

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 973002048
)	
MARIA YOLANDA DOMINGUEZ,)	Honorable
)	James N. Karahalios,
Defendant-Appellant.)	Judge Presiding.

JUSTICE PIERCE delivered the judgment of the court.
Justices Simon and Liu concurred in the judgment.

O R D E R

¶ 1 **Held:** Circuit court lacked jurisdiction to rule on merits of defendant's untimely post-plea motion, judgment vacated, and circuit court ordered to dismiss the motion.

¶ 2 Defendant, Maria Yolanda Dominguez, appeals from an order of the circuit court of Cook County denying her motion to withdraw the guilty plea and judgment entered thereon 15 years earlier. She contends that the denial of her motion is contrary to the evidence presented and must be reversed.

¶ 3 The record shows that on March 31, 1997, defendant entered a plea of guilty to retail theft and was sentenced to one year of supervision. Defendant made no attempt to perfect an appeal from that judgment, and instead, filed a motion to withdraw her plea and vacate the judgment on November 1, 2012. Defendant alleged that trial counsel was ineffective for failing to explain the immigration consequences of entering a guilty plea to her, which rendered her plea involuntary. She also claimed that she would not have entered the guilty plea but for the "affirmative misadvice [*sic*]" from counsel, and the court's failure to so admonish her.

¶ 4 In support of her motion, defendant attached her own affidavit in which she averred that she specifically asked her trial counsel, a public defender, whether there would be any change to her Temporary Protected Status (TPS) in the United States, and was told that there would be no change. She further averred that on the date of her guilty plea there was no mention of any consequences to her status, or naturalization, or that she could be removed from the United States.

¶ 5 On February 14, 2013, the State objected to defendant's motion claiming that defendant knowingly entered into the plea agreement. Defendant told the court that the motion to withdraw was based on *Padilla v. Kentucky*, 559 U.S. 356 (2010), and that defendant's trial counsel failed to advise her of the immigration consequences of entering a plea of guilty. The court then inquired as to whether *Padilla* applied retroactively to defendant's case. Defendant indicated that it did, but the court disagreed finding that *Padilla* did not apply retroactively and "denied" defendant's motion. Defendant now challenges the propriety of that ruling.

¶ 6 The State initially maintains that this appeal should be dismissed because the circuit court did not have jurisdiction to consider defendant's motion to withdraw the guilty plea where she

failed to timely file a post-plea motion in accordance with Illinois Supreme Court Rule 604(d) (eff. Feb. 6, 2013). That rule provides, in relevant part, that no appeal from a judgment entered upon a plea of guilty shall be taken unless defendant, within 30 days of the date of which sentence is imposed, files in the trial court the appropriate post-plea motion. Ill. S. Ct. R. 604(d). Compliance with Rule 604(d) is a condition precedent to an appeal of a guilty plea, and where defendant fails to do so, the appellate court is precluded from considering the appeal on the merits. *People v. Flowers*, 208 Ill. 2d 291, 300-01 (2003).

¶ 7 Here, defendant made no effort to seek relief under Rule 604(d) until 15 years after judgment had been entered on her plea, and the trial court had lost all jurisdiction over the matter. *Flowers*, 208 Ill. 2d at 307. Under these circumstances, the circuit court had no authority to address the Rule 604(d) motion on the merits (*People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 43 (2011); *Flowers*, 208 Ill. 2d at 306), and should have dismissed it for lack of jurisdiction. Because the circuit court lacked jurisdiction to consider defendant's motion, this court, in turn, has no authority to consider her appeal of the judgment denying her motion. *Flowers*, 208 Ill. 2d at 307. Thus we vacate the trial court's judgment on the merits of the motion and order that defendant's appeal be dismissed. *People v. Bailey*, 2014 IL 115459, ¶29.

¶ 8 Order of the circuit court is vacated; motion to withdraw guilty plea is dismissed; appeal dismissed.