



several motions *pro se*, and they were denied. The defendant opted to proceed *pro se* with a bench trial, and the court did not admonish the defendant pursuant to Supreme Court Rule 401 (eff. July 1, 1984). The court found the defendant guilty and sentenced him to an extended term of four years' imprisonment with four years of mandatory supervised release.

¶ 3 The defendant alleges that the circuit court erred in permitting the defendant to proceed to trial *pro se* without first properly admonishing him. The State has filed a waiver of brief and confession of error.

¶ 4 "The right to counsel is a cornerstone of our criminal justice system." *People v. Black*, 2011 IL App (5th) 080089, ¶ 11. "A defendant has the right to waive counsel and represent himself" (*id.* (citing *People v. Nelson*, 47 Ill. 2d 570, 574 (1971))), but in order to do so, the trial court must "fully inform a defendant of both the nature of the right being abandoned and the consequences of the decision." *Id.* (citing *People v. Kidd*, 178 Ill. 2d 92, 104-05 (1997)). Therefore, "a defendant may engage in self-representation only if he voluntarily, knowingly, and intelligently waives his right to counsel." *Id.* (citing *People v. Campbell*, 224 Ill. 2d 80, 84 (2006)). In order to ensure voluntary, knowing, and intelligent waiver, the judge must, in open court, advise a defendant who proceeds *pro se*, pursuant to Illinois Supreme Court Rule 401, of "the nature of the charge," "the minimum and maximum sentence prescribed by law," the right to counsel, and if indigent, the right "to have counsel appointed for him by the court." (Internal quotation marks omitted.) *Id.* ¶ 12 (quoting Ill. S. Ct. R. 401 (eff. July 1, 1984)). A court must substantially comply with Rule 401. *People v. Campbell*, 224 Ill. 2d 80, 84 (2006).

¶ 5 While the defendant did not preserve the issue of Rule 401 admonishments, we may apply the plain-error doctrine and address the issue. *People v. Averett*, 237 Ill. 2d 1, 18 (2010). The doctrine applies when:

" '(1) a clear or obvious error occurs and the evidence is so closely balanced that the

error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) a clear or obvious error occurs and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence.' " *Id.* (quoting *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007)).

"[D]eprivation of the statutory right to counsel has the same adverse effect on the fairness of the trial as does deprivation of the sixth amendment right, and so is equally a proper subject for plain-error review." *People v. Vernón*, 396 Ill. App. 3d 145, 150 (2009).

¶ 6 In this case, the court did not admonish the defendant pursuant to Rule 401 before the defendant proceeded *pro se*. Therefore, we must vacate the judgment of the circuit court and remand for compliance with Rule 401 and further proceedings consistent with this order.

¶ 7 CONCLUSION

¶ 8 The judgment of the circuit court is vacated, and this cause is remanded for further proceedings consistent with this order.

¶ 9 Vacated and remanded.