2026 IL App (4th) 260004

NO. 4-26-0004

FILED
November 23, 2026
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. DARYL F. BARBARY, Defendant-Appellant.	))))))))	Appeal from the Circuit Court of Winnebago County No. 22CF2424 Honorable Jennifer J. Clifford, Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court, with opinion.

Justices Knecht and Cavanagh concurred in the judgment and opinion.
Justice Cavanagh also specially concurred, with opinion.

OPINION

¶ 1 After defendant, Daryl F. Barbary, admitted violating his probation, the trial court resentenced him to three years in prison for aggravated domestic battery. He appeals, arguing that before the court accepted his admission, it failed to give him all the admonitions required by Illinois Supreme Court Rule 402A(a) (eff. Nov. 1, 2003).

¶ 2 Because we conclude that the trial court did not substantially comply with paragraphs (a)(3) and (a)(5) of Rule 402A (Ill. S. Ct. R. 402A(a)(3), (5) (eff. Nov. 1, 2003)), we reverse and remand with directions to (1) allow defendant to withdraw his admission to the amended petition for revocation of his probation and (2) conduct further proceedings as necessary, consistent with this opinion.

¶ 3 I. BACKGROUND

¶ 4 A. The Initial Charges Against Defendant

¶ 5 In October 2022, the State charged defendant by information with domestic battery (720 ILCS 5/12-3.2(a)(2) (West 2022)), criminal damage to property (*id.* § 21-1(a)(1)), and assault (*id.* § 12-1(a)). At defendant's first appearance on these charges, defense counsel told the trial court, "I would waive any further reading with regard to the information as well as an explanation of rights and penalties, ask to plead not guilty." The court then asked defendant, "[D]id you watch the video regarding your rights; did you do that today, sir?" He answered he had done so. The court further asked him, "And you understand your rights?" He answered yes.

¶ 6 Later that month, defendant was indicted for aggravated domestic battery (*id.* § 12-3.3(a-5)) (count I), domestic battery (*id.* § 2-3.2(a)(2)) (count II), and violation of bail bond (*id.* § 32-10(b)) (count III) based on the same conduct. At the November 2022 arraignment on the indictment, defense counsel "waive[d] a formal reading of the rights, charges, and possible penalties." Defendant pleaded not guilty, and the trial court warned him, "If you were to willfully fail to appear [for trial], that would be taken as a waiver of your right to confront and cross-examine the State's witnesses."

¶ 7 Later in November 2022, defendant pleaded guilty to count I of the indictment, and the trial court sentenced him to probation for 24 months. Before accepting his guilty plea, the court admonished him as follows: "You have the right to confront and cross-examine any witnesses the State calls. You could call witnesses in your own defense and, using the power of subpoena, which is a court order, you could force witnesses to appear on your behalf, if they refuse to do so." Defendant acknowledged he understood. The court then asked him, "Do you understand, when

you plead guilty, you're giving up those rights, and there will not be a trial of any kind in your case?" Defendant answered yes.

¶ 8 B. The Petition To Revoke Probation

¶ 9 In June 2023, the State filed a petition to revoke defendant's probation. At the arraignment on the petition, defense counsel "waive[d] a formal reading of the rights, charges, and possible penalties" and entered a denial of the petition.

¶ 10 In September 2024, the State filed an amended petition to revoke probation, which alleged that defendant (1) had tested positive in five drug tests; (2) failed to submit to random drug and alcohol tests; (3) had contact with the complainant on June 14, 2024, when they got into an argument and he threw a screwdriver at her and refused to leave her residence; and (4) missed a hearing on June 26, 2024.

¶ 11 In October 2024, the trial court arraigned defendant on the amended petition. At the arraignment, the court asked him, "Did you have an opportunity to watch the video explaining your rights?" He answered yes. The court then asked him, "Any questions about your rights?" Defendant answered no. Defense counsel then said he "waive[d] a formal reading of rights, charges, [and] possible penalties" and entered a denial of the amended petition.

¶ 12 At a March 2025 status hearing, the trial court again warned defendant that if he were released from custody and "willfully fail[ed] to appear" at the revocation hearing, "that would be taken as [his] waiving or giving up [his] right to confront and cross-examine the State's witnesses."

¶ 13 C. The Trial Court's Admonitions to Defendant at the Hearing on the Petition To Revoke His Probation

¶ 14 On May 19, 2025, defendant admitted the allegation in the amended petition that he missed a hearing on June 26, 2024. Before accepting the admission, the trial court admonished him, as follows:

> "With relation to this petition, you have a right to have a hearing. We were set for a hearing today, you'd be there represented by your attorney; the prosecutor would be there; the burden would be on the State to call witnesses that you and your attorney would have the right to confront and cross-examine, and the State would have to prove by a preponderance of the evidence, that's more likely true than not, that you violated your probation in one or more ways.
>
> By you admitting to this petition, that means we're not going to have the hearing today; we're going to set the case for sentencing, and you'll be resentenced on this Class 2 felony of aggravated domestic battery."

¶ 15 The trial court accepted defendant's admission to the probation violation and, in December 2025, resentenced defendant to three years in prison for aggravated domestic battery.

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 Defendant argues that because the trial court failed to substantially comply with the requirements of Illinois Supreme Court Rule 402A before accepting his admission to the amended petition to revoke his probation, this court should reverse the trial court's order revoking his probation and remand for further proceedings. We agree and reverse and remand with directions to (1) allow defendant to withdraw his admission to the amended petition for revocation and (2) conduct further proceedings as necessary, consistent with this opinion.

¶ 19 A. Illinois Supreme Court Rule 402A

¶ 20 Illinois Supreme Court Rule 402A(a) (eff. Nov. 1, 2003) requires that before accepting a defendant's admission to having violated probation, the trial court must give the defendant certain admonitions and confirm that the defendant understands them. The rule reads as follows:

> "In proceedings to revoke probation, *** in which the defendant admits to a violation of probation, *** there must be substantial compliance with the following.
>
> (a) Admonitions to Defendant. The court shall not accept an admission to a violation *** without first addressing the defendant personally in open court, and informing the defendant of and determining that the defendant understands the following:
>
> (1) the specific allegations in the petition to revoke probation ***;
>
> (2) that the defendant has the right to a hearing with defense counsel present, and the right to appointed counsel if the defendant is indigent and the underlying offense is punishable by imprisonment;
>
> (3) that at the hearing, the defendant has the right to confront and cross-examine adverse witnesses and to present witnesses and evidence in his or her behalf;
>
> (4) that at the hearing, the State must prove the alleged violation by a preponderance of the evidence;
>
> (5) that by admitting to a violation, *** there will not be a

> hearing on the petition to revoke probation, *** so that by admitting to a violation, *** the defendant waives the right to a hearing and the right to confront and cross-examine adverse witnesses, and the right to present witnesses and evidence in his or her behalf; and
>
> (6) the sentencing range for the underlying offense for which the defendant is on probation ***." *Id.*

¶ 21 B. The Trial Court's Failure To Comply With Illinois Supreme Court Rule 402A

¶ 22 Defendant argues that the admonitions the trial court gave him on May 19, 2025, when he admitted violating his probation, failed to substantially comply with Rule 402A and were deficient in two ways. First, the court failed to admonish him that at an evidentiary hearing on the amended petition for revocation of probation, he would have the right "to present witnesses and evidence in his *** behalf." Ill. S. Ct. R. 402A(a)(3) (eff. Nov. 1, 2003). Second, the court failed to admonish him that by admitting he had violated his probation, he would "waive[ ] *** the right[s] to confront and cross-examine adverse witnesses[ ] and *** present witnesses and evidence in his *** behalf." Ill. S. Ct. R. 402A(a)(5) (eff. Nov. 1, 2003).

¶ 23 Defendant's argument that the trial court failed to comply with Rule 402A is clearly correct. Accordingly, the only question remaining for this court is whether, as the State requests, we will excuse the trial court's failure by deeming its admonitions to be in "substantial compliance" with Rule 402A.

¶ 24 For the reasons that follow, we reject the State's request.

¶ 25 When, as here, we conclude that a trial court has failed to comply with Rule 402A, our recourse is to (1) reverse the trial court's judgment and (2) remand with directions to allow the defendant to withdraw his admission and for the trial court to hold further proceedings as

necessary. See *People v. Ellis*, 375 Ill. App. 3d 1041, 1049 (2007); *People v. Mosley*, 2026 IL App (5th) 250549-U, ¶ 22.

¶ 26 C. "Substantial Compliance" Under Illinois Supreme Court Rule 402A

¶ 27 Illinois Supreme Court Rule 402A(a) (eff. Nov. 1, 2003) requires that the admonitions given by the trial court before accepting a defendant's admission to a violation of his or her probation must be in "substantial compliance" with the admonitions set forth in Rule 402A(a)(1)-(6).

¶ 28 Of course, the easiest and most direct way for a trial court to ensure that its admonitions to a defendant are in full compliance—not just "substantial compliance"—with Rule 402A is for the court to read verbatim the exact language provided by the supreme court in Rule 402A(a)(1)-(6). This court has repeatedly urged trial courts to do just that when giving admonitions to defendants (or even prospective jurors). See, *e.g.*, *People v. Bell*, 2026 IL App (4th) 250994, ¶¶ 64, 66 (addressing admonitions under Illinois Supreme Court Rule 401 (eff. July 1, 1984), Rule 402 (eff. July 1, 2012), Rule 402A (eff. Nov. 1, 2003), and Rule 605 (eff. Apr. 15, 2024) and stating that to ensure compliance, "all trial courts need do is use the *explicit* language the supreme court has provided in the rules themselves" (emphasis in original)); *People v. Blanke*, 2025 IL App (4th) 240540-U, ¶ 25 ("A circuit court should *always explicitly comply* with Illinois Supreme Court Rule 402 (eff. July 1, 2012) and Rule 402A ***." (Emphasis in original.)); *People v. Tennison*, 2026 IL App (4th) 250498-U, ¶ 44 ("The easiest way to ensure compliance with [Illinois Supreme Court Rule 431(b) (eff. July 1, 2012)] is to question the venire using the precise language chosen by the Illinois Supreme Court ***."); see also *People v. Boetger*, 2026 IL App (4th) 251263-U, ¶ 35 ("Just read the rule, please."). Indeed, we find it hard to understand why any trial court would fail to do so.

¶ 29 To explain trial court failures to do what the supreme court explicitly requires of them, this court often hears the excuse that trial courts are very busy; however, that excuse makes no sense, at least in this situation. After all, it is far easier for a court, when admonishing a defendant, to simply follow the script the Supreme Court of Illinois has provided for that moment, instead of the court's trying to come up with some new version of the required admonitions that the court hopes will suffice.

¶ 30 We hold that a trial court's admonition is in substantial compliance with Rule 402A when the court's admonitions in fact convey the substance of the Rule 402A admonitions, although not precisely in the language of the rule. This interpretation is consistent with the requirement that "[s]ubstantial compliance involves an 'affirmative showing in the record that the defendant understood each of the required admonitions.' " *People v. Saleh*, 2013 IL App (1st) 121195, ¶ 14 (quoting *Ellis*, 375 Ill. App. 3d at 1046).

¶ 31 However, the record in the present case contains no affirmative showing that defendant understood that, by admitting to the petition to revoke probation, he would be waiving his rights to (1) confront and cross-examine the State's witnesses or (2) present witnesses and evidence in his own behalf. Accordingly, we conclude that the trial court's admonitions to defendant in this case did not provide him with the substance of the admonitions in Rule 402A.

¶ 32 We note that a troubling aspect of this case is that it did not involve a guilty plea to a mere speeding ticket. Instead, the trial court accepted defendant's admission to a felony probation violation and sentenced defendant to prison. Accepting admissions to felony probation violations is a serious business, and trial courts must treat such proceedings accordingly. This is especially true because, in such proceedings, a defendant's liberty is at stake. Trial courts must treat these proceedings with the seriousness they deserve.

¶ 33 D. A Trial Court's Admonitions to a Defendant Who Is Admitting to a Probation Violation Must Be Given *at the Time* the Defendant Is Making That Admission

¶ 34 We earlier described how the trial court had inquired of defendant on multiple occasions whether he had watched a video (apparently prepared by the court) regarding his rights. We also described how the trial court had previously admonished defendant before accepting his guilty plea in November 2022 that by pleading guilty, he was giving up the right to confront and cross-examine any witnesses the State calls, as well as his right to call witnesses in his own defense.

¶ 35 We mention these events, which the State argues in its brief have significance, only to emphasize that they have *no* significance at all.

¶ 36 The direction regarding timing from the Illinois Supreme Court to the trial courts contained in Rule 402A could hardly be more clear. That direction, contained in paragraph (a), states that the trial court *shall not accept* a defendant's admission to a violation of probation "without first addressing the defendant personally in open court, and informing the defendant of and determining that the defendant understands the following." Ill. S. Ct. R. 402A(a) (eff. Nov. 1, 2003). The rest of paragraph (a) contains the specific list of admonitions the court is supposed to give. See *id.*

¶ 37 The plain language of this rule means that the specific admonitions contained in Rule 402A(a)(1)-(6) must be given *at the time* that the defendant is admitting to the violation of probation.

¶ 38 No other interpretation of the language in Rule 402A makes any sense.

¶ 39 Accordingly, when determining whether the trial court complied or "substantially complied" with Rule 402A, this court will not concern itself with videos the defendant may have been shown or admonitions that the defendant may have been given in prior proceedings.

¶ 40 Again, none of that matters.

¶ 41 Because the Supreme Court of Illinois has made clear that the admonitions under Rule 402A must be given *at the time* a defendant admits to a probation violation, this court will consider *only* the record from the hearing on the petition to revoke probation when determining whether the trial court substantially complied with the supreme court's required admonitions.

¶ 42 E. Trial Courts Must Stop Deviating From Requirements Imposed Upon Them by Supreme Court Rules

¶ 43 Regrettably, the present case is just another in a series of cases in which this court (1) has criticized trial courts for deviating from required admonitions to jurors or defendants in criminal cases and (2) called upon trial courts to stop that practice. In *People v. Neal*, 2020 IL App (4th) 170869, ¶¶ 187-93, this court addressed the requirements that supreme court rules imposed upon trial courts when giving admonitions to prospective jurors and wrote the following:

> "3. *Trial Courts Must Stop Deviating From the Requirements of Rule 431(b)*
>
> The issue in this case—namely, the failure of the trial court to strictly comply with Rule 431(b)—should never have arisen, and, indeed, *should never arise in any case*. That is because there is no excuse for a trial judge to not strictly comply with the clear and explicit directions the supreme court has provided for trial courts when admonishing prospective jurors.
>
> Being a trial judge can be a difficult job, often requiring careful study to properly apply difficult legal concepts and to ensure that a jury is properly

instructed on the law. However, admonishing prospective jurors pursuant to Rule 431(b) is not a difficult task.

It could hardly be easier.

Thirty-six years ago, the supreme court in *People v. Zehr*, 103 Ill. 2d 472, 477 *** (1984), set forth four principles (now known as the *Zehr* principles) about which trial courts need to instruct prospective jurors to ensure that defendants receive a fair trial. Then, just to make sure trial courts understood *exactly* what admonitions to give to prospective jurors, the supreme court promulgated Rule 431(b) in 2007, in which it explicitly set forth the precise language trial courts should use to ensure that prospective jurors 'understand and accept' the *Zehr* principles. Yet, here we are, 36 years after *Zehr* and 13 years after the supreme court promulgated Rule 431(b), and we are still dealing with a trial court's failing to do what the supreme court has directed.

We remind trial courts that supreme court rules are not suggestions, to be complied with when convenient or unless the trial courts believe they could better explain these fundamental principles to the jurors than Rule 431(b) does.

They cannot." (Emphases in original.)

¶ 44 More recently, in *Bell*, 2026 IL App (4th) 250994, ¶¶ 63-73, we concluded that because the trial court did not substantially comply with Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024) after the defendant pleaded guilty pursuant to a negotiated plea of guilty, a remand to the trial court was required to ensure such compliance. In *Bell*, we wrote that "remands because of deficient admonitions under Illinois Supreme Court rules should never be required," and we offered some suggestions to trial courts to ensure such remands would never occur. *Bell*, 2026 IL

App (4th) 250994, ¶ 63. One of those suggestions concerned Illinois Supreme Court Rule 402A (eff. Nov. 1, 2003), the same rule at issue in this case, and we wrote the following:

> "Given the importance of these admonitions that the supreme court has required trial courts to give, the supreme court has done trial courts a great favor by providing the *explicit* language trial courts should use in each instance. Trial courts need not concern themselves with whether they are explaining required concepts appropriately; to be insulated against any possible challenges later brought by a defendant that the admonitions were not adequate, all trial courts need do is use the *explicit* language the supreme court has provided in the rules themselves.
>
> Accordingly, the only task remaining for trial courts is to determine which specific directive applies in the particular proceeding in which they are involved. ***
>
> However, as shown by the present case, under Rule 605, different subsections of that rule apply to different factual contexts. But even here, trial courts should have no difficulty determining which subsection applies to the factual circumstances before them. ***
>
> None of this is rocket science." (Emphases in original.) *Bell*, 2026 IL App (4th) 250994, ¶¶ 66-69.

¶ 45 In *People v. Blanke*, 2025 IL App (4th) 240540-U, ¶ 25, the defendant argued that the trial court's admonitions were not in substantial compliance with Rule 402A, and this court wrote the following:

> "[T]his issue should never have arisen. A circuit court should *always explicitly comply* with Illinois Supreme Court Rule 402 (eff. July 1, 2012) and Rule 402A

governing guilty pleas and admissions to probation violations. The minimal time required to make complete admonishments can avoid the unnecessary expenditure of resources at the appellate level to address the consequences of an omission." (Emphasis in original.)

¶ 46 Another case in which this court needed to address a defendant's claim that the trial court's admonitions when he admitted to a violation of his term of probation did not comply with the admonitions required by Rule 402A is *People v. Randolph*, 2023 IL App (4th) 220603-U. As in the present case, that case also (1) arose from Winnebago County and (2) involved a defendant who pleaded guilty to aggravated domestic battery. The defendant's guilty plea occurred in February 2019, and he was sentenced to a period of probation of 30 months. *Id.* ¶ 6.

¶ 47 In May 2020, the State filed an amended petition to revoke the defendant's probation, and later in May 2020, the defendant admitted to a violation of a condition of his probation. *Id.* ¶ 8. The trial court later sentenced the defendant to five years in prison, and the defendant appealed. *Id.* ¶¶ 11-12.

¶ 48 On appeal, the defendant raised the same issue that defendant in the present case raises—namely, that the trial court at the defendant's probation revocation hearing failed to comply with paragraph (a)(3) of Rule 402A, which requires the trial court to advise a defendant of his right at the probation revocation hearing, which he was waiving, to confront and cross-examine the State's witnesses and to present his own witnesses. *Id.* ¶ 17.

¶ 49 In *Randolph*, this court "consider[ed] the record as a whole, including what transpired during earlier proceedings," and concluded that the trial court substantially complied with Rule 402A(a)(3). *Id.* ¶¶ 27-29. In so concluding, we recognized "the timing of these admonitions did not comply with the literal language of" Rule 402A but concluded that "the

totality of the circumstances convinces this court [the] defendant realistically understood he was giving up his right of confrontation and his right to present witnesses." *Id.* ¶¶ 30-31. This court also wrote that although the "trial court was not required to admonish defendant verbatim," we again "note reciting the admonitions is preferable." *Id.* ¶ 31.

¶ 50 The decision of this court in *Randolph* was rendered on April 27, 2023. We mention that date because it was two years before May 19, 2025, the date on which the trial court in the present case also failed to properly admonish this defendant pursuant to Rule 402A before accepting his admission to a violation of probation and later sentencing him to three years in prison. Astonishingly, the Winnebago County trial judge in *Randolph* was the same Winnebago County trial judge in the present case, who once again has failed to fully comply with Supreme Court Rule 402A before accepting defendant's admission to violating a condition of his probation and later sentencing him to prison.

¶ 51 Based upon the trial court's failure in the present case to fully comply with Rule 402A, it is obvious that what this court wrote in *Randolph* was not sufficient to get the trial court's attention. Perhaps if this court had reversed the trial court in *Randolph* for its failure to comply with Rule 402A and remanded with directions to allow that defendant to withdraw his admission to his amended petition for revocation of probation, the trial court in the present case would have given the proceedings at which defendant admitted to a probation violation the serious consideration and attention they deserved.

¶ 52 F. The Epidemic of Trial Courts' Disregarding the Admonitions Required by Rule 402A

¶ 53 We note with regret that we are hardly the only district of the appellate court that has been forced to deal with the affliction of trial courts' disregarding admonitions required by the

Illinois Supreme Court. The scope of this astonishing epidemic of trial court disregard may be best shown by the following list of 27 cases, including this one, since 2021, in which the Illinois Appellate Court has been forced to address a defendant's claim that the trial court did not comply with Supreme Court Rule 402A. See *People v. Hawk*, 2026 IL App (4th) 251237-U; *People v. Bell*, 2026 IL App (4th) 250994; *People v. Gomez*, 2026 IL App (2d) 240688; *People v. Bailey*, 2021 IL App (1st) 190439; *People v. Patterson*, 2026 IL App (4th) 251212-U; *People v. Mosley*, 2026 IL App (5th) 250549-U; *People v. McClanahan*, 2026 IL App (4th) 250002-U; *People v. Long*, 2026 IL App (4th) 250359-U; *People v. Clark*, 2026 IL App (2d) 240670-U; *People v. Peterson*, 2025 IL App (5th) 241254-U; *People v. Brown*, 2025 IL App (5th) 230464-U; *People v. Nibbelin*, 2025 IL App (4th) 240446-U; *People v. Blanke*, 2025 IL App (4th) 240540-U; *In re Tayvion S.*, 2024 IL App (5th) 240025-U; *People v. Nelson*, 2024 IL App (4th) 230480-U; *People v. Allen*, 2024 IL App (1st) 221680-U; *People v. Spires*, 2023 IL App (4th) 221097-U; *People v. Walsh*, 2023 IL App (4th) 220843-U; *Randolph*, 2023 IL App (4th) 220603-U; *People v. Anderson*, 2023 IL App (3d) 210558-U; *People v. Carrie*, 2023 IL App (5th) 210302-U; *People v. Shanks*, 2022 IL App (4th) 210656-U; *People v. Gwartney*, 2022 IL App (4th) 210737-U; *People v. Maggos*, 2022 IL App (3d) 190324-U; *People v. McEvers*, 2021 IL App (4th) 200555-U; *People v. Niethe*, 2021 IL App (3d) 190617-U.

¶ 54 The above list represents hundreds, or perhaps even thousands, of hours spent by lawyers, appellate judges, and their support staffs required to address the claims on appeal of defendants that the Rule 402A admonitions they were given were deficient. These hundreds of hours constitute a complete waste of the time by all those involved and a gross squandering of scarce judicial resources, as well as the limited resources of the lawyers representing these defendants and the State on appeal.

¶ 55 And these hundreds or thousands of squandered hours are the result *solely* of the failure of trial judges to spend the *58 seconds* required to properly admonish defendants admitting their guilt at probation revocation proceedings by the courts' using the language *explicitly* provided by the supreme court for that purpose. This waste is untenable, and previous attempts by the appellate court to end it either have gone unnoticed or, worse, been ignored.

¶ 56 By our holding in this case, this court is putting a stop to this epidemic of judicial malfeasance by trial courts. For the reasons explained earlier, we will no longer "search the record" to see if we can somehow glean therefrom an inference that perhaps the defendant understood the rights he was giving up by admitting to a probation violation, even though the trial court failed to fully explain them to that defendant.

¶ 57 As we have explained in this opinion, our focus henceforth when a defendant has raised a claim on appeal that the trial court failed to comply with Rule 402A will be limited *solely* to (1) what the trial court said *at the time* of that admission hearing and (2) whether the trial court's admonitions in fact conveyed the substance of the Rule 402A admonitions, although not precisely in the language of the rule.

¶ 58 III. CONCLUSION

¶ 59 For the reasons stated, we reverse the trial court's judgment and remand with directions (1) to allow defendant to withdraw his admission to the amended petition for revocation of his probation and (2) to conduct further proceedings as necessary, consistent with this disposition.

¶ 60 Reversed and remanded with directions.

¶ 61 JUSTICE CAVANAGH, specially concurring:

¶ 62 I agree with the majority that the circuit court failed to substantially comply with Rule 402A(a)(3) and (a)(5). I also agree that the remedy in this case should be reversal and remand.

¶ 63 I am writing separately because I think more of an explanation is needed as to why this remedy is legally required. It has to do with which party has the burden on the question of prejudice. The allocation of that burden depends on which kind of review this appeal calls for: harmless-error review or plain-error review. Which of the two kinds of review we should be doing in turn depends on whether the defendant has procedurally forfeited his contention that the circuit court failed to substantially comply with Rule 402A(a)(3) and (a)(5). If there was a forfeiture, the burden is on the defendant to satisfy the plain-error doctrine (see Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967)) by showing he suffered prejudice from the rule violation. See *People v. McLaurin*, 235 Ill. 2d 478, 495-96 (2009). If there was no forfeiture, the burden is on the State to show that the error was harmless. See *People v. Thurow*, 203 Ill. 2d 352, 363 (2003).

¶ 64 We do not require defendants to object in the circuit court to noncompliance with Rule 402A(a). See *People v. Harris*, 392 Ill. App. 3d 503, 506-07 (2009); *McClanahan*, 2026 IL App (4th) 250002-U, ¶¶ 19-20; *Blanke*, 2025 IL App (4th) 240540-U, ¶ 18. Defendants may do so, but we do not require them to do so. See *Harris*, 392 Ill. App. 3d at 507. Thus, a defendant has not forfeited his contention that the circuit court failed to substantially comply with Rule 402A(a)(3) and (a)(5), and the burden is on the State to show that the error was harmless—and not only harmless but harmless beyond a reasonable doubt since the error was of constitutional magnitude. See *Thurow*, 203 Ill. 2d at 363; *People v. Hall*, 198 Ill. 2d 173, 181 (2001); *Chapman v. California*, 386 U.S. 18, 24 (1967); *Ellis*, 375 Ill. App. 3d at 1045. Proving a negative is

difficult, and, in this case, the State does not even try to do so. Instead, the State argues, misguidedly, that defendant has failed to carry his burden of showing prejudice.

People v. Barbary, **2026 IL App (4th) 260004**

Decision Under Review:	Appeal from the Circuit Court of Winnebago County, No. 22-CF-2424; the Hon. Jennifer J. Clifford, Judge, presiding.
Attorneys for Appellant:	James E. Chadd, Catherine K. Hart, and Jessica L. Harris, of State Appellate Defender's Office, of Springfield, for appellant.
Attorneys for Appellee:	J. Hanley, State's Attorney, of Rockford (Patrick Delfino, David J. Robinson, and Timothy J. Londrigan, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People.