

**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**

December 1, 2017  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

2017 IL App (4th) 150086-U

NO. 4-15-0086

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Champaign County
JULIE N. WILLIAMS,	)	No. 13CF1458
Defendant-Appellant.	)	
	)	Honorable
	)	Thomas F. Difanis,
	)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.  
Presiding Justice Turner and Justice Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* Because the record affirmatively shows defendant’s understanding that (1) she had the right to have counsel present in the probation-revocation hearing and (2) if she was indigent, she had the right to appointed counsel, there was substantial compliance with Illinois Supreme Court Rule 402A(a) (eff. Nov. 1, 2003).

¶ 2 Defendant, Julie N. Williams, admitted violating conditions of her probation, and the trial court resentenced her to four years’ imprisonment. She appeals on the ground that the court accepted her admission without giving her all the admonitions that Rule 402A(a) required. Specifically, the court omitted to admonish her that (1) she had the right to have counsel present in the probation-revocation hearing and (2) if she was indigent, she had the right to appointed counsel. See Ill. S. Ct. R. 402A(a)(2) (eff. Nov. 1, 2003). We hold that because the record affirmatively shows defendant’s understanding of those two propositions, there was substantial compliance with Rule 402A(a). Therefore, we affirm the trial court’s judgment.

¶ 3

## I. BACKGROUND

¶ 4 On September 3, 2013, the State charged defendant with two counts of unlawful possession of a controlled substance (720 ILCS 570/402(c) (West 2012)), one count of burglary (720 ILCS 5/19-1(a) (West 2012)), and one count of unlawful use of a credit card (720 ILCS 5/17-36 (West 2012)).

¶ 5 On September 30, 2013, pursuant to a fully negotiated plea agreement, defendant pleaded guilty to the count of burglary. The State dismissed the other charges, and the trial court sentenced her to probation for 30 months.

¶ 6 On March 27, 2014, the State filed a petition to revoke probation. The petition alleged that defendant had failed to (1) report to the Court Services Department; (2) pay restitution, fines, and costs; (3) undergo substance-abuse testing and treatment; and (4) abstain from illegal drugs.

¶ 7 On April 25, 2014, defendant completed a form entitled “Affidavit in Support of Request for Appointed Attorney” and filed it with the trial court.

¶ 8 That same day, the trial court arraigned her on the petition to revoke probation. During the arraignment, the court asked her:

“THE COURT: I take it you are asking for an attorney to be appointed for you?”

THE DEFENDANT: Yes, Your Honor.

THE COURT: And this is your affidavit?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Motion by defendant for appointment of counsel. Motion allowed. Champaign County Public Defender’s Office appears instanter.”

¶ 9 On September 10, 2014, the trial court held a hearing on the petition to revoke probation. Defense counsel told the court that defendant would stipulate to the allegations in the petition. The court gave the following admonitions to a group of defendants, including the defendant in this case:

“Each of you has an absolute right to a hearing. That will be a hearing in front of a judge. At that hearing[,] the [S]tate would have to prove by a preponderance of the evidence that it is more likely true than not true that you violated your probation. At the hearing[,] you would have a right to hear the witnesses testify. You could cross[-]examine those witnesses. You could present witnesses and testimony on your behalf. If your probation is revoked, then you will be resentenced for the offense that put you on probation in the first place.”

¶ 10 The trial court then explained to defendant, individually, the allegations in the petition against her and the possible penalties. She acknowledged that she understood the possible penalties and the rights she would give up by stipulating to the petition. After hearing a factual basis, the court accepted her stipulation to the petition.

¶ 11 On November 12, 2014, the trial court held a resentencing hearing, in which the court resentenced defendant to imprisonment for four years.

¶ 12 On February 4, 2015, the trial court denied an amended motion by defendant to reduce the sentence.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 Rule 402A(a) provides:

“In proceedings to revoke probation, conditional discharge[,] or supervision in which the defendant admits to a violation of probation, conditional discharge or supervision, or offers to stipulate that the evidence is sufficient to revoke probation, conditional discharge or supervision, there must be *substantial compliance* with the following.

(a) **Admonitions to Defendant.** The court shall not accept an admission to a violation, or a stipulation that the evidence is sufficient to revoke, 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, conditional discharge[,] or supervision;

(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, or by stipulating that the evidence is sufficient to revoke, there will not be a hearing on

the petition to revoke probation, conditional discharge, or supervision, so that by admitting to a violation, or by stipulating that the evidence is sufficient to revoke, 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, conditional discharge or supervision.” (Emphases added.)

¶ 16 The trial court substantially complied with Rule 402A(a) only if the record affirmatively shows that the defendant understood each of the admonitions in that rule. *People v. Saleh*, 2013 IL App (1st) 121195, ¶ 14. We decide *de novo* whether the record shows substantial compliance. *Id.*

¶ 17 The State argues that the record shows substantial compliance with Rule 402A(a)(2). According to the State, substantial compliance is shown by (1) defendant’s submission of the “Affidavit in Support of Request for Appointed Attorney” and (2) the court’s appointment of an attorney in the arraignment on the petition to revoke probation.

¶ 18 We agree with the State. Because defendant had requested the appointment of counsel, counsel had been appointed, and the appointed counsel was present with defendant in the hearing in which she admitted the allegations of the petition to revoke probation, she must have known she would have had the right to assistance by this appointed counsel in a probation revocation hearing. Therefore, we hold that the record affirmatively shows substantial compliance with Rule 402A(a).

¶ 19

### III. CONCLUSION

¶ 20 For the foregoing reasons, we affirm the trial court's judgment, and we award the State \$50 in costs against defendant.

¶ 21 Affirmed.