

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) 250160-U
NO. 5-25-0160
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,	)	Champaign County.
	)	
v.	)	No. 23-CF-290
	)	
SHAVEZ D. CHAPPLE,	)	Honorable
	)	Matthew D. Lee,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE VAUGHAN delivered the judgment of the court.
Justices Boie and Clarke concurred in the judgment.

ORDER

- ¶ 1 *Held:* This court dismisses the appeal of the defendant’s conviction and sentence because the defendant did not file a timely motion to withdraw his negotiated plea of guilty, despite receiving from the circuit court admonishments that substantially complied with Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024).
- ¶ 2 Pursuant to negotiations with the State, the defendant, Shavez D. Chapple, pleaded guilty to manufacture or delivery of a controlled substance and was sentenced to imprisonment for 20 years. Following the plea and sentencing, the defendant never filed with the circuit court a motion to withdraw his guilty plea. Instead, 141 days after the plea and sentencing, the defendant filed in this reviewing court a *pro se* “late notice of appeal.” This court construed the document as a motion for leave to file a late notice of appeal, and this court granted the defendant such leave. The defendant sought to allege that the circuit court had relied upon an improper sentencing factor

during sentencing. The defendant's appellate counsel, the Office of the State Appellate Defender (OSAD), has concluded that this appeal is meritless and must be dismissed. On that basis, OSAD has filed with this court a motion to withdraw as counsel, along with a brief in support thereof, pursuant to *Anders v. California*, 386 U.S. 738 (1967). OSAD properly served the *Anders* motion and brief on the defendant. This court granted the defendant ample opportunity to respond to OSAD's motion, but he has not taken advantage of that opportunity. This court grants OSAD's *Anders* motion to withdraw as counsel and dismisses the instant appeal.

¶ 3

I. BACKGROUND

¶ 4 In March 2023, the State filed an information that charged the defendant with two counts of controlled substance trafficking, a Class X felony punishable by imprisonment for 30 to 120 years on each count. 720 ILCS 570/401.1(a) (West 2020). In April 2023, a superseding two-count indictment was returned.

¶ 5 On September 25, 2024, the State filed an information charging the defendant with a third count—manufacture or delivery of a controlled substance, specifically, 900 grams or more of any substance containing cocaine. See *id.* § 401(a)(2)(D). This offense was a Class X felony punishable by imprisonment for 15 to 60 years. *Id.*

¶ 6 The same day, the defendant, defense counsel, and the State appeared before the circuit court for a guilty-plea hearing. The court admonished the defendant in accordance with Illinois Supreme Court Rule 402(a) (eff. July 1, 2012). The court advised the defendant of his right to plead not guilty and to demand a trial, whether by a jury or by a judge alone. The court also advised him of his various rights at that trial, including, *inter alia*, the right to cross-examine the State's witnesses and to subpoena his own witnesses. The court further advised the defendant of his right to plead guilty, and how a guilty plea would serve to waive the right to a trial. In regard to appeal

rights, the court advised the defendant that he did have a right to appeal. However, a prerequisite to that right was the defendant's filing, in the circuit court and within 30 days of the guilty-plea hearing, a written motion to withdraw his guilty plea. All grounds for withdrawal of the plea needed to be included in that written motion; any issue not raised in the motion "would be considered waived, which means given up." Continuing, the court fully advised the defendant of all the other appeal-related rights, obligations, and consequences set forth in Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024).

¶ 7 The court informed the defendant of the newly filed count of manufacture or delivery of a controlled substance, and informed him of the nature of that charge and the possible penalties, including imprisonment for a minimum of 15 years and a maximum of 60 years. In answer to the court's queries, the defendant indicated that he understood the possible penalties, that he wished to plead guilty to manufacture or delivery of a controlled substance, and that he understood, and had no questions about his various rights relating to pleading not guilty and demanding trial. In answer to further queries, the defendant indicated that no one forced or threatened him to plead guilty and that he was pleading guilty of his own free will.

¶ 8 The State announced the terms of the plea agreement, which were that the defendant would plead guilty to count 3 of the information and would be sentenced to 20 years of imprisonment, with sentence credit for 559 days previously served, and counts 1 and 2 would be dismissed. The defendant and his counsel concurred in the recitation of the agreement. The court asked the defendant whether anything outside the terms of the agreement had been promised to him in order to persuade him to plead guilty, and he answered in the negative. The State provided a brief factual basis, in which defense counsel concurred.

¶ 9 The defendant pleaded guilty to manufacture or delivery of a controlled substance, a Class X felony. The court accepted the defendant's plea, finding that it was knowingly and voluntarily made and was supported by a factual basis.

¶ 10 The parties waived preparation of a presentence report, and the State reported that in 2017, the defendant was convicted of possession of heroin and aggravated unlawful use of a weapon. Adopting the parties' plea agreement, the court sentenced the defendant to 20 years of imprisonment, at 75%, with credit for time served, and counts 1 and 2 were dismissed.

¶ 11 After the sentence was imposed, the court asked the defendant whether he understood his appeal rights, and the defendant answered, "Yes." Then, the court asked him whether he had any questions about his appeal rights, and he answered, "No."

¶ 12 The hearing concluded. However, the circuit court recalled the case in order to address the matter of mandatory supervised release (MSR). The court stated that a three-year term of MSR needed to follow the prison sentence. The defendant confirmed that he understood what MSR was and that, despite MSR, he still wanted the plea agreement. The court promptly entered a written sentencing order that reflected the parties' agreement and the three years of MSR.

¶ 13 After the imposition of sentence, nothing more happened in this case until February 13, 2025, which was 141 days after the plea and sentencing. On that date, this court of review received from the defendant a *pro se* "late notice of appeal," accompanied by the defendant's affidavit. In both the "late notice of appeal" and the affidavit, the defendant averred that he had a meritorious appeal and that his failure to file a notice of appeal on time was not due to his culpable negligence. According to the defendant, the circuit court had deprived him of a fair sentencing hearing when it improperly considered his prior conviction for aggravated unlawful use of a weapon, an offense

that the Illinois Supreme Court had found unconstitutional. As the excuse for his failure to file a timely notice of appeal, the defendant stated in his “late notice of appeal” as follows:

“[H]e lacked law library/legal access while he awaited transfer from Champaign County Jail to IDOC[.] In fact, after [he] was transferred, nine days later, to Stateville’s Northern Receiving Center (NRC), he remained there for an additional 19 days, without any legal access. Thus, [he] had no way of getting the proper documentation in order to file a timely notice of appeal, together with a certificate of service that is in compliance with the Supreme Court Rules.”

In his affidavit, the defendant stated that he “had no access to a law library, a phone, or any assistance” while incarcerated in the Champaign County jail. Even after he was transferred to Stateville Receiving Center, he was “unable to get the proper forms or legal assistance to file an appeal.” He could not start preparing his late notice of appeal until he got out of “Danville Correctional Center’s receiving.”

¶ 14 On March 4, 2025, this court entered an order construing the defendant’s “late notice of appeal” as a motion for leave to file a late notice of appeal, and this court granted the defendant leave to file a late notice of appeal. On that same date, the clerk of the circuit court of Champaign County filed the late notice of appeal. On March 24, 2025, this court appointed OSAD as the defendant’s counsel on appeal.

¶ 15

II. ANALYSIS

¶ 16 In the brief that supports its *Anders* motion to withdraw as counsel, OSAD explores two potential issues in this appeal. The first potential issue is whether this reviewing court is precluded from considering this appeal on the merits where the defendant did not file a timely motion to withdraw his guilty plea before he filed his notice of appeal. The second potential issue is whether

the circuit court failed to substantially advise the defendant of his appeal rights, a judicial failure that would excuse the defendant's failure to file a timely motion to withdraw guilty plea. This court examines both of these potential issues.

¶ 17 Illinois Supreme Court Rule 604(d) states, in pertinent part, as follows:

“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. Apr. 15, 2024).

See *People v. Johnson*, 2019 IL 122956, ¶¶ 46-47 (a defendant who enters into a plea where the State makes sentencing concessions is bound by that plea unless the defendant first moves to withdraw it). The proper application of Rule 604(d) is a question of law, subject to *de novo* review. *Id.* ¶ 22.

¶ 18 Our supreme court, in *People v. Flowers*, 208 Ill. 2d 291 (2003), examined the plain language of Rule 604(d). The court determined that “[t]he filing of a Rule 604(d) motion is a condition precedent to an appeal from a judgment on a plea of guilty.” *Id.* at 300-01. While the defendant's failure to file a Rule 604(d) motion does not divest this court of jurisdiction, such failure does prohibit this court from evaluating the merits of the defendant's appeal, and it requires dismissal of the appeal. *Id.* at 301. According to the court in *Flowers*, “[w]here a defendant has failed to file a written motion to withdraw his plea of guilty or to reconsider his sentence, the

appellate court must dismiss the appeal [citation], leaving the Post-Conviction Hearing Act as the defendant's only recourse [citation]." *Id.*

¶ 19 Here, the defendant did not file a Rule 604(d) motion to withdraw his guilty plea within 30 days of the circuit court's imposition of sentence. Therefore, this court has no authority to consider the merits of this appeal, and the appeal must be dismissed. Any argument to the contrary would be without merit.

¶ 20 There is an exception to Rule 604(d)'s requirement that a defendant must file a motion to withdraw his guilty plea before he challenges the plea on appeal. An exception to this general rule applies where the defendant was not adequately admonished pursuant to Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024). *People ex rel. Alvarez v. Skyrd*, 241 Ill. 2d 34, 41 (2011).

¶ 21 Rule 605(c) provides that the circuit court, at the time it imposes sentence following a negotiated plea of guilty,

“shall advise the defendant substantially as follows:

(1) that the defendant has a right to 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 the 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).

¶ 22 The dismissal of an appeal based on a defendant’s failure to file a Rule 604(d) postplea motion in the circuit court would be a violation of due process if the defendant was not informed that the filing of such a motion was legally necessary. *Skyrd*, 241 Ill. 2d at 41 (citing *Flowers*, 208 Ill. 2d at 301). Thus, our supreme court has “recognized an ‘admonition exception’ to Rule 604(d).” *Id.* Under this exception, where the circuit court “fails to give applicable Rule 605 admonishments and the defendant attempts to appeal without first filing the motions required by Rule 604(d), the appeal is not dismissed. Rather, the appellate court must remand the cause to the circuit court for strict compliance with Rule 604(d).” *Id.*

¶ 23 As Rule 605(c) requires the circuit court to “advise the defendant substantially” regarding the rule’s contents, a “substantial compliance” standard applies in assessing whether the circuit court’s admonitions were sufficient. See *People v. Dominguez*, 2012 IL 111336, ¶¶ 15-22. Our supreme court has explained that Rule 605(c) “does not require a strict verbatim” reading of its contents; rather, “the court must impart to a defendant largely that which is specified in the rule, or the rule’s ‘essence,’ as opposed to ‘wholly’ what is specified in the rule.” *Id.* ¶ 19. That is, the circuit court must substantially advise a defendant under Rule 605(c) “in such a way that the defendant is properly informed, or put on notice, of what he must do in order to preserve his right

to appeal.” *Id.* ¶ 22. “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.” *Id.* Whether a circuit court has substantially complied with Rule 605(c) is a matter this court reviews *de novo*. *Id.* ¶ 13.

¶ 24 This court concludes that the circuit court substantially complied with Rule 605(c), providing the defendant with the required admonishments, and the defendant indicated his understanding of those admonishments. The circuit court admonished the defendant of his right to appeal. The court explained that, before he could appeal, he needed to file, within 30 days, a motion to withdraw the guilty plea and vacate the judgment. The court instructed the defendant that in that motion, he would need to state all the grounds for a withdrawal of the guilty plea, and that anything not raised would be waived for purposes of appeal. The court further informed the defendant that if it granted his motion to withdraw the guilty plea, the matter would be set for trial, and upon the State’s request, any charges that were dismissed as part of the plea agreement would be reinstated and they, too, would be set for trial. The court admonished the defendant that if he could not afford an attorney, the court would appoint an attorney to help him with the appeal or with the motion to withdraw plea, and that if he could not afford to obtain transcripts relevant to his appeal or motion to withdraw plea, those transcripts would be provided free of charge.

¶ 25 Indeed, the circuit court did more than “substantially” comply with Rule 605(c). The court provided the defendant with a thoroughgoing review of all the subparts of the rule. There were no deficiencies in the court’s admonishments, and therefore the “admonition exception” to Rule 604(d) does not apply. There is no exception to the rule requiring dismissal of this appeal. Any argument to the contrary would lack merit.

¶ 26

III. CONCLUSION

¶ 27 The circuit court properly admonished the defendant under Rule 605(c), and the defendant indicated his understanding. Nevertheless, the defendant did not file the required Rule 604(d) motion to withdraw guilty plea prior to filing a late notice of appeal. Under those procedural circumstances, this appeal must be dismissed. Accordingly, this court grants OSAD leave to withdraw as counsel and dismisses the instant appeal.

¶ 28 Motion granted; appeal dismissed.