2026 IL App (1st) 250853-U
No. 1-25-0853
Order filed November 5, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

FOURTH DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

DERRICK DENTON, Defendant-Appellant

Appeal from the Circuit Court of This County.
Honorable James Bryan Novy, Judge, Presiding.
No. 25-CR-681

JUSTICE MITCHELL delivered the judgment of the court.
Presiding Justice Lyle and Justice Ocasio concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's postplea admonishments did not substantially comply with Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024).

¶ 2 Pursuant to a negotiated plea, defendant Derrick Denton pled guilty to one count of aggravated unlawful use of a weapon (AUUW) (720 ILCS 5/24-1.6(a)(1), (3)(A-5) (West 2024)) and was sentenced to 18 months of probation. Defendant did not move to withdraw his guilty plea. Instead, within 30 days of his plea, he filed a notice of appeal. On appeal, defendant argues that the circuit court's admonishments at the time of his plea did not substantially comply with Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024), and that this court should therefore remand for

proper admonishments and to allow him to move to withdraw his guilty plea as required by Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024). For the reasons that follow, we remand.

¶ 3 Defendant's conviction arose from a September 14, 2024, traffic stop in Chicago. Following arrest, the State charged defendant by information with one count of AUUW. Defendant pled guilty to the charge in exchange for 18 months of probation on March 25, 2025. The circuit court determined that defendant's plea was given freely and voluntarily, heard the factual basis, accepted the plea, and imposed a sentence. The court then admonished defendant pursuant to Rule 605(c) as follows:

> "You have the right to appeal my decision. You have to do that within 30 days of today's date. You must file with the Clerk of the Court a written motion to withdraw your plea of guilty and vacate the judgment. In the motion, you must state all the reasons why you want to do so.
>
> If I deny your motion, you have 30 days from that date to file a written notice of appeal. Any issue or claim of error not raised in your motion will be waived for appeal purposes.
>
> If you're indigent, a copy of the transcript as well as an attorney will be given to you to assist you in preparation of the motion."

¶ 4 Defendant indicated that he understood his appeal rights. He did not file a postplea motion, but filed a *pro se* notice of appeal on April 24, 2025.

¶ 5 On appeal, defendant contends that the circuit court's admonishments did not substantially comply with Rule 605(c) and that, as such, this court should remand for proper admonishments and an opportunity for him to file a motion to withdraw his plea.

¶ 6 Under Rule 604(d), before a defendant may appeal a judgment entered upon a negotiated guilty plea, he must first file a written postplea motion with the circuit court within 30 days of the date of sentencing, requesting that the guilty plea be withdrawn and the judgment vacated. *People v. Flowers*, 208 Ill. 2d 291, 300 (2003). The 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. Although the lack of such a motion does not deprive the appellate court of jurisdiction, the failure to file a timely Rule 604(d) motion precludes this court from considering an appeal on its merits. *Id.* at 301. Thus, in general, "Where 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." *Id.*

¶ 7 An exception to this general rule applies in cases where a defendant was not adequately admonished pursuant to Rule 605(c). *People ex rel. Alvarez v. Skyrd*, 241 Ill. 2d 34, 41 (2011). Rule 605(c) provides that, when judgment is entered upon a negotiated guilty plea, "at the time of imposing sentence, the trial court 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).

¶ 8 The dismissal of an appeal based on a defendant's failure to file a Rule 604(d) postplea motion in the circuit court would violate due process if the defendant did not know that filing of such a motion was necessary. *Skyrd*, 241 Ill. 2d at 41 (citing *Flowers*, 208 Ill. 2d at 301). Thus, Illinois courts "recognize[ ] 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.*

¶ 9 As Rule 605(c) requires the circuit court to "advise the defendant substantially" regarding its contents, a "substantial compliance" standard applies in assessing whether the circuit court's admonishments were sufficient. See *People v. Dominguez*, 2012 IL 111336, ¶¶ 15-22. The Illinois 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. In other words, 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. If the circuit court fails to substantially advise a defendant of the contents of Rule 605(c), the case must be remanded for proper admonishments. *Id.* ¶ 11. Whether a circuit court has substantially complied with Rule 605(c) is reviewed *de novo*. *Id.* ¶ 13.

¶ 10 Here, the parties agree that defendant entered a negotiated plea, and the record reflects that they agreed to the sentence the court imposed. Thus, the circuit court was required to substantially advise defendant pursuant to Rule 605(c). Defendant contends that the court failed to do so where it neglected to provide any admonishments regarding the consequences of a successful postplea motion, as required under subsections (c)(3) and (c)(4), and failed to clearly advise him, as required under subsection (c)(2), that, prior to taking an appeal, he needed to file a postplea motion within 30 days of the plea.

¶ 11 As noted, the circuit court advised defendant as follows:

> "You have the right to appeal my decision. You have to do that within 30 days of today's date. You must file with the Clerk of the Court a written motion to withdraw your plea of guilty and vacate the judgment. In the motion, you must state all the reasons why you want to do so.
>
> If I deny your motion, you have 30 days from that date to file a written notice of appeal. Any issue or claim of error not raised in your motion will be waived for appeal purposes.
>
> If you're indigent, a copy of the transcript as well as an attorney will be given to you to assist you in preparation of the motion."

¶ 12 Here, the circuit court failed to substantially comply with Rule 605(c), as it completely failed to admonish defendant regarding subsections (c)(3) and (c)(4) and its admonishment regarding subsection (c)(2) was unclear.

¶ 13 The following cases are informative and persuasive. See Ill. S. Ct. R. 23(e)(1) (eff. June 3, 2025) (nonprecedential orders entered on or after January 1, 2021, may be cited for persuasive purposes).

¶ 14 In *People v. Perry*, 2014 IL App (1st) 122584, ¶ 5, the circuit court admonished the defendant, in relevant part, as follows:

> "Sir, you have the right to appeal, that has to be filed within 30 days of today's date. If I grant the motion, the plea will be set aside, the matter will be set for trial.
>
> If I deny it, you have 30 days to appeal.
>
> * * *
>
> Sir, you have the right to appeal; that has to be filed within 30 days of today's date in writing, indicating all the reasons why you want to withdraw that plea.
>
> If I grant that motion, the plea will be set aside and the matter will be set for trial. If I deny it, you have 30 days to appeal in writing, and if you don't have the money to hire a lawyer, one will be provided for you, free of charge."

¶ 15 On appeal in *Perry*, this court determined that the circuit court inadequately admonished the defendant. *Id.* ¶¶ 16-17. First, the admonishments did not address subsections (c)(4) and (c)(6). *Id.* ¶ 16. In addition, regarding subsection (c)(2), the circuit court's language implied the defendant had 30 days from the date of the plea to file a direct appeal, and the court's subsequent statement that the plea would be set aside if it granted "that motion" was insufficiently specific to resolve any ambiguity. *Id.* ¶ 17.

¶ 16 In *People v. Tripp*, 2026 IL App (2d) 250172-U, ¶ 10, the circuit court admonished the defendant as follows:

"Although you have pled guilty, you do have a right to appeal. In order to do so, you must first file a written motion in this court within the next 30 days asking leave to withdraw your plea of guilty. You must list every reason you wish to withdraw your plea of guilty. Any reason not listed is deemed waived or given up forever.

If I agreed with you, I would allow you to withdraw your plea of guilty. Any charges that were dismissed today would be reinstated and we would start going to trial. If I denied your motion, you could appeal that decision to the Illinois Appellate Court for the Second District.

If you could not afford an attorney on appeal, one would be provided for you, and you would receive a free transcript of today's proceedings."

¶ 17 These admonishments were insufficient because, while the circuit court referenced the assistance of counsel when discussing the right to appeal, it did not advise the defendant in accordance with subsection (c)(5) that counsel would be appointed to assist him with the preparation of a motion to withdraw his guilty plea. *Id.* ¶¶ 22-23.

¶ 18 In *People v. Allison*, 2024 IL App (1st) 230395-U, ¶ 5, the circuit court admonished the defendant as follows:

"I need to advise you of your appellate rights however before you can appeal within 30 days of today's date you need to file a written motion asking to withdraw your plea of guilty. In that motion you must state all the reasons why you are entitled to have your guilty plea withdrawn. If I were to grant that motion we would set the case down for trial. If I were to deny the motion, you have 30 days from the date of denial to file a written notice of appeal. Any issue or claim of error not raised in the original motion will be waived for appellate purposes. If you are indigent a copy of the transcripts of today's proceedings will

be provided to you free of charge and you would be provided an attorney to assist you in pursuing your appeal."

¶ 19 These admonishments were insufficient because the circuit court omitted the part of the subsection (c)(3) admonishment stating that "the plea of guilty, sentence and judgment will be vacated"; entirely omitted any mention of subsection (c)(4) regarding reinstatement of charges upon acceptance of the withdrawal motion; and neglected to advise the defendant in accordance with subsection (c)(5) that free transcripts and an appointed attorney would be provided to assist in the motion to withdraw his plea. *Id.* ¶ 16.

¶ 20 The reviewing court also determined that the circuit court's statement "that 'a trial will be set' falls short" of the requirements of subsection (c)(3) and that to hold otherwise would render part of the rule meaningless or superfluous, which is not permitted. *Id.* ¶ 18 (citing *Dominguez*, 2012 IL 111336, ¶ 16). As to subsection (c)(4), the absence of "*any* admonishment *** was clearly inadequate." (Emphasis in original.) *Id.* Finally, as to subsection (c)(5), the reviewing court noted its concern that the circuit court's admonishment confined the availability of appointed counsel to the appeals process. *Id.* ¶¶ 19, 21.

¶ 21 Finally, in *People v. Fair*, 2022 IL App (1st) 210062-U, ¶ 8, the circuit court admonished the defendant, in relevant part, as follows:

"Even though you pled guilty on each case, you have the right to file an appeal. If you want to try to take back your plea of guilty within 30 days from today, you would have to file a written motion to withdraw the guilty plea and to vacate the judgment.

* * *

If your motion is denied, you would have 30 days from denial to file a written notice of appeal."

¶ 22 In *Fair*, the circuit court failed to substantially comply with Rule 605(c)(2) because it did not specify that the defendant was required to file a motion to withdraw her plea and vacate judgment prior to appealing. *Id.* ¶¶ 17, 21. Rather, the circuit court's language could be interpreted as advising the defendant that she could file an appeal or move to withdraw her plea in the circuit court and then appeal if unsuccessful. *Id.* ¶ 22. Although the court advised the defendant that she had 30 days to appeal if it denied her postplea motion, the court's admonishment did not clarify that filing a postplea motion was a condition precedent to appeal. *Id.*

¶ 23 In the instant case, as in *Perry*, *Tripp*, *Allison*, and *Fair*, the admonishments given by the circuit court were inadequate. First, the circuit court did not admonish defendant in accordance with subsections (c)(3) and (c)(4) that, if his postplea motion were allowed, his plea, the sentence, and the judgment would be vacated; a trial date would be set on the charges to which he had pled; and, upon request by the State, any charges that may have been dismissed as part of the plea agreement would be reinstated and would also be set for trial. Although the circuit court is not required to use the exact language of Rule 605(c), "it must still convey the substance of the rule." *Perry*, 2014 IL App (1st) 122584, ¶ 15. Admonishments are not adequate if they omit "any reference to certain portions of Rule 605(c) altogether." *Id.* ¶ 16; see also *People v. Braden*, 2018 IL App (1st) 152295, ¶ 25 (while the circuit court need not use the exact language of Rule 605(c), it must not leave out or misrepresent any of the rule's substance); *People v. Lloyd*, 338 Ill. App. 3d 379, 385 (2003) (admonishments inadequate where "it is not the precise wording used that is at issue, but the lack of any wording at all"); *Allison*, 2024 IL App (1st) 230395-U, ¶¶ 16, 18 (describing the complete absence of an admonishment "clearly inadequate").

¶ 24 The State concedes that the circuit court did not give subsection (c)(3) and (c)(4) admonishments. Nevertheless, the State argues regarding subsection (c)(3) that, because defendant

pled guilty, "he would have known that a successful withdrawal of his plea would have necessarily meant that the conviction and sentence imposed in exchange for the plea would cease to exist and that his case would return to a trial posture." As to subsection (c)(4), the State asserts that because the charging instrument contained only one count and no charges were dismissed as part of the plea agreement, "it was clear that if the motion to withdraw was granted, the case would go to trial on the single count."

¶ 25 The State cites no authority in support of these arguments. As defendant observes, if it were the case that a defendant who pleads guilty automatically understands that any subsequent withdrawal of his plea erases his conviction and sentence and returns the case to a trial posture, then subsection (c)(3) would be meaningless. Rule 605(c) must be interpreted in such a way that no part of it is rendered meaningless or superfluous. *Dominguez*, 2012 IL 111336, ¶ 16.

¶ 26 Regarding subsection (c)(4), the State's argument is essentially an attempt to show that, in this case, defendant was not prejudiced by the circuit court's omission. However, the Illinois Supreme Court has noted that a defendant is not required to show that he has been prejudiced by admonishments that fail to conform to Rule 605(c) to be entitled to a remand. *Id.* ¶ 21 n.4 (prejudice showing is not required for violations of Rule 605(c)); see also *People v. Bell*, 2026 IL App (4th) 250994, ¶¶ 57-59 (same); *People v. Cone*, 2025 IL App (2d) 240474, ¶ 30 (same); but see *People v. Crump*, 344 Ill. App. 3d 558, 563 (2003) (deciding the circuit court substantially complied with Rule 605(c) where it omitted subsection (c)(6) admonishments and the defendant "was not prejudiced by the missing verbiage"); and *People v. Claudin*, 369 Ill. App. 3d 532, 534 (2006) (following *Crump*).

¶ 27 Second, the circuit court's admonishment in accordance with subsection (c)(2) was unclear. The circuit court admonished defendant that he had the "right to appeal." Immediately thereafter,

the court told defendant he was required to do "that" within 30 days. The court then stated that defendant must file a written motion to withdraw his plea, stating his reasons for wanting to do so. Finally, the court stated that, if it denied the motion, defendant had 30 days from that date to file a written notice of appeal.

¶ 28 The circuit court's language was unclear as to what exactly needed to happen within 30 days of his plea. Defendant could reasonably have been confused by the court mentioning his right to appeal, saying "that" must be done within 30 days of sentencing, and then later saying that a notice of appeal is to be filed within 30 days of the denial of a postplea motion. Where the court gave defendant two deadlines for seemingly the same action—appealing—it would not be unreasonable for defendant to have believed he was preserving his rights by complying with the earlier deadline and filing a notice of appeal within 30 days of sentencing. As in *Perry*, the subsection (c)(2) admonishment in this case "lacked the specificity necessary to resolve any ambiguity." *Perry*, 2014 IL App (1st) 122584, ¶ 17; see also *Fair*, 2022 IL App (1st) 210062-U, ¶ 22 (language used for subsection (c)(2) admonishment was insufficient where it could have been interpreted different ways and subsequent language did not clarify that filing a postplea motion was a condition precedent to appeal). Defendant was not "properly informed, or put on notice, of what he must do in order to preserve his right to appeal his guilty plea or sentence." *Dominguez*, 2012 IL 111336, ¶ 22.

¶ 29 In summary, the record reflects that the court did not substantially comply with Rule 605(c) because it did not provide the admonishments prescribed in subsections (c)(3) and (c)(4). See *Lloyd*, 338 Ill. App. 3d at 384 ("The trial court is required to substantially admonish the defendant of all subsections of Rule 605(c)."). By not addressing these subsections, the court failed to properly inform defendant of the potential consequences of withdrawing his plea. Moreover, the

circuit court's admonishment regarding subsection (c)(2) was unclear. Where the court omitted two admonishments and provided an unclear third admonishment, it did not substantially comply with Rule 605(c). See *Perry*, 2014 IL App (1st) 122584, ¶¶ 16-17. Therefore, the cause is remanded for proper admonishments in compliance with Rule 605(c) and the opportunity for defendant to file a postplea motion under Rule 604(d). See *People v. Blackmon*, 2024 IL App (1st) 220586, ¶ 7 ("If the trial court does not properly admonish the defendant pursuant to Rule 605(c) and the defendant appeals without filing a motion to vacate his guilty plea, we must remand for proper admonishments.").

¶ 30 Remanded with directions.