2022 IL App (2d) 210014
No. 2-21-0014
Opinion filed June 22, 2022

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of De Kalb County.
Plaintiff-Appellee,	)	
v.	)	Nos. 19-CF-116 19-CF-285
MICHAEL J. HAYES,	)	Honorable Robbin J. Stuckert,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE BRENNAN delivered the judgment of the court, with opinion.
Justices Zenoff[1] and Jorgensen concurred in the judgment and opinion.

OPINION

¶ 1 Defendant, Michael J. Hayes, admitted to violating his sentence of probation for Class 2 aggravated domestic battery in case No. 19-CF-116 and pleaded guilty to a concurrent Class 4 domestic battery (enhanced) in case No. 19-CF-285. Upon doing so, he entered into a negotiated

[1]Justice Zenoff participated in this appeal, but has since been assigned to the Fourth District Appellate Court. Our supreme court has held that the departure of a judge prior to the filing date will not affect the validity of a decision so long as the remaining two judges concur. *Proctor v. Upjohn Co.*, 175 Ill. 2d 394, 396 (1997).

plea agreement for both cases that contemplated deferred, alternative sentences dependent upon whether defendant successfully completed the De Kalb County Mental Health Court (MHC) program. If defendant successfully completed the MHC program, defendant would be sentenced to conditional discharge, assessed fines and costs, and receive credit for time served. In the event defendant was discharged for unsuccessful completion of the MHC program, defendant would serve concurrent seven-year and three-year terms of incarceration for aggravated domestic battery (720 ILCS 5/12-3.3(a-5) (West 2018)) and domestic battery (enhanced) (*id.* § 12-3.2(a)(1)), respectively. Defendant was discharged from the MHC program for unsuccessful completion, after which the deferred sentences were imposed per the plea agreement.

¶ 2 Defendant appeals the denial of his motion to reconsider these sentences, contending that the matter should be remanded for counsel to file a certificate under Illinois Supreme Court Rule 604(d) (eff. July 1, 2017), which applies to appeals after a negotiated guilty plea. The State counters that Rule 604(d) is inapplicable, because defendant is appealing from sentences imposed upon his discharge from the MHC program—which it likens to resentence upon the revocation of probation—thus, rendering Illinois Supreme Court Rule 604(b) (eff. July 1, 2017) (not subsection (d) of Rule 604) applicable as it relates to the instant appeal.

¶ 3 The record demonstrates that defendant's participation in the MHC program was not a probation sentence. Defendant's sentences had been deferred and were not imposed until after his discharge from the MHC program. Unlike the appeal from defendant's *resentence* in No. 19-CF-116, which is governed by Rule 604(b), Rule 604(d) governs defendant's appeal from his domestic battery (enhanced) sentence in case No. 19-CF-285. In case No. 19-CF-285, defendant is appealing the original sentence imposed upon his negotiated guilty plea; Rule 604(d) provides that a defendant may not appeal from a negotiated guilty plea unless he first files in the trial court a

motion to withdraw his guilty plea and vacate the judgment. Ill. S. Ct. R. 604(d) (eff. July 1, 2017). Defendant filed no such motion. Moreover, the trial court failed to admonish defendant at the time of his sentence, per Illinois Supreme Court Rule 605(c) (eff. Oct. 1, 2001), of the need to file such a motion before appealing. Therefore, we reverse the denial of defendant's motion to reconsider. We remand in case No. 19-CF-285 for proper admonitions and compliance with Rules 605(c) and 604(d). We also remand in case No. 19-CF-116, since the cases were consolidated for the plea agreement and sentencing.

¶ 4 I. BACKGROUND

¶ 5 On May 3, 2019, defendant pleaded guilty in case No. 19-CF-116 to aggravated domestic battery, and the court sentenced him to probation. On May 13, 2019, the State filed a petition to revoke probation because defendant failed to provide the information needed to set up alcohol monitoring. On June 1, 2019, defendant was charged with two counts of aggravated domestic battery[2] in case No. 19-CF-285.[3]

¶ 6 On September 6, 2019, defendant and the State entered into a negotiated plea wherein defendant pled guilty to domestic battery in case No. 19-CF-285 and stipulated to the violation of probation in case No. 19-CF-116. The State explained to the trial court that, as part of the plea

[2]Although aggravated domestic battery was the stated offense, both crimes cited simply the domestic battery statute (720 ILCS 5/12-3.2 (West 2018)).

[3]The record at times includes references to case No. 19-CF-579 in place of, or in addition to, case No. 19-CF-285. However, it is clear that defendant is appealing from case Nos. 19-CF-116 and 19-CF-285. Defendant filed amended notices of appeal substituting case No. 19-CF-579 with case No. 19-CF-285.

agreement, defendant was agreeing to participate in the MHC program. Sentencing was deferred with alternative sentences contemplated. Specifically, if defendant successfully completed the MHC program, he would be sentenced to conditional discharge in both cases and ordered to pay any required fines and costs; if unsuccessfully discharged from the MHC program, he would serve a seven-year term of incarceration in case No. 19-CF-116 and a concurrent three-year term in case No. 19-CF-285. The court restated the agreement's terms in admonishing defendant. The court heard the factual basis for the plea and determined that it was knowing and voluntary. Defendant waived a presentence investigative report.

¶ 7 The court confirmed that defendant consented to participate in the MHC program. Defendant signed a "Participant Contract" governing his enrollment in "Drug/DUI Court."[4] The contract stated in part that, upon successful completion, the State "may" move to dismiss the "case(s) or the pertinent charges as previously agreed upon unless there is objection from the court." The contract also provided that, "[p]rior to an unsuccessful discharge from the Drug/DUI Court, a participant shall be served with a petition to terminate the participant from Drug/DUI Court or to revoke the participant's probation." Also, the court shall accord a participant the rights contained in Illinois Supreme Court Rule 402A (eff. Nov. 1, 2003), which pertains to "Admissions or Stipulations in Proceedings to Revoke Probation, Conditional Discharge or Supervision."

[4]While neither party points out the error, we note that the orders entered at the time of the plea hearing incorrectly referred to the MHC program as "Drug/DUI Court." In any event, the report of proceedings makes clear that defendant participated in the MHC program.

¶ 8 Following the guilty plea admonitions, the court fully admonished defendant under Rule 605(c) of his right to appeal from the negotiated plea and, before appealing, the need to file a motion to withdraw the plea within 30 days. Defendant stated that he understood.

¶ 9 The court entered in each case a "Criminal Sentence Order," reflecting the guilty plea. Boxes for such items as "conviction to enter," "probation," "conditional discharge," or "court supervision" were not checked. Instead, a box next to a preprinted blank line was checked, and "MHC" was written on the line. Under "Incarceration," the order noted that defendant was sentenced to 98 days' incarceration but had credit for 98 days served. Under "Counseling" was written "MHC." By separate order, the court assessed defendant $1259 in fines and fees.

¶ 10 A "De Kalb County Mental Health Court Judgment" was also entered in each case. The order stated that defendant would plead guilty and, upon successful completion of mental health court, the judgment and sentence "will be" conditional discharge. However, "[u]pon unsuccessful completion of the program, the judgment and sentence will be" a seven-year term of incarceration concurrent with a three-year term.

¶ 11 On November 4, 2019, the State filed a "Motion to Discharge Defendant from De Kalb County Mental Health Court Program and Impose Sentence," alleging that defendant failed to report to jail to serve a sanction and that he was later charged with escape. The State noted that sentencing for defendant's offenses "has been pending, and was deferred until either completion of, or unsuccessful discharge from the program." The State recounted "[t]hat if the defendant was unsuccessfully terminated from the program for any reason, the case would proceed to a sentencing pursuant to the plea and agreed alternative sentence."

¶ 12 On March 9, 2020, the State again moved to discharge defendant from the MHC program and impose sentence. The State alleged that defendant failed to comply with various aspects of the program.

¶ 13 On June 24, 2020, the court held a hearing on what the court stated was "a petition to revoke, [defendant] having been a participant in the mental health treatment court." Oscar Rodriguez, a probation officer for the mental health court, testified that he supervised defendant in the MHC program. Rodriguez stated that, from the beginning, defendant did "little to nothing" while in the program. Rodriguez then described defendant's various failures in the program. After his testimony, the court told defendant that it was delaying its ruling for two weeks. If in the interim, defendant violated a single condition of the program, the court would proceed to rule on the State's motions for discharge.

¶ 14 Defendant failed to comply, and, on July 24, 2020, the court granted the State's motions to discharge. On July 31, 2020, a sentencing hearing was held. The State asked that defendant be sentenced per the agreement he signed when entering the MHC program. The court agreed and stated, "[H]e'll be sentenced in accordance with the plea that was entered and the judgment at the time for which his signature appeared and for which he agreed that the term would be should he unsuccessfully complete the program." Accordingly, the court sentenced defendant to concurrent terms of seven years of imprisonment in case No. 19-CF-116 and three years in case No. 19-CF-285. The court waived defendant's financial obligations, based on the length of the prison term. The court then admonished defendant that he had "the right to appeal the judgment of conviction only if a notice of appeal is filed in the trial court within 30 days from today's date." The court also stated: "If you desire to challenge any part of the sentence or sentencing hearing, you must file prior to an appeal a motion to reconsider the sentence or any challenge to the sentencing

hearing within 30 days of today's date." A "Judgment Order" was entered in each case, stating that defendant was sentenced to the Department of Corrections (DOC).

¶ 15 On August 17, 2020, counsel filed a motion to reconsider the sentences imposed in case Nos. 19-CF-116 and 19-CF-285, alleging that they were excessive. Counsel did not file a motion to withdraw the plea or a certificate under Rule 604(d). Opposing the motions, the State argued that the sentences were agreed to and were not excessive. The State asserted that, though "Drug Court is not probation," defendant's lack of compliance with the program was proper to consider in assessing the propriety of the sentence. The trial court denied the motion to reconsider, and defendant appealed.

¶ 16 II. ANALYSIS

¶ 17 Defendant argues that, because he entered a negotiated guilty plea, counsel was required to file a Rule 604(d) certificate of compliance before filing a motion to reconsider the sentences imposed in case Nos. 19-CF-116 and 19-CF-285. Because counsel did not do so, defendant contends that the cause must be remanded for compliance with the certificate requirement and the filing of a new motion to reconsider. The State responds that defendant is appealing from a revocation of probation in both cases, which falls under Rule 604(b) and does not require a certificate of compliance. Notably, the parties do not ascribe any significance to counsel's failure to file a motion to withdraw the plea. Correspondingly, they do not discuss whether the trial court was required to admonish defendant, per Rule 605(c), of the need to file a motion to withdraw the plea before appealing. In this case, the obligation to file a motion to withdraw the plea depends on whether defendant, after his discharge from the MHC program, was appealing an order akin to a revocation of probation under Rule 604(b) or was appealing from his conviction and sentence after

a negotiated plea under Rule 604(d). That issue turns partly on when defendant was sentenced for purposes of those rules.

¶ 18 Rule 604 governs "Appeals from Certain Judgments and Orders." Ill. S. Ct. R. 604 (eff. July 1, 2017). Rule 604(d) is titled "Appeal by Defendant From a Judgment Entered Upon a Plea of Guilty." It provides in relevant part:

> "No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending." Ill. S. Ct. R. 604(d) (eff. July 1, 2017).

Rule 604(d) further requires defendant's counsel to file 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.*

¶ 19 When "the defendant has entered a fully negotiated guilty plea, he may not appeal the judgment entered upon the guilty plea without filing a motion to withdraw the plea within 30 days of sentencing." *People v. Curry*, 2019 IL App (3d) 160783, ¶ 13. Rule 604(d)'s motion and certificate requirements are prerequisites for an appeal. See *In re J.E.M.Y.*, 289 Ill. App. 3d 389,

390 (1997). A defendant's admission to a violation of probation or conditional discharge is not to be treated identically to the entry of a guilty plea. See *People v. Tufte*, 165 Ill. 2d 66, 72 (1995). Appeals from revocation of probation or conditional discharge are governed by Rule 604(b), titled "Appeals When Defendant Placed Under Supervision or Sentenced to Probation, Conditional Discharge or Periodic Imprisonment." Ill. S. Ct. R. 604(b) (eff. July 1, 2017). Rule 604(b) states:

> "A defendant who has been placed under supervision or found guilty and sentenced to probation or conditional discharge (see 730 ILCS 5/5-6-1 through 5-6-4), or to periodic imprisonment (see 730 ILCS 5/5-7-1 through 5-7-8), may appeal from the judgment and may seek review of the conditions of supervision, or of the finding of guilt or the conditions of the sentence, or both. He or she may also appeal from an order modifying the conditions of or revoking such an order or sentence." *Id.*

¶ 20 Unlike under Rule 604(d), filing a motion to reconsider a sentence following revocation of a defendant's probation or conditional discharge is merely permissible and not a prerequisite to appeal. *In re J.E.M.Y.*, 289 Ill. App. 3d at 390-91 (citing *Tufte*, 165 Ill. 2d at 78). "Since the filing of a motion to reconsider sentence or disposition following a probation revocation hearing is unnecessary before taking an appeal, complying with the requirements of Rule 604(d) is likewise unnecessary." *Id.* at 391.

¶ 21 This case involves a unique scenario in which defendant (1) entered a negotiated guilty plea, (2) enrolled in the MHC program per the plea agreement, (3) was unsuccessfully discharged from the MHC program, and (4) after a sentencing hearing, was given the prison sentence specified in the plea agreement. The State contends that defendant was "sentenced" to the MHC program when he entered the negotiated guilty plea. Thus, the discharge was the same as a probation revocation, making a Rule 604(d) certificate unnecessary. Defendant rejects the comparison and

argues that he was actually "sentenced" per his negotiated plea only after his discharge from the MHC program, requiring his counsel to file a Rule 604(d) certificate to appeal the negotiated plea and sentence.

¶ 22 The interpretation of a supreme court rule is a question of law that we review *de novo*. *People v. Drum*, 194 Ill. 2d 485, 488 (2000). Likewise, "[w]e review questions of statutory interpretation *de novo*." *People v. Tara*, 367 Ill. App. 3d 479, 484 (2006). "The fundamental rule of statutory interpretation is to ascertain and effectuate the intent of the legislature." *Id.* "The plain language of a statute remains the best indication of the legislature's intent." *Id.*

¶ 23 We note first that Rule 604(d) is clear that it applies to negotiated guilty pleas. In contrast, Rule 604(b) refers only to statutes applicable to probation, conditional discharge, and periodic imprisonment, without reference to the statutes applicable to mental health court or drug court. This is understandable, given that mental health court and drug court programs—while similar to probation, supervision, or conditional discharge—may also have significant differences. Thus, the text of the rules suggests that Rule 604(d), not Rule 604(b), applies to defendant's case.

¶ 24 We find further guidance on the issue from the Mental Health Court Treatment Act (the Act) (730 ILCS 168/1 *et seq.* (West 2018)) and De Kalb County's policies implementing its MHC program. Under the Act, the " 'mental health court program' " is "a structured judicial intervention process for mental health treatment of eligible defendants that brings together mental health professionals, local social programs, and intensive judicial monitoring." *Id.* § 10. "The Chief Judge of each judicial circuit may establish a mental health court program, including the format under which it operates under [the] Act." *Id.* § 15. Regarding the format, a " '[p]re-adjudicatory mental health court program' means a program that allows the defendant, with the consent of the prosecution, to expedite the defendant's criminal case before conviction or before filing of a

criminal case and requires successful completion of the mental health court program as part of the agreement." *Id.* § 10. A " '[p]ost-adjudicatory mental health court program' means a program in which the defendant has admitted guilt or has been found guilty and agrees, along with the prosecution, to enter a mental health court program as part of the defendant's sentence." *Id.* Particularly significant here is that courts may fashion combination programs with both pre-adjudicatory and post-adjudicatory elements. *Id.*

¶ 25 "Upon successful completion of the terms and conditions of the program, the court may dismiss the original charges against the defendant or successfully terminate the defendant's sentence or otherwise discharge him or her from the program or from any further proceedings against him or her in the original prosecution." *Id.* § 35(b). Where the defendant has "violated the terms and conditions of the program or his or her sentence," the court may impose

> "reasonable sanctions under prior written agreement of the defendant, including but not limited to imprisonment or dismissal of the defendant from the program; and the court may reinstate criminal proceedings against him or her or proceed under Section 5-6-4 of the Unified Code of Corrections for a violation of probation, conditional discharge, or supervision hearing." *Id.* § 35(a)(4).

The Act further provides:

> "No defendant may be dismissed from the program unless, prior to such dismissal, the defendant is informed in writing: (i) of the reason or reasons for the dismissal; (ii) the evidentiary basis supporting the reason or reasons for the dismissal; (iii) that the defendant has a right to a hearing at which he or she may present evidence supporting his or her continuation in the program. Based upon the evidence presented, the court shall determine whether the defendant has violated the conditions of the program and whether the

defendant should be dismissed from the program or whether some other alternative may be appropriate in the interests of the defendant and the public." *Id.* § 35(a).

¶ 26 De Kalb County established an MHC program with a set policy and procedure manual located on the De Kalb County website. De Kalb Cty. Mental Health Court, Policy and Procedures (updated Nov. 20, 2016), https://dekalbcounty.org/wp-content/uploads/2019/09/trct-policy-mhc.pdf [https://perma.cc/4TXH-32TV] (hereinafter De Kalb County Manual). The parties have not cited this resource, and it is not in the record. However, this court may "take judicial notice of the rules, orders, and procedures adopted by the Circuit Court." See *People v. Wolfe*, 124 Ill. App. 2d 349, 352 (1970).

¶ 27 The manual has several sections. In the "INTRODUCTION," the manual states:

> "The DeKalb County Mental Health Court Program *is a Post Plea-Pre-Sentencing program* that provides eligible defendants the opportunity to receive mental health and drug treatment in exchange for either having their conviction dismissed, avoiding prison or jail sentence, or having the felony amended to misdemeanor charges. Eligible defendants can elect to participate in the program or proceed with traditional court processing. After choosing to participate in the program, defendants come under the court's supervision and are required to attend treatment sessions, undergo random drug and alcohol testing, and appear before the Mental Health Court Judge on a regular basis." (Emphasis added.) De Kalb County Manual at 4.

¶ 28 The section entitled "MENTAL HEALTH COURT MODEL" provides:

> "The DeKalb County Mental Health Court has adopted a *Post Plea-Pre-Sentence Program*. In the model selected by the DeKalb County Mental Health Court Planning Team, the defendant will plead guilty and sentencing is done at a later date. The defendant

will know what the sentence will be at the time of plea. Sentencing will occur when he/she successfully graduates from Mental Health Court. If the defendant does not successfully graduate from Mental Health Court, he or she will also know the sentence that will be received." (Emphasis in original.) *Id.* at 7.

¶ 29 The manual further provides:

"A participant being considered for unsuccessful termination from the De Kalb County Mental Health Court Program shall be afforded the same due process rights that are afforded to probationers and parolees in revocation hearings. The requirements of due process will be satisfied by providing a participant with written notice of claimed program or probation violations and by complying with Supreme Court Rule 402A." *Id.* at 20.

¶ 30 By its terms, the De Kalb County Mental Health Court is a postplea-presentence program where sentence is imposed after completion of, or discharge from, the MHC program. We further observe that this is one of the procedures contemplated by the Problem-Solving Courts Standards of the Illinois Supreme Court. Admin. Office of the Ill. Courts, Problem-Solving Courts Standards §§ 3.18-3.20 (rev. Nov. 2019), https://www.illinoiscourts.gov/Resources/a4b9d77c-b014-4174-b011-21a4ccd90521/PSC_Standards_2019.pdf [https://perma.cc/UVL7-QBFU]. Postponed sentencing differs from a "sentence" of probation, with separate statutory procedures for a court to impose when a plea or conviction is entered. See 730 ILCS 5/5-6-1 to 5-6-4.1 (West 2018). While the manual provides due-process procedures for discharge that are derived from those governing revocation of probation, the manual also specifically provides that sentencing does not occur until the defendant either completes or is discharged from mental health court. Thus, a defendant is not "sentenced" to mental health court when pleading guilty. Instead, sentencing is postponed while the defendant takes part in mental health court. Therefore, under the process

outlined in the manual, a discharge from mental health court is not a revocation of probation for purposes of Rule 604(b).

¶ 31 The proceedings here were consistent with the manual and require compliance with Rule 604(d). As noted, the trial court did not mark boxes on its sentencing order for the entry of a conviction, probation, or conditional discharge. Instead, it created its own entry for "MHC" (mental health court). The court admonished defendant that he would be sentenced under the agreement's specified terms of incarceration if he did not complete the MHC program. If successful, he would be sentenced to conditional discharge. Notably, when the State moved to discharge defendant from the MHC program, it asked that the court "impose sentence." The State noted that sentencing for defendant's offenses "has been pending, and was deferred until either completion of, or unsuccessful discharge from the program." The State also recounted "[t]hat if the defendant was unsuccessfully terminated from the program for any reason, the case would proceed to a sentencing pursuant to the plea and agreed alternative sentence." After defendant was discharged from the program, the court held a sentencing hearing, after which a "Judgment Order" was entered in each case, stating that defendant was sentenced to the DOC. At the hearing on the motion to reconsider, the State, referring to the MHC program as "Drug Court," acknowledged that it was not probation. We conclude that defendant's appeal is governed by Rule 604(d), which applies to appeals after sentencing following a negotiated guilty plea, rather than Rule 604(b), which applies to appeals from sentences of probation or conditional discharge.

¶ 32 To perfect his appeal, defendant was required to file a motion to withdraw the plea within 30 days of sentencing, and counsel was required to provide a valid Rule 604(d) certificate. Under Rule 604(d), defendant could not appeal until after he was sentenced. Thus, an appeal or certificate

filed before sentencing would be premature. See *People v. Marquez*, 2012 IL App (2d) 110475, ¶ 7.

¶ 33 Here, not only did counsel fail to file a Rule 604(d) certificate, but defendant did not file the proper motion. Defendant filed a motion to reconsider the sentences, rather than the motion to withdraw his plea that was required for case No. 19-CF-285. However, this is not surprising, given that the trial court did not admonish defendant at the July 31, 2020, sentencing hearing that defendant needed to file a motion to withdraw the plea. Instead, the court only told him that he must move to reconsider the sentence within 30 days.

¶ 34 Generally, when a defendant fails to file a timely motion to withdraw his guilty plea under Rule 604(d), the appellate court must dismiss the appeal. *People v. Flowers*, 208 Ill. 2d 291, 301 (2003). However, dismissal of an appeal based on a defendant's failure to file the requisite motion violates due process where the sentencing court does not inform the defendant that filing the motion was necessary to perfect the appeal. *Id.* Rule 605(c) safeguards the defendant's right to appellate review of the plea by mandating that, when the sentence is imposed upon a defendant who has entered a negotiated guilty plea, the court must substantially admonish the defendant that, before taking an appeal, the defendant must file within 30 days a motion to withdraw the plea and vacate the judgment. Thus, the consequences of failing to file the proper motion under Rule 604(d) depend on whether the defendant was properly admonished under Rule 605(c). If the trial court substantially complied with Rule 605(c), the appeal must be dismissed. See *People v. Jamison*, 181 Ill. 2d 24, 28-29 (1998).

¶ 35 Here, the parties do not address the absence of a motion to withdraw the plea or the adequacy of the trial court's admonitions. Normally, when both the required motion to withdraw the plea *and* the certificate are absent, a remand for the filing of a certificate is not appropriate and

the appeal must be dismissed. See *People v. Albers*, 2013 IL App (2d) 111103, ¶ 18. However, the record demonstrates that, while the trial court gave Rule 605(c) admonitions after the plea, it did not advise defendant at the July 31, 2020, sentencing hearing that he was required to file a motion to withdraw the plea. Instead, the court mistakenly advised defendant that he could file a motion to reconsider the sentence. When there is a lack of substantial compliance with Rule 605(c), the proper remedy is a remand to the trial court so that the defendant may be properly admonished. *Jamison*, 181 Ill. 2d at 29-30. In addition, the appropriate remedy for defense counsel's failure to file a Rule 604(d) certificate is a remand for (1) the filing of a Rule 604(d) certificate, (2) the opportunity to file the proper motion, if counsel concludes that a new motion is necessary, and (3) a new motion hearing. See *People v. Lindsay*, 239 Ill. 2d 522, 531 (2011); *People v. Merriweather*, 2021 IL App (2d) 200379, ¶ 18.

¶ 36 In conclusion, we note that there was confusion as to the applicability of Rule 604(b) and (d), and the Rule 605(c) admonitions were inadequate. Given the interplay between Rules 604(d) and 605(c) and the similarity in remedies, we remand to the trial court for proper Rule 605(c) admonitions and the opportunity for defendant to file any appropriate motions with proper Rule 604(d) compliance by counsel. We recognize that case No. 19-CF-116 involved an admission to a probation violation that, standing alone, would not, as defendant concedes, be subject to the same requirements as a guilty plea under Rule 604(d). Rule 604(b) applies to the resentence in No. 19-CF-116, and the sentencing court will need to distinguish between Rule 604(b) and (d) when readmonishing defendant on remand. We also recognize that the longer (concurrent) sentence was imposed in case No. 19-CF-116. However, we remand both cases since they were consolidated for the plea agreement and sentencing. See generally *In re Vincent Y.*, 337 Ill. App. 3d 752, 758 (2003); *People v. Davis*, 298 Ill. App. 3d 630, 632-33 (1998).

¶ 37 III. CONCLUSION

¶ 38 For the reasons stated, we reverse the judgment of the circuit court of De Kalb County and remand the cause for compliance with Rules 604(d) and 605(c).

¶ 39 Reversed and remanded with directions.

2022 IL App (2d) 210014

Decision Under Review:	Appeal from the Circuit Court of De Kalb County, Nos. 19-CF-116, 19-CF-285; the Hon. Robbin J. Stuckert, Judge, presiding.
Attorneys for Appellant:	James E. Chadd, Thomas A. Lilien, and Jessica Wynne Arizo, of State Appellate Defender's Office, of Elgin, for appellant.
Attorneys for Appellee:	Richard D. Amato, State's Attorney, of Sycamore (Patrick Delfino, Edward R. Psenicka, and Diane L. Campbell, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People.