NOTICE
Decision filed 09/21/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250664-U

NO. 5-25-0664

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,	)	St. Clair County.
	)	
v.	)	No. 23-CF-1312
	)	
JARELL ANDERSON,	)	Honorable
	)	Zina R. Cruse,
Defendant-Appellant.	)	Judge, presiding.

PRESIDING JUSTICE CATES delivered the judgment of the court.
Justices Sholar and Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: We grant appellate counsel's motion to withdraw and we dismiss the appeal where the defendant failed to file a motion to withdraw his guilty plea prior to filing the appeal and there is therefore no arguably meritorious argument counsel can make on his behalf.

¶ 2 The defendant, Jarell Anderson, pled guilty to one count of first degree murder (720 ILCS 5/9-1(a)(1) (West 2022)) in a partially negotiated plea agreement. At sentencing, the trial court admonished the defendant in accordance with Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024), including advising him that he must file a motion to withdraw his plea within 30 days before filing an appeal. The defendant filed a timely *pro se* notice of appeal without filing a motion to withdraw his plea. The Office of the State Appellate Defender (OSAD) was appointed to represent the defendant on appeal. OSAD filed a motion to withdraw pursuant to *Anders v. California*, 386

U.S. 738 (1967), asserting that there are no arguably meritorious claims counsel can raise because filing a motion to withdraw plea is a condition precedent to an appeal. This court allowed the defendant time to file *pro se* briefs, memoranda, or other documents in response, but he has not done so. Upon review, we grant OSAD's motion to withdraw and dismiss the defendant's appeal.

¶ 3 I. BACKGROUND

¶ 4 The defendant was charged by criminal complaint and subsequently indicted on one count of first degree murder in the July 2023 shooting death of Turyan S. Austell Jr. The indictment alleged that the offense was committed with a firearm, thus qualifying the defendant for a mandatory sentence enhancement of 25 years to life. See 730 ILCS 5/5-8-1(a)(1)(d)(iii) (West 2022).

¶ 5 On April 7, 2025, the defendant pled guilty to an amended charge of first degree murder in a partially negotiated plea agreement. The amended charge, contained in an information filed that day, alleged that the defendant injured Austell with a deadly weapon, thereby causing his death, but it did not allege the use of a firearm. Pursuant to the plea agreement, the defendant pled guilty to the amended charge, which did not include the mandatory firearm enhancement, and the State agreed to cap its sentence recommendation at 35 years, to be served at 100% and followed by 3 years of mandatory supervised release (MSR). The defendant remained free to argue that he should receive the minimum sentence of 20 years. The indictment would be dismissed at sentencing. After admonishing the defendant concerning his trial rights, determining that the plea was voluntary, and hearing the factual basis, the trial court accepted the defendant's plea, ordered a presentence investigation report, and set the matter for a sentencing hearing.

¶ 6 The sentencing hearing took place on August 5, 2025. After hearing evidence in aggravation and mitigation, a statement in allocution by the defendant, and the arguments of

counsel, the trial court sentenced the defendant to 35 years in prison, to be served at 100%, followed by 3 years of MSR. The trial court then admonished the defendant as follows:

> "Now, sir, you have a right to file a notice of appeal if you believe an appellate court should review what we've done in your case; however, before you file a notice of appeal, you must file a motion asking the Court to set aside the judgment and allow you to withdraw your plea. The motion would have to be filed in writing within 30 days[,] setting forth the reason you're asking me to make that decision. Anything you don't bring up in that motion, you won't be able to bring up at the appellate level, should it get to that point. If I grant the motion, the judgment will be set aside, the plea will be withdrawn, and we'll bring the case back on the docket as if you never entered your plea, including Count 1 of the indictment. If I deny the motion, you have 30 days from that date to file your notice of appeal. And if we find you can't afford the required transcripts or legal representation, they'll be provided to you."

¶ 7 The defendant did not file a motion to withdraw his plea. However, he filed a *pro se* notice of appeal on August 14, 2025, indicating that he wished to challenge his sentence. OSAD filed an amended notice of appeal on the defendant's behalf, identifying the judgment appealed. However, OSAD subsequently filed an *Anders* motion seeking to withdraw as counsel.

¶ 8 II. ANALYSIS

¶ 9 In its motion to withdraw, OSAD asserts that there are no arguably meritorious claims it can raise in this appeal. Specifically, OSAD contends that because the defendant did not file a postplea motion after the trial court admonished him in substantial compliance with Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024), this court must dismiss the appeal. We agree.

¶ 10 Illinois Supreme Court Rule 604(d) provides as follows:

> "No appeal from a judgment entered upon a plea of guilty shall be taken unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment." Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024).

Where, as here, a defendant pleads guilty in exchange for the State's agreement to cap its sentencing recommendation, the defendant must file a motion to withdraw his plea before filing an appeal challenging a sentence at or below that cap. *People v. Linder*, 186 Ill. 2d 67, 74 (1999).

¶ 11 Filing a postplea motion, as required by Rule 604(d), is a condition precedent to filing an appeal from a judgment entered on a plea of guilty. *People v. Flowers*, 208 Ill. 2d 291, 300-01 (2003). Although a defendant's failure to file the requisite motion does not deprive the appellate court of jurisdiction, it generally precludes us from considering the merits of the appeal. *Flowers*, 208 Ill. 2d at 301. Thus, where a defendant who pled guilty fails to file a motion to withdraw his plea or a motion to reconsider his sentence prior to filing an appeal, we must ordinarily dismiss the appeal, thus leaving the Post-Conviction Hearing Act as the defendant's sole means of recourse. *Flowers*, 208 Ill. 2d at 301.

¶ 12 There is an important exception to this rule. "Dismissal of an appeal based on a defendant's failure to file the requisite motions in the trial court would violate due process if the defendant did not know that filing such motions was necessary." *Flowers*, 208 Ill. 2d at 301. To that end, Rule 605 requires trial courts to admonish defendants concerning "the procedural steps Rule 604(d) requires them to take in order to appeal." *Flowers*, 208 Ill. 2d at 301. In that regard, Rule 605(b) and Rule 605(c) "complement Rule 604(d)." *People v. Dominguez*, 2012 IL 111336, ¶ 13.

¶ 13 Pertinent here, Rule 605(c) requires trial courts to advise a defendant who pled guilty in a negotiated plea agreement involving sentencing concessions "substantially as follows" at the time of sentencing:

> "(1) that the defendant has a right to an appeal;
>
> (2) that prior to taking an appeal the defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion asking to have the judgment vacated and for leave to withdraw the plea of guilty, setting forth the grounds for the motion;
>
> (3) that if the motion is allowed, the plea of guilty, sentence and judgment will be vacated and a trial date will be set on the charges to which the plea of guilty was made;
>
> (4) that upon the request of the State any charges that may have been dismissed as a part of a plea agreement will be reinstated and will also be set for trial;
>
> (5) that if the defendant is indigent, a copy of the transcript of the proceedings at the time of the defendant's plea of guilty and sentence will be provided without cost to the defendant and counsel will be appointed to assist the defendant with the preparation of motions; and
>
> (6) that in any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to vacate the judgment and to withdraw the plea of guilty shall be deemed waived." Ill. S. Ct. R. 605(c) (eff. Apr. 15, 2024).

¶ 14 If the trial court fails to give the required admonitions, we will not dismiss a subsequently filed appeal. *Flowers*, 208 Ill. 2d at 301. Instead, we will remand the case to the trial court for strict compliance with the requirements of Rule 604(d). *Flowers*, 208 Ill. 2d at 301.

¶ 15 Although compliance with Rule 605(b) or (c) is mandatory, the rule's express terms require only that courts " 'substantially advise' defendants of its contents." *Dominguez,* 2012 IL 111336, ¶¶ 15, 19. To satisfy this requirement, the court need not read the admonitions in the rule "nearly verbatim." *Dominguez,* 2012 IL 111336, ¶ 22. Rather, the court must inform the defendant "of what he must do in order to preserve his right to appeal his guilty plea or sentence. So long as the court's admonitions were sufficient to impart to a defendant the essence or substance of the rule, the court has substantially complied with the rule." *Dominguez,* 2012 IL 111336, ¶ 22.

¶ 16 Earlier, we set forth the trial court's admonitions in their entirety. While the trial court did not quote the language of Rule 605(c) verbatim, its admonitions tracked the language of the rule closely. Moreover, the court advised the defendant as to what he must do to file an appeal and fully imparted to him the substance of the rule. In view of the trial court's substantial compliance with Rule 605(c), we agree with OSAD that we must dismiss this appeal. As such, there are no arguably meritorious arguments OSAD can make on the defendant's behalf.

¶ 17 III. CONCLUSION

¶ 18 For the foregoing reasons, we grant OSAD's motion to withdraw, and we dismiss this appeal.

¶ 19 Motion granted; appeal dismissed.