

NOTICE

This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2025 IL App (4th) 240540-U

NO. 4-24-0540

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

March 21, 2025

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	Adams County
JACK BLANKE,)	No. 23CF272
Defendant-Appellant.)	
)	Honorable
)	Talmadge “Tad” Brenner,
)	Judge Presiding.

JUSTICE DOHERTY delivered the judgment of the court.
Justices Steigmann and Knecht concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court adequately admonished defendant before receiving his admission to a petition to revoke his probation.

¶ 2 Defendant Jack Blanke appeals from the circuit court’s judgment revoking his probation and sentencing him to 18 months’ imprisonment in the Illinois Department of Corrections (DOC). He argues that the court below failed to substantially comply with Illinois Supreme Court Rule 402A (eff. Nov. 1, 2003) when accepting his admission to the petition to revoke his probation. For the reasons that follow, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant was charged in a three-count information with unlawful sexual contact with an animal (horse) (720 ILCS 5/12-35(a) (West 2022)), criminal trespass to real property (*id.* § 21-3(a)), and criminal damage to property (horse) (*id.* § 21-1(a)(4)). On April 28, 2023,

defendant was admonished at his first appearance that, among other things, he had the right to an attorney and that the State had the burden of proving him guilty beyond a reasonable doubt. Defendant was appointed a public defender and the matter was continued.

¶ 5 Defendant subsequently agreed to a fully negotiated guilty plea with the State on July 6, 2023, which called for him to plead guilty to the criminal damage to property offense and receive a sentence of 24 months of probation, with 90 days of stayed jail time; in return, the State would dismiss the remaining charges.

¶ 6 The factual basis for the plea provided by the State was that defendant would trespass onto property where horses were kept. The property owner had complained to local law enforcement about the intrusion. Officers were essentially staking out the property one evening when they saw defendant retrieve a bucket from the barn, feed the horses, and “engage in additional conduct with the horses.” The owners of the property would testify that defendant did not have permission to be on the property or to engage in any conduct with the horses.

¶ 7 The circuit court then admonished defendant.

“THE COURT: You have certain constitutional rights. You have a right to a speedy, public trial, either a jury trial or a bench trial if you waive your right to a jury trial. You are presumed to be innocent of the charges against you and it’s the prosecution who has the burden of proving you guilty beyond a reasonable doubt. You don’t have to prove anything. You have a right to be present at all times. You have a right to remain silent. Whether you testify or not is your decision. You have a right to confront and cross-examine witnesses and your attorney is available to help you cross-examine the State’s witnesses. You have a right to present evidence. You have a right to plead guilty or not guilty. Do you understand your rights in this

case?”

¶ 8 Defendant stated that he understood his rights, and the circuit court accepted the guilty plea, entering judgment and sentence accordingly. Standard conditions applied to defendant’s term of probation, one of which was that he refrain from committing any further criminal offenses.

¶ 9 Eighteen days later, on July 24, 2023, the State filed a petition to revoke probation that alleged, while on probation, defendant had committed the offense of criminal trespass to property (*id.* § 21-3(a)). Defendant appeared in front of the circuit court and was admonished regarding the petition to revoke probation as follows:

“THE COURT: All right. So your rights on a petition to revoke. I went through rights with everybody at the beginning of your new case and those are the rights that apply to your new case. Your rights on a petition to revoke are a little bit different and I want to go over those with you. So on a petition to revoke your probation, you have a right to a hearing but not a jury trial. *You have the right to have counsel. If you can’t afford a counsel, a lawyer, a lawyer can be appointed to represent you.* You have the right to confront and cross-examine witnesses. You have the right to present witnesses and evidence on your own behalf. *You have the right to have the State prove that you violated your probation by a preponderance of the evidence.* You have the right to testify if you choose and you can be ordered to testify on that new case unless it involves new criminality which, in this case, it does. So on this petition, you couldn’t be ordered to testify in a PTR hearing but those are your rights on a petition to revoke. They’re a little different from your rights on a new case. Do you understand your rights on the petition to revoke in 23-

CF-272?” (Emphases added.)

Defendant replied that he understood his rights, and the public defender was appointed at his request.

¶ 10 On September 20, 2023, the parties advised the circuit court that they had reached an agreement whereby defendant would admit the allegations in the petition to revoke his probation in this instance and the charge in another case would be dismissed. The court advised defendant as follows:

“THE COURT: If you admit the petition today, you’ll be giving up certain rights. You’ll be giving up your right to a hearing on the petition. You’ll be giving up your right to confront and cross-examine any witnesses the People may bring to testify at that hearing. You’d be giving up your right to present evidence on that petition. Do you understand you’d be giving up those rights?”

The court failed to admonish defendant regarding his right to counsel and that the State had the burden to prove the violation by a preponderance of the evidence.

¶ 11 Defendant confirmed that he understood and stated that he pled “guilty” but then agreed he admitted the allegations when the circuit court prompted him on the appropriate terminology. The State recited a factual basis for the probation violation, stating that the property owners would be called to testify that defendant entered their property without permission. Defendant agreed the State would be able to present that evidence at a hearing. The court continued the matter for sentencing, where defendant received a sentence of 18 months’ imprisonment in DOC. Defendant filed a motion to reconsider that was denied.

¶ 12 This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 On appeal, defendant argues that the circuit court failed to substantially comply with Illinois Supreme Court Rule 402A (eff. Nov. 1, 2003) where it failed to admonish him regarding his right to counsel and the State's burden to prove the allegations in the petition by a preponderance of the evidence. The State contends there was substantial compliance and that even considering the incomplete admonishments prior to the admission, defendant did not suffer prejudice and there was no denial of real justice.

¶ 15 Prior to accepting an admission to a petition to revoke probation, Rule 402A requires the circuit court to address the defendant personally in open court to inform him of the following and ensure he understands them:

“(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.” Ill. S. Ct. R. 402A(a) (eff. Nov. 1, 2003).

¶ 16 While a defendant is entitled to due process at a probation revocation hearing, it is well established that “only the minimum requirements of due process must be followed ***.” *People v. Harris*, 392 Ill. App. 3d 503, 508 (2009); see *People v. Dennis*, 354 Ill. App. 3d 491, 495 (2004) (“A defendant in a proceeding to revoke probation has fewer, rather than more, procedural rights than a defendant who still awaits trial.”).

¶ 17 The goal of Rule 402A is to ensure that a defendant “understood his admission, the rights he was waiving, and the potential consequences of his admission.” *People v. Dennis*, 354 Ill. App. 3d 491, 496 (2004); *People v. Hall*, 198 Ill. 2d 173, 181 (2001). While literal compliance with the rule is preferred, substantial compliance is all that is required, and it is achieved when the record, including the record of prior proceedings, affirmatively shows that the defendant understood each of the required admonishments. *People v. Bailey*, 2021 IL App (1st) 190439, ¶ 27; *Dennis*, 354 Ill. App. 3d at 495-96. Moreover, we consider “whether, realistically, an ordinary person in defendant’s position would have understood, from the earlier proceedings, that by admitting [to a violation], he was” surrendering certain rights. *Dennis*, 354 Ill. App. 3d at 496. “Each case must be considered on its own unique facts, with the main focus being on the length of time between the admonishments and the admission to violating probation.” *In re Westley A.F.*, 399 Ill. App. 3d 791, 796 (2010). Whether the court below substantially complied with the rule is a matter that we review *de novo*. *Hall*, 198 Ill. 2d at 177.

¶ 18 Initially, we note that the State concedes the admonishments were incomplete, but it argues that defendant has forfeited his contention on appeal. However, as we have explained in prior appeals concerning similar issues regarding admonishment compliance, we will not place the onus on defendants to object in the court below to incomplete, required admonishments. See *e.g.*, *Westley A.F.*, 399 Ill. App. 3d at 795. Thus, we proceed to the merits.

¶ 19 We reject defendant's contention that he was insufficiently admonished in accordance with the rule, requiring reversal, because the circuit court did not mention his right to counsel immediately prior to his admission. We dismiss this contention summarily because the record shows that defendant was admonished that he had the right to counsel at previous proceedings and was in fact represented by counsel throughout the proceedings in this matter. Defendant was admonished more than once on his right to counsel in a short amount of time given the rapid succession of the offenses in this matter. He was specifically admonished that he had the right to counsel at the revocation hearing at the first appearance on the petition to revoke. Rather than simply admonishing defendant he was entitled to counsel, the court showed defendant he was entitled to counsel by reappointing the public defender. For defendant to believe he was not entitled to counsel at the revocation hearing would be contrary to everything he had experienced and been informed of up to that point. Accordingly, we find that a person in defendant's position would have been aware he was entitled to counsel if he chose to challenge the petition to revoke and proceed to a hearing.

¶ 20 We turn next to the contention that the failure to admonish defendant that the State bore the burden of proving the probation violation by a preponderance of the evidence requires reversal. Defendant cites *People v. Maggos*, 2022 IL App (3d) 190324-U, ¶ 12, to support his contention that the circuit court in this case failed to substantially comply with Rule 402A. We

find *Maggos* distinguishable where the circuit court in that case failed to admonish the defendant regarding his right to have the State prove the probation violation by a preponderance of the evidence *at any point* during the proceedings. *Id.* Rather we find similarities in two other cases.

¶ 21 In *Dennis*, the defendant similarly claimed his due-process rights were violated when he was not properly admonished before admitting to a petition to revoke probation. *Dennis*, 354 Ill. App. 3d at 492. The State had previously filed two petitions to revoke probation, in which the defendant admitted violations after receiving compliant admonishments. *Id.* at 493. On June 13, 2003, he was again properly admonished of his rights pursuant to a third petition to revoke. *Id.* However, during the July 15, 2003, hearing, where he admitted to the violation, he was not admonished of his right to counsel and cross-examination as required. *Id.* at 495. Nonetheless, the appellate court found substantial compliance due to the previous admonishments and their recency. *Id.* at 496.

¶ 22 Similarly, in *Westley A.F.*, the issue was whether a juvenile defendant was denied due process when the circuit court failed to advise him of the sentencing range before accepting his admission to a probation violation. *Westley A.F.*, 399 Ill. App. 3d at 795. Previously, the court had informed him of the possible penalties at a June 2007 sentencing hearing and again on April 28, 2008. *Id.* at 793. On May 19, 2008, the defendant admitted to violating probation without receiving an admonishment regarding the sentencing range. *Id.* The appellate court found that the previous admonishments and the short time between when the defendant was previously told the sentencing range and when he admitted to the violation meant an ordinary person in the defendant's position would have understood the sentencing range. *Id.* at 797.

¶ 23 The defendants in *Dennis* and *Westley A.F.* had been properly admonished 32 and 21 days, respectively, prior to admitting their probation violations. Here, defendant was properly

admonished 58 days prior to the incomplete admonishments at the hearing where he admitted to the probation violation. Similar to his argument regarding his right to counsel, defendant was admonished repeatedly—and at every juncture of these rapidly evolving proceedings—that the State had the burden of proof. For defendant to believe the State did not bear the burden of proof at the revocation hearing would be contrary to everything that he had been informed of up to that point. Given the prior admonishment, we find that a person in defendant’s position would have been aware the State had to prove the probation violation by a preponderance of the evidence.

¶ 24 To that end, we further find that defendant in this case cannot establish that real justice was denied or that he was prejudiced by the missing admonishment regarding the State’s burden of proof. See *People v. Whitfield*, 217 Ill. 2d 177, 195 (2005). (“[A]n imperfect admonishment is not reversible error unless *** the defendant has been prejudiced by the inadequate admonishment.”). In return for admitting to the probation violation, the State dismissed the criminal charge that formed the basis of the probation violation. Additionally, the State presented a factual basis for the charge, and defendant agreed the State would be able to establish the violation at a revocation hearing. Defendant does not even argue in his briefing that had he been admonished regarding the State’s burden of proof immediately prior to his admission, he would have proceeded to a hearing rather than take the deal presented by the State and face sentencing on the offense he pleaded guilty to and prosecution on the newly charged offense.

¶ 25 Although we have affirmed by concluding that there was substantial compliance with Rule 402A and defendant was not denied real justice, this issue should never have arisen. A circuit court should *always explicitly comply* with Illinois Supreme Court Rule 402 (eff. July 1, 2012) and Rule 402A governing guilty pleas and admissions to probation violations. The minimal time required to make complete admonishments can avoid the unnecessary expenditure of

resources at the appellate level to address the consequences of an omission.

¶ 26

III. CONCLUSION

¶ 27

For the reasons stated, we affirm the circuit court's judgment.

¶ 28

Affirmed.