

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).

FILED

October 18, 2016
Carla Bender
4th District Appellate
Court, IL

2016 IL App (4th) 140617-U
NOS. 4-14-0617, 4-14-0618 cons.
IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Macon County
WESLEY L. WHITFIELD,)	Nos. 12CM1055
Defendant-Appellant.)	14CF675
)	
)	Honorable
)	Timothy J. Steadman,
)	Judge Presiding.

JUSTICE STEIGMANN delivered the judgment of the court.
Justices Turner and Appleton concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court concluded that the trial court's use of a general group admonition at the beginning of defendant's guilty-plea hearing did not prejudice defendant so as to necessitate reversal for compliance with Illinois Supreme Court Rule 605(c) (eff. Oct. 1, 2001).
- ¶ 2 At a June 2014 hearing, defendant, Wesley L. Whitfield, (1) admitted that he had violated a term of the court supervision the trial court imposed as a result of his earlier acknowledgement that he had endangered the life or health of a child (720 ILCS 5/12-21.6 (West 2010)) (Macon County case No. 12-CM-1055 (this court case No. 4-14-0617)); and (2) pleaded guilty to committing a domestic battery with a prior domestic battery conviction (720 ILCS 5/12-3.2(a)(1) (West 2014)) (Macon County case No. 14-CF-0675 (this court's case No. 4-14-0618)). As a result of defendant's admissions, the trial court (1) terminated defendant's court supervision and entered a conviction for endangering the life or health of a child in case No. 12-CM-1055; and

(2) sentenced defendant to probation for 24 months in case No. 14-CF-0675.

¶ 3 Defendant's appeal concerns the timing of the trial court's admonishments under Illinois Supreme Court Rule 605(c) (eff. Oct. 1, 2001). Specifically, defendant argues that the plain language of Rule 605(c) requires that the court admonish defendants about appeal rights after or contemporaneously with, but not before, the court has entered judgment on a guilty plea and imposed a sentence, as occurred at his June 2014 hearing. Defendant acknowledges that the court fully admonished him, along with other defendants, but nonetheless contends that the court erred by not readmonishing him after the court announced defendant's sentences. In this regard, defendant asserts that he was prejudiced because it caused him to misunderstand the proper steps necessary for perfecting his appeal. For the reasons that follow, we affirm.

¶ 4 I. BACKGROUND

¶ 5 A. Macon County Case No. 12-CM-1055

¶ 6 In October 2012, the State charged defendant with two counts of endangering the life or health of a child by allowing a minor child under his care to live in unsanitary and unsafe conditions. At a March 2013 hearing, the State informed the trial court that in exchange for defendant's admission that he committed one count of endangering the life of a child, the State would dismiss the remaining count and recommend court supervision for 24 months. After admonishing defendant and accepting his guilty plea, the court sentenced defendant in accordance with the parties' agreement and scheduled a February 2014 review hearing.

¶ 7 In February 2014, the State filed a petition to revoke defendant's court supervision, alleging that defendant failed to appear for his review hearing.

¶ 8 B. Macon County Case No. 14-CF-0675

¶ 9 In June 2014, the State charged defendant with domestic battery with a prior do-

mestic battery conviction, alleging that he (1) struck a family member in her face, causing injury; and (2) had a previous domestic battery conviction in Macon County case No. 08-CM-1244.

¶ 10 C. The June 2014 Hearing

¶ 11 At the start of a June 2014 hearing, the trial court conducted a "mass admonition." The court advised defendant—as well as other defendants who were contemplating entering guilty pleas in their respective criminal cases—about their rights pursuant to Illinois Supreme Court Rules 402 (eff. July 1, 2012) and 605(c) (eff. Oct. 1, 2001). Specifically, the court informed the assembled defendants the following rights each would be waiving by pleading guilty: (1) the right to a jury or bench trial, (2) the right to confront and cross-examine witnesses, (3) the privilege against self-incrimination, (4) the presumption of innocence, and (5) the right to be proved guilty beyond a reasonable doubt. The court then informed the defendants that they had the right to appeal, and, to do so, they had to file a written motion to withdraw their guilty-plea agreement within 30 days, setting forth the grounds or reasons for the request. Any claim of error not raised in the withdrawal motion would be forfeited, and the court would appoint counsel to assist them with preparing the withdrawal motion if they could not afford an attorney. The court noted that the effect of granting a motion to withdraw a guilty plea would vacate the court's sentence and judgment, and a trial date would be set on the charge to which they pleaded guilty. The court cautioned that the State could proceed on any charges it dismissed or amended pursuant to their respective guilty-plea agreements.

¶ 12 After the admonishments were read to the group *en masse*, the trial court conducted defendant's individual guilty plea and sentencing. As previously noted, during that hearing, defendant (1) admitted that he had violated the terms of the court supervision imposed in Macon County case No. 12-CM-1055 (this court case No. 4-14-0617) and (2) pleaded guilty to commit-

ting a domestic battery with a prior domestic battery conviction in Macon County case No. 14-CF-0675 (this court's case No. 4-14-0618).

¶ 13 After the trial court accepted defendant's guilty plea and imposed the sentence, the court informed defendant that he still had the right to appeal. As the court had explained it, "You were here in this courtroom when I told everyone the rights one gives up by pleading guilty. Did you understand your rights?" Defendant replied, "Yes, sir." The court then clarified, "Do you have any questions about your rights?" Defendant answered, "No, sir."

¶ 14 Defendant did not file a motion to withdraw his negotiated guilty plea within 30 days of sentencing, as required by Illinois Supreme Court Rule 604(d) (eff. Feb. 6, 2013).

¶ 15 This appeal followed.

¶ 16 II. ANALYSIS

¶ 17 Defendant argues that the trial court failed to strictly comply with Rule 605(c) because it did not admonish him about the procedure for perfecting his appeal after it had accepted his negotiated plea agreement and imposed his sentence. Defendant argues that, as a result, he was confused about his appeal rights and that this court should remand his case so that he may file a postplea motion. Because we disagree with defendant's contention that the court failed to properly admonish him, we decline to do so.

¶ 18 A. The Standard of Review

¶ 19 "The supreme court's rules are not mere technicalities or suggestions." *People v. Taylor*, 345 Ill. App. 3d 1064, 1082, 804 N.E.2d 116, 130 (2004). "Because this issue involves the trial court's compliance with a supreme court rule, our review is *de novo*." *People v. Taylor*, 345 Ill. App. 3d 1064, 1083, 804 N.E.2d 116, 131 (2004) (citing *People v. Lloyd*, 338 Ill. App. 3d 379, 384, 788 N.E.2d 1169, 1173 (2003)).

¶ 20

B. Rule 605(c)

¶ 21 Rule 605(c) provides a list of admonishments that trial courts must give defendants who plead guilty as a part of a negotiated plea agreement with the State. Ill. S. Ct. R. 605(c) (eff. Oct. 1, 2001). The rule states the following:

"In all cases in which a judgment is entered upon a negotiated plea of guilty, *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 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.

For the purposes of this rule, a negotiated plea is one in which the prosecution has bound itself to recommend a specific sentence, or a specific range of sentence, or where the prosecution has made concessions relating to the sentence to be imposed and not merely to the charge or charges then pending." (Emphasis added.) *Id.*

¶ 22 Essentially, defendant argues that the phrase "at the time of imposing sentence" in Rule 605(c) means that the admonishments must happen concurrently with sentencing, or immediately after the sentencing occurs. Defendant does not contest that he received the admonitions required by Rule 605(c). Instead, defendant claims that the trial court provided those admonishments at the wrong time, which caused him confusion regarding his right to appeal. Defendant argues that providing the full admonishments required by Rule 605(c) momentarily before accepting a guilty plea and sentencing a defendant fails to fulfill the requirements of the rule. To support this proposition, defendant relies on *People v. Dominguez*, 2012 IL 111336, ¶ 11, 976 N.E.2d 983, in which the supreme court held that (1) Rule 605 must be strictly complied with and (2) defendants must be substantially advised of the actual content of the rule. Defendant claims that *Dominguez* urges strict compliance with Rule 605, which bolsters his interpretation that Rule 605 calls for an admonishment contemporaneous with or immediately after sentencing. According to defendant, any other interpretation of "at the time of sentencing" is inconsistent with the plain meaning of Rule 605(c), and as a result, is prejudicial.

¶ 23 Defendant also argues that this court's holding in *People v. Young*, 387 Ill. App. 3d 1126, 903 N.E.2d 434 (2009), supports his interpretation of the phrase, "at the time of imposing sentence." Specifically, defendant points to our language in *Young* where we stated, "Rule 605(c) provides when a defendant enters into a negotiated plea of guilty, the trial court shall advise him of certain appeal rights and requirements. [Citation.] Specifically, the rule provides in pertinent part that, after imposing sentence, the court 'shall' advise the defendant of the following[.]" *Id.* at 1128-29, 903 N.E.2d at 436-37. In *Young*, this court held that the trial court failed to properly admonish a defendant about his appeal rights when it incorrectly admonished the defendant "that to appeal he could file *either* a motion to reconsider sentence *or* for leave to withdraw his guilty plea." (Emphasis in original.) *Id.* at 1127, 903 N.E.2d at 435. As a result, the defendant in *Young* filed the incorrect motion on appeal within the proper time period. The State conceded the court's error in *Young*. *Id.*

¶ 24 We disagree with the defendant's characterization of Rule 605(c) and decline to remand his case to the trial court so that he can properly file an appeal. First, in *Dominguez*, 2012 IL 111336, ¶ 15, 976 N.E.2d 983, the supreme court addressed whether "the rule must be 'strictly' or 'substantially' complied with, *i.e.*, must a trial court read the rule verbatim to a defendant or is such a reading not necessary so long as the trial court 'substantially' complies with the rule's requirements." The court held that "[t]he rule itself requires the defendant be *substantially* advised of certain rights." (Emphasis in original.) *Id.* ¶ 16.

¶ 25 In this case, defendant was substantially advised of his rights *at the same hearing* where the trial court accepted his plea and sentenced him. Immediately after sentencing defendant, the court reminded him of this admonishment and asked him, again, if he understood the rights he was giving up. As a result, we conclude that defendant was not prejudiced by the tim-

ing of the court's admonishments. Accordingly, we decline to reverse the court and remand. As the supreme court explained, "[I]n a Rule 605(b) or (c) setting, where a trial court *has* substantially complied with the rule so as to impart to the defendant the *substance* of the rule, automatic remand is not necessary." (Emphasis in original.) *Id.* ¶ 22.

¶ 26 This view is consistent with our holding in *Young*. Because the trial court in *Young* incorrectly admonished the defendant consistently with Rule 605(b) and not 605(c), *Young* is distinguishable. In *Young*, this court remanded the case to the trial court because the trial court had substantially misled the defendant, causing him to file the wrong motion during the applicable 30-day period. *Young*, 387 Ill. App. 3d at 1129, 903 N.E.2d at 437. Here, defendant does not contend that the trial court's admonishments misled him. Instead, defendant contends that the timing of the court's substantially correct admonishments confused him and, as a result, he was not able to perfect his appeal. We find defendant's claims of prejudice unconvincing.

¶ 27 Additionally, we do not agree that the plain meaning of the phrase "at the time of sentencing" contained within Rule 605(c) necessarily requires that a trial court's admonishments must take place concurrently with or immediately following the court's delivery of the sentence. If a trial court, as here, admonishes the defendant pursuant to Rule 605(c) just prior to accepting his guilty plea and imposing sentence, such admonishments could be reasonably said to have occurred "at the time of sentencing."

¶ 28 C. Admonishments to Groups of Defendants

¶ 29 We conclude that defendant was not prejudiced by the trial court's employment of a group admonition. Although concerns of judicial economy might justify conducting defendants' pleas and admonishments *en masse*, to avoid the concerns raised by defendant's appeal, it

would be better practice for trial courts to conduct these group admonishments after similarly situated defendants have had a judgment and sentence entered against them. That the trial court admonished defendant before sentencing him was not a violation of Rule 605(c) that necessitates new admonitions. This is particularly true given that defendant has made no showing as to how the court's conduct caused confusion or error. Indeed, the record indicates that the court asked defendant if he understood his right to appeal and defendant replied affirmatively. Because defendant's challenge in No. 21-CM-1055 is only to the sufficiency of the Rule 605(c) admonitions, which we rejected, we affirmed in No. 4-14-0617. Because defendant did not file a motion to withdraw his guilty plea in No. 14-CF-675, a condition precedent to appeal in a negotiated plea (*People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 40, 944 N.E.2d 337, 341-42 (2011)), we dismiss the appeal in case No. 4-14-0618.

¶ 30

III. CONCLUSION

¶ 31 For the reasons stated, we dismiss the appeal in No. 4-14-0617 and we affirm the trial court's judgment in No. 4-14-0618. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 32 No. 4-14-0617, dismissed.

¶ 33 No. 4-14-0618, affirmed.