed *de novo*." *People v. Johnson*, 238 Ill. 2d 478, 485 (2010). Where there is no error, there can be no plain error. See *People v. Johnson*, 218 Ill. 2d 125, 139 (2005).

¶ 31 A claim of ineffective assistance of counsel requires a defendant to establish that his attorney's performance fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984). To satisfy the first prong, a defendant must overcome the presumption that counsel's performance was competent and that the challenged action or inaction of counsel was the product of sound trial strategy and not incompetence. *People v. Martinez*, 348 Ill. App. 3d 521, 537 (2004). To satisfy the second prong, a defendant must show there is a reasonable probability that, but for counsel's deficient performance, the result of the proceeding would have been different. *People v. Colon*, 225 Ill. 2d 125, 135 (2007).

¶ 32 Under either theory, we first consider whether defendant's proposed issue has merit. See *Cosby*, 231 Ill. 2d at 273 (in the context of plain-error review, "[a]bsent reversible error, there can be no plain error"); *People v. Mahaffey*, 194 Ill. 2d 154, 173 (2000) (the prejudice prong of the ineffective-assistance-of-counsel test cannot be established when no error has occurred), overruled on other grounds by *People v. Wrice*, 2012 IL 111860.

¶ 33 The defendant first argues that error occurred when Lambert testified that the defendant served a prior prison sentence and when the State improperly elicited testimony about the defendant's prior bad acts. The defendant notes that the trial court had granted a pretrial motion

in limine to preclude evidence of the defendant's 2004 conviction for unlawful delivery of marijuana. In so ruling, the trial court noted that such evidence would likely be misused and predispose the jury toward conviction. However, at trial Lambert testified that, during the car ride to the county jail, the defendant told him that "he was attempting to straighten out his life because he had a prior sentence in the Illinois Department of Corrections." Lambert also testified that the defendant stated that "his girlfriend is attempting to get her life straightened out and is also a methamphetamine addict."

¶ 34 Other-crimes evidence is not admissible for the purpose of showing the defendant's disposition or propensity to commit crime. *People v. Pikes*, 2013 IL 115171, ¶ 11. However, evidence of other-crimes is admissible to show *modus operandi*, intent, motive, identity, or absence of mistake in connection with the crime with which the defendant is charged. *Id.* Nonetheless, even other crimes evidence that is relevant for a proper purpose should not be admitted if its probative value is substantially outweighed by its prejudicial effect. *Id.* Whether to admit other-crimes evidence rests within the sound discretion of the trial court, and its decision will not be disturbed absent an abuse of that discretion. *Id.* An abuse of discretion occurs when a ruling is arbitrary, fanciful, or unreasonable. *People v. Illgen*, 145 Ill. 2d 353, 364 (1991).

¶ 35 In arguing that Lambert's testimony was unduly prejudicial, the defendant relies on *People v. Goodwin*, 69 Ill. App. 3d 347 (1979). In *Goodwin*, a security officer observed the defendant shoplifting in a department store. *Id.* at 348. As the officer was escorting the defendant to the security office, the defendant pulled out a knife and started to run away. When the officer cornered the defendant, the defendant put the knife to his own throat and asked to be let go because he did not want to go back to prison. *Id.* At trial, the officer testified as to the

defendant's statement that he did not want to go back to prison. The trial court denied the defendant's motion for a mistrial and refused to admonish the jury to disregard the testimony. *Id.* On appeal, the reviewing court held that the trial court abused its discretion because much of the officer's testimony was disputed by an eye witness who testified that the defendant did not have a knife. *Id.* at 350. The appellate court stated that, under these circumstances, it could not be said that the officer's testimony did not affect the jury's resolution of the issues. *Id.*

¶ 36 *Goodwin* is distinguishable from the present case. Here, the defendant did not object to Lambert's testimony or move for a mistrial. Additionally, the defendant declined to have the trial court offer a limiting instruction as to Lambert's testimony. The defendant, therefore, waived a clear opportunity to limit the prejudice of Lambert's testimony. The defendant could have requested that the trial court instruct the jury to disregard Lambert's remarks. The defendant opted not to do that, to avoid highlighting the defendant's prior conviction, and instead tried to challenge Lambert's credibility by testifying that he never told Lambert that his girlfriend was a methamphetamine addict. It is well settled that "[a] party cannot complain of error which that party induced the court to make or to which that party consented. The rationale behind this well-established rule is that it would be manifestly unfair to allow a party a second trial upon the basis of error which that party injected into the proceedings." *In re Detention of Swope*, 213 Ill. 2d 210, 217 (2004). Accordingly, the defendant cannot refuse a limiting instruction and then claim on appeal that Lambert's testimony was unduly prejudicial. *Id.*; see also *Goetz v. Cappelen*, 946 F. 2d 511, 514 (7th Cir. 1991). This type of waiver, which occurs through a defendant's affirmative acquiescence, is different than a forfeiture (that occurs when a defendant fails to bring an error to the trial court's attention), and is not subject to the plain error doctrine.

People v. Bowens, 407 Ill. App. 3d 1094, 1101 (2011) (citing *People v. Townsell*, 209 Ill. 2d 543, 547-48 (2004))). Accordingly, there is no plain error. *Bowens*, 407 Ill. App. 3d at 1101.

¶ 37 Nonetheless, in a situation like this, where the defendant affirmatively acquiesces to actions taken by the trial court, a defendant may present a challenge on the basis of ineffective assistance of counsel. *Id*. Here, the defendant raises an argument as to the ineffective assistance of counsel. However, in his appellant's brief, the defendant acknowledges that the failure to request a limiting instruction is cloaked with the presumption that this decision was the product of sound trial strategy. To establish the performance prong of ineffective assistance, the defendant must overcome a strong presumption that, under the circumstances, the challenged action or inaction was sound trial strategy. *Martinez*, 348 Ill. App. 3d at 537. Because effective assistance of counsel refers to competent, not perfect, representation, "matters relating to trial strategy are generally immune from claims of ineffective assistance of counsel." *People v. Lopez*, 371 Ill. App. 3d 920, 929 (2007). The decision to forgo tendering a limiting instruction as to a defendant's prior conviction and other bad acts has been found to be a reasonable trial strategy that will not support an ineffective assistance of counsel claim. See *People v. Jackson*, 391 Ill. App. 3d 11, 34 (2009) ("Defense counsel's choice not to seek a limiting instruction regarding other crimes evidence was purely a strategic decision made so as not to emphasize the evidence which, while proper, portrayed defendant in a bad light. Therefore, defense counsel's tactical decision cannot be the subject of a claim of ineffective assistance").

¶ 38 In the present case, it was similarly a strategic decision to forgo a limiting instruction and instead to challenge Lambert's credibility by having the defendant testify in opposition to him. Moreover, the defendant admitted to lesser crimes, such as driving with a suspended license, smoking cannabis, and drinking while driving. The admission of this "other crimes" evidence

was a tactical decision to admit to lesser crimes in order to boost the defendant's credibility when he denied his guilt of the methamphetamine-related charges. The defendant is thus unable to establish the first prong of ineffective assistance of counsel. See *Martinez*, 348 Ill. App. 3d at 537.

¶ 39 The defendant argues, nonetheless, that counsel was ineffective in failing to raise the issue in a posttrial motion. However, counsel will not be deemed ineffective for failing to raise a meritless issue. See *People v. Anderson*, 2013 IL App (2d) 111183, ¶ 65. Because the failure to request a limiting instruction was a matter of sound trial strategy, it would have been meritless to raise a claim for ineffective assistance of counsel for failing to do so in a posttrial motion. For these reasons, we find the defendant's first contention on appeal to be without merit.

¶ 40 The defendant's next contention is that either plain error or ineffective assistance of counsel occurred when evidence was introduced regarding the defendant's unrelated arrest warrant. At the time of his arrest, the defendant was wanted on an unrelated arrest warrant in Jo Daviess County. The defendant had filed a pretrial motion *in limine* to preclude the State from introducing evidence of the unrelated arrest warrant. The trial court denied the motion on the grounds that evidence of the warrant was necessary to help explain to the jury why the officers were investigating the defendant on the evening in question. The defendant argues, however, that Kloepping could have simply testified that he commenced a criminal investigation of the defendant based on a telephone call, without reference to the arrest warrant, and that such testimony would have been sufficient to explain to the jury why the officers were investigating the defendant. The defendant argues that he was unnecessarily prejudiced when Kloepping was permitted to testify about the outstanding arrest warrant.

¶ 41 Evidentiary matters are generally left to the discretion of the trial court and challenges to the admission of evidence are reviewed for an abuse of that discretion. *People v. Jackson*, 232 Ill. 2d 246, 265 (2009). A trial court abuses its discretion where its ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court. *People v. Hall*, 195 Ill. 2d 1, 20 (2000). "The decision whether to admit evidence cannot be made in isolation and the trial court must consider a number of circumstances that bear on the issue, including questions of reliability and prejudice." *Jackson*, 232 Ill. 2d at 266. Other crimes evidence is admissible if it is relevant to a police investigation of the offense at issue, where the investigatory procedures involve an integral part of the narrative of the arrest. *People v. Fauntleroy*, 224 Ill. App. 3d 140, 148 (1991).

¶ 42 In *Fauntleroy*, the reviewing court found no error occurred when the jury was informed that defendant's detention in that case began with his arrest on an outstanding arrest warrant. *Id.* The court held that the evidence relating to the defendant's arrest on an outstanding warrant was part of the narrative testimony regarding the circumstances of the defendant's arrest. *Id.* at 149. The court further noted that the nature of the underlying crime for which the warrant issued was not disclosed to the jury. *Id.* The court cited other cases where it was held that evidence of an arrest warrant was proper where the nature of the crime was not disclosed. *Id.* (citing *People v. Goka*, 119 Ill. App. 3d 1024, 1030 (1983), and *People v. Young*, 118 Ill. App. 3d 803, 808-09 (1983) (both holding that evidence of arrest on an outstanding warrant was proper where the nature of crime was not disclosed)). The court also cited *Goka* for the proposition that relevant evidence need not be excluded merely because of its prejudice to the defendant. *Id.*

¶ 43 In the present case, no error occurred when Kloepping was allowed to testify as to the outstanding arrest warrant. The existence of the warrant helped explain the scope of the police

response and investigation, namely, the reason for calling four other officers for back-up, approaching the defendant after he stopped in the alley, and placing him under arrest. The jury only heard that there was a warrant, but did not hear that the warrant involved the failure to appear on another drug charge. If Kloepping had merely testified that there was a telephone tip that prompted an investigation of the defendant, as the defendant suggests, the jury would have been left to speculate as to the content of the telephone tip and whether it was related to suspected drug activity of the defendant. This would have been more prejudicial than simply stating that the defendant was wanted on an outstanding arrest warrant, especially since the defendant was able to minimize the effect of the warrant by testifying that it was based on the failure to appear and that he was planning to pay it off. By arresting the defendant due to the warrant, it appeared that the officers stumbled on the alleged drug activity when they saw the blue smoking device on the floor of the car. This would tend to lend credibility to the defendant's testimony that he was not involved in procuring the methamphetamine manufacturing supplies. Accordingly, the trial court did not abuse its discretion in allowing into evidence the fact that the defendant was arrested on an outstanding warrant. Because we find no error, the defendant's claims based on plain error and ineffective assistance of counsel necessarily fail. *Cosby*, 231 Ill. 2d at 273; *Mahaffey*, 194 Ill. 2d at 173.

¶ 44 In so ruling, we find the defendant's reliance on *People v. Park*, 245 Ill. App. 3d 994 (1993), *People v. Lewis*, 165 Ill. 2d 305 (1995), and *People v. McCray*, 273 Ill. App. 3d 396 (1995), unpersuasive. In *McCray*, the other crimes evidence related to a crime committed after the defendant committed the crime charged. *Id.* at 400. Consequently, the other-crimes evidence could not have been offered to show the circumstances surrounding the defendant's arrest for the crime with which he was charged. *Id.* at 401-02.

¶ 45 In *Park*, a daughter had written a letter accusing her defendant-father of sexual assault. *Park*, 245 Ill. App. 3d at 998-99. The daughter's friend made a copy of the letter and gave it to the police. *Id.* at 999. At trial, the daughter, the friend, and a police officer testified about the letter. The officer explained that the letter was the reason for the initiation of his investigation. *Id.* at 1006. The State argued that the letter itself was admissible because it formed an integral part of the narrative of the arrest. *Id.* at 1005. The reviewing court rejected that argument, holding that the cumulative testimony about the letter was sufficient for the jury to understand why the police investigation of the defendant began. *Id.* at 1006. *Park* supports our determination in this case. While the letter in *Park* provided a reason for the commencement of the police investigation, the fact of the outstanding arrest warrant in the present case also provided such an explanation. Nonetheless, while the actual letter was not admissible, similarly, here, the fact that the arrest warrant was based on the failure to appear on an unrelated drug charge was not admitted.

¶ 46 In *Lewis*, the defendant was charged with murder and armed robbery. *Lewis*, 165 Ill. 2d at 315. There was testimony that an FBI fingerprint check revealed that defendant was in custody in California, along with the details of the extradition procedure. *Id.* at 321. On appeal, the defendant argued that the jury could infer prejudicial prior criminal activity from this evidence. *Id.* at 345. The reviewing court acknowledged that the jury could have inferred from the evidence presented that defendant had been engaged in prior criminal activity. *Id.* at 346. The court also acknowledged that the disclosure could have been limited to the fact that the defendant was found in California and extradited here. *Id.* at 347. Nonetheless, the reviewing court held that the evidence did not have the tendency to overpersuade the jury on the issue of defendant's guilt because the jury did not hear evidence that the defendant was incarcerated in

California on another murder conviction. *Id.* The disclosure was limited to the fact that defendant was in custody in a facility in California and was subsequently extradited here. Thus, the court held that the defendant was not unduly prejudiced by this evidence. *Id.* Similarly, in this case, the disclosure was limited to the fact of the outstanding arrest warrant. There was no evidence that the warrant was based on failure to appear on a drug charge. Accordingly, as in *Lewis*, the evidence presented did not have a tendency to overpersuade the jury and there was no abuse of discretion in the trial court's ruling allowing it.

¶ 47 III. CONCLUSION

¶ 48 For the reasons stated, we affirm the judgment of the circuit court of Carroll County.

¶ 49 Affirmed.