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2013 IL App (3d) 110677-U

Order filed April 9, 2013

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2013

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
Plaintiff-Appellee,	)	Will County, Illinois,
	)	
v.	)	Appeal No. 3-11-0677
	)	Circuit No. 08-CF-1208
	)	
WILLIE CAMPBELL,	)	Honorable
	)	Daniel J. Rozak,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE O'BRIEN delivered the judgment of the court.  
Presiding Justice Wright and Justice McDade concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The cause is remanded for further postsentencing proceedings in compliance with Illinois Supreme Court Rules 605(b) and 604(d).

¶ 2 The defendant, Willie Campbell, appeals the denial of his postsentence motion to reconsider sentence. On appeal, the defendant argues that the trial court did not properly admonish him of his appeal rights as required under Illinois Supreme Court Rule 605(b) (eff. Oct. 1, 2001), and defense counsel did not file a proper certificate of compliance pursuant to

Supreme Court Rule 604(d) (eff. July 1, 2006). We remand the cause with direction.

¶ 3

### FACTS

¶ 4 On July 14, 2008, the defendant pled guilty to unlawful use of a weapon (720 ILCS 5/24-1(a)(7)(ii) (West 2006)) in Will County case No. 08-CF-1280, and the matter was continued for sentencing.

¶ 5 On May 15, 2009, following a bench trial, the trial court found the defendant guilty of armed robbery (720 ILCS 5/18-2(a) (West 2006)) in case No. 08-CF-2193. Both cases proceeded to a joint sentencing hearing. The trial court sentenced the defendant to consecutive terms of 3 years' imprisonment for unlawful use of a weapon and 18 years' imprisonment for armed robbery. The trial court admonished the defendant that:

"[P]rior to taking an appeal, if you seek to challenge the correctness of the sentence or any aspect of the sentencing hearing, you must file here in the trial [c]ourt within 30 days of today's date a written motion asking to have the trial [c]ourt reconsider the sentence imposed or consider any challenges to the sentencing hearing setting forth in the motion."

The court did not admonish the defendant of the requirement that he file a motion to withdraw his guilty plea to preserve his right to appeal any issues concerning the plea.

¶ 6 The defendant filed a motion to reconsider sentence. The trial court denied the motion, and the defendant filed a notice of appeal. We remanded the cause to the trial court for strict compliance with Supreme Court Rules 605(b) and 604(d) and further postplea proceedings pursuant to these rules. *People v. Campbell*, No. 3-10-0091 (2011) (unpublished order under Supreme Court Rule 23). Additionally, we directed the trial court to enter a modified order crediting the defendant in the amount of \$50 toward his deoxyribonucleic acid analysis

assessment. *Id.*

¶ 7 On remand, the court adjusted the defendant's costs and inquired if the defendant needed to be brought back to the courtroom. Initially, the State told the court that the defendant was not admonished about his right to withdraw his guilty plea, and therefore the defendant needed to be brought back to the courtroom. At a subsequent hearing, the State was unsure why the defendant's case was called, noting that an amended order had been entered regarding the defendant's fines. The trial court noted that its file showed that the record did not contain "an affidavit indicating defense counsel consulted with the defendant regarding allegations of error in the motion to reduce sentence" and that the mandate stated the court did not admonish the defendant about filing a motion to withdraw his guilty plea. The case was continued, and defense counsel filed a motion to reconsider sentence with an accompanying Rule 604(d) certificate. In the certificate, defense counsel certified that he had consulted with the defendant in person to "determine the defendant's contentions of error in the sentence," examined the file and report of proceedings, and "made all amendments necessary to the motion to reconsider sentence." The trial court denied the defendant's motion, and the defendant filed a notice of appeal.

¶ 8 ANALYSIS

¶ 9 On appeal, the defendant first argues that remand is required because the trial court did not admonish him of his appeal rights under Rule 605(b) despite this court's mandate in *Campbell*, No. 3-10-0091.

¶ 10 Whether a trial court complied with a reviewing court mandate is a question of law, subject to *de novo* review. *Clemons v. Mechanical Devices Co.*, 202 Ill. 2d 344 (2002). A trial court must obey "the clear and unambiguous directions in a mandate issued by a reviewing

court." *People ex rel. Daley v. Schreier*, 92 Ill. 2d 271, 276 (1982).

¶ 11 In the defendant's first appeal, we remanded the cause for strict compliance with Rules 605(b) and 604(d). *Campbell*, No. 3-10-0091. Rule 605(b) requires that the trial court, at the time of imposing the sentence, advise a defendant:

"[T]hat 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 trial court reconsider the sentence or *to have the judgment vacated and for leave to withdraw the plea of guilty*, setting forth the grounds for the motion." (Emphasis added.) Ill. S. Ct. R. 605(b)(2) (eff. Oct. 1, 2001).

The rule further requires that the trial court admonish the defendant that "any appeal taken from the judgment on the plea of guilty any issue or claim of error not raised in the motion to reconsider the sentence or to vacate the judgment and to withdraw the plea of guilty shall be deemed waived." Ill. S. Ct. R. 605(b)(6) (eff. Oct. 1, 2001). Rule 605(b) admonitions are mandatory. *People v. Jamison*, 181 Ill. 2d 24, 28 (1998).

¶ 12 On remand, the trial court did not admonish the defendant in accordance with Rule 605(b). As matters currently stand, the defendant has never been admonished of the need to move to withdraw his guilty plea before taking an appeal. Therefore, we remand the cause to the trial court with direction that it fully admonish the defendant under Rule 605(b) and permit the defendant to file a new postsentencing motion.

¶ 13 Next, the defendant argues that although defense counsel filed a Rule 604(d) certificate on remand, the certificate was inadequate because it did not attest to consultation with the defendant about his contentions of error regarding his guilty plea, and it did not indicate that

counsel made any amendments regarding defects in the guilty-plea process.

¶ 14 We hold that defense counsel sufficiently complied with the Rule 604(d) certificate requirement on the initial remand. See Ill. Sup. Ct. R. 604(d) (eff. July 1, 2006); see also *People v. Wyatt*, 305 Ill. App. 3d 291 (1999) (defense counsel's Rule 604(d) certificate need not recite word for word the verbiage of the rule). However, we note that the issue is moot as defense counsel will be required to file a new Rule 604(d) certificate if the defendant decides to file a new postsentencing motion after being fully admonished under Rule 605(b).

¶ 15 CONCLUSION

¶ 16 For the foregoing reasons, the cause is remanded for Rule 605(b) admonitions and further postsentencing proceedings.

¶ 17 Remanded with directions.