

NOTICE

Decision filed 07/11/25.
The text of this decision
may be changed or
corrected prior to the
filing of a Petition for
Rehearing or the
disposition of the same.

NOS. 5-24-0749, 5-24-0750, 5-24-0752, 5-24-0753, 5-24-0754 cons.

IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

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).

| | | |
|--------------------------------------|---|---------------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, |) | Appeal from the |
| |) | Circuit Court of |
| Plaintiff-Appellee, |) | Effingham County. |
| |) | |
| v. |) | Nos. 22-CF-90, 22-CF-112, |
| |) | 22-CF-113, 22-CF-302, |
| |) | 23-CF-96 |
| |) | |
| WILLIAM A. DOCKERY, |) | Honorable |
| |) | J. Marc Kelly, |
| Defendant-Appellant. |) | Judge, presiding. |

JUSTICE SHOLAR delivered the judgment of the court.
Justices Cates and Boie concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err by denying defendant's motion to reconsider sentence. There is no arguable basis for challenging any of the underlying judgments in this consolidated appeal, and defendant did not file any timely motion pursuant to Ill. S. Ct. R. 604(d). The circuit court also substantially complied with Ill. S. Ct. R. 402A in accepting defendant's consent to revoke his problem-solving court status, and the circuit court did not abuse its discretion in sentencing defendant following the revocation of that status. As any arguments to the contrary would lack merit, we grant the defendant's appointed counsel on appeal leave to withdraw and affirm the circuit court's judgment.

¶ 2 Defendant, William Dockery, pled guilty to possession of a controlled substance, forgery, unlawful possession of methamphetamine, and two counts of aggravated battery, in exchange for an order of 30 months of problem-solving court. The State later filed a petition to revoke problem-solving court status, alleging that he violated the terms of the order. Defendant consented to the

revocation of his problem-solving court status, and received a prison sentence followed by a term of mandatory supervised release. He appeals from the denial of his motion to reconsider sentence.

¶ 3 Defendant's appointed attorney in this appeal, the Office of the State Appellate Defender (OSAD), concluded that this appeal lacks substantial merit. On that basis, OSAD filed a motion to withdraw as counsel pursuant to *Anders v. California*, 386 U.S. 738 (1967), along with a memorandum of law in support of that motion.

¶ 4 This court gave defendant an opportunity to file a *pro se* brief, memorandum, or other document explaining why OSAD should not be allowed to withdraw as counsel, or why this appeal has merit. However, he failed to take advantage of that opportunity. This court examined OSAD's *Anders* motion and the accompanying memorandum of law, as well as the entire record on appeal, and has concluded that this appeal does indeed lack merit. Accordingly, OSAD is granted leave to withdraw as counsel, and the judgment of the circuit court is affirmed.

¶ 5 I. BACKGROUND

¶ 6 The State charged defendant by indictment with five offenses over a 10-month period in 2022 and 2023: possession of a controlled substance, forgery, unlawful possession of methamphetamine, and two counts of aggravated battery. On March 24, 2023, defendant pled guilty to all five charges in exchange for an order of 30 months of problem-solving court. This appeal is consolidated from five appeals arising from the separate cases.

¶ 7 The terms of the problem-solving court order included not violating any criminal statute, cooperating with his assigned probation officer, attending drug court and obeying its orders, performing public service, and paying fees. The circuit court explained that defendant was extended-term eligible for these convictions because of his criminal history, and could face 6 years in prison for the Class 4 conviction of possession of a controlled substance and up to 10 years in

prison for the remaining Class 3 convictions. The circuit court also explained that he had the right to continue in his pleas of not guilty, as well as his constitutional trial rights. Defendant was forgoing those rights in exchange for his guilty plea and the problem-solving court order. Defendant told the circuit court that he understood the admonishments and freely consented to the guilty pleas and to participating in problem-solving court.

¶ 8 The State provided the factual bases for the guilty plea on each charge. Defendant confirmed that he believed the factual bases reflected what actually occurred in each instance and that the same evidence would be presented at trial in each case. The circuit court found that a factual basis existed for each charge, and defendant's guilty plea was knowingly and voluntarily made. The circuit court accepted defendant's guilty plea and sentenced him to 30 months of problem-solving court. The circuit court also explained that defendant had a right to appeal and must file a written motion to withdraw his guilty plea within 30 days if he wished to exercise that right and not lose the chance to raise his arguments in the future. The circuit court admonished defendant that he also had the right to an attorney on appeal and transcripts from the proceedings. Defendant did not file such motion.

¶ 9 On July 28, 2023, the State filed a petition to revoke defendant's problem-solving court status, alleging that he violated the terms of the circuit court's order by: (1) testing positive for amphetamines on March 31 and April 10, 2023; (2) testing positive for alcohol four times in June and July of 2023; (3) missing recovery meetings, staff appointments, and drug court multiple times in April and June of 2023; (4) not being honest about alcohol relapse the week of July 28, 2023; and (5) committing the offense of battery and resisting a peace officer on June 23, 2023.

¶ 10 Defendant filed a written consent to having his status revoked on December 8, 2023, the same date as the scheduled hearing on the State's petition. Defendant confirmed before the circuit

court that he understood he was giving up the right to a hearing where the State would have to prove the allegations in its petition by a preponderance of the evidence, and where defendant could be represented by appointed counsel. Defendant affirmed that no one was forcing him to consent or making him any promises in exchange for his consent to the revocation of his problem-solving court status, and that he consented freely and voluntarily. The State recited the factual basis for its petition, and defendant accepted that it would be the State's evidence at a hearing. The circuit court found that a sufficient factual basis existed for the State's allegations and defendant's admission.

¶ 11 The circuit court held a sentencing hearing on February 22, 2024. Defendant testified that he was hospitalized for a car accident and for carbon monoxide poisoning, both of which left him with injuries that caused him to suffer from insomnia. He explained that because he was prone to insomnia, he would fall asleep during some of his required counseling sessions in problem-solving court. He also spoke in allocution, apologizing for his conduct and expressing his desire to learn, get his life together, and live peacefully. Defendant had previous convictions of Class 1 vehicular invasion and Class 2 burglary from December 2010, for which he received a 10-year prison sentence.

¶ 12 After hearing arguments from both sides, the circuit court sentenced defendant to three years in prison followed by six months of mandatory supervised release (MSR) for possession of a controlled substance, and five years in prison and six months of MSR for the remaining four convictions, with all sentences to run concurrently. The circuit court found defendant's full-time employment, learning disability, injuries requiring medical treatment, and statement in allocution as factors in mitigation, while his criminal history, the need for deterrence, and the fact that some of his conduct caused serious harm were factors in aggravation.

¶ 13 Defendant filed a motion to reconsider sentence. The circuit court held a hearing on June 13, 2024, at which it stated that the sentence imposed was appropriate. The circuit court noted that defendant had been afforded numerous opportunities at community-based sentences, but none were successful. The circuit court therefore denied his motion, and admonished him on his right to appeal.

¶ 14 Defendant filed a timely notice of appeal. The circuit court appointed OSAD to represent him on appeal. OSAD now moves to withdraw as counsel.

¶ 15 **II. ANALYSIS**

¶ 16 OSAD argues that the circuit court properly denied defendant's motion to reconsider sentence, and that there are no meritorious arguments to the contrary. In the memorandum supporting its *Anders* motion to withdraw as counsel, OSAD states that it considered raising three potential issues on appeal:

(1) Whether the underlying judgments arising from defendant's guilty pleas are valid;

(2) Whether the circuit court substantially complied with Illinois Supreme Court Rule 402A in accepting defendant's consent to revoke his problem-solving court status; and

(3) Whether the circuit court abused its discretion in sentencing defendant to five years in prison following a finding that he violated his problem-solving court order.

OSAD determined that these issues would be without arguable merit, and the circuit court's dismissal of defendant's motion to reconsider sentence was therefore proper. As we agree with counsel's assessment, we grant OSAD leave to withdraw.

¶ 17 **A. Validity of the Underlying Judgments¹**

¹As this appeal arises from five separate criminal cases before the circuit court, the court entered its problem-solving court order in each case. We will refer to the court's judgment in the singular for clarity.

¶ 18 Illinois Supreme Court Rule 604(d) sets forth the procedures that a defendant must follow to appeal from a judgment entered on a guilty plea. Ill. S. Ct. R. 604(d) (eff. Apr. 15, 2024). The rule states that no appeal shall be taken “unless the defendant, within 30 days of the date on which sentence is imposed, files in the trial court a motion to reconsider the sentence, if only the sentence is being challenged, or, if the plea is being challenged, a motion to withdraw the plea of guilty and vacate the judgment.” *Id.* Where a defendant appeals from the circuit court’s judgment without first filing a timely, written postjudgment motion pursuant to Rule 604(d), we are precluded from considering an appeal from that judgment. *People v. Foster*, 171 Ill. 2d 469, 471 (1996); *In re William M.*, 206 Ill. 2d 595, 601 (2003). Defendant did not file a motion challenging the circuit court’s problem-solving court order, nor did he seek to withdraw his guilty plea.

¶ 19 Our supreme court recognized certain exceptions to the Rule 604(d) motion requirement. Under the admonitions exception, a defendant’s failure to file a Rule 604(d) motion will not result in the loss of his right to direct appeal where the circuit court failed to properly admonish him pursuant to Rule 605(b) or (c). *Foster*, 171 Ill. 2d at 472; *In re William M.*, 206 Ill. 2d at 602. Rule 605(c) concerns cases in which a judgment is entered on a negotiated plea of guilty. Ill. S. Ct. R. 605(c) (eff. Apr. 15, 2024). It requires the circuit court to “substantially advise” the defendant at the time of sentencing of the following:

“(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;

(3) that if the motion is allowed, the plea of guilty, sentence and judgment will be vacated 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." *Id.*

¶ 20 Our supreme court determined that compliance does not require a verbatim reading of the rule; rather, "the court must impart to a defendant largely that which is specified in the rule, or the rule's 'essence.' " *People v. Dominguez*, 2012 IL 111336, ¶ 19. Substantial compliance is met if the defendant "is properly informed, or put on notice, of what he must do in order to preserve his right to appeal his guilty plea or sentence." *Id.* ¶ 22.

¶ 21 Here, the transcript of the plea hearing shows that the circuit court sufficiently complied with Rule 605(c) when it admonished defendant regarding his right to appeal, that he would lose this right if he did not file a written motion to withdraw his plea within 30 days, and that he was entitled to counsel and transcripts of the proceedings if he appealed. Therefore, defendant cannot argue that the admonitions exception allows us to consider his appeal.

¶ 22 OSAD also considered whether defendant could argue that the circuit court's judgment was void, which would also allow us to review it despite his failure to file a timely Rule 604(d) motion and perfect a direct appeal. *People v. Curry*, 2019 IL App (3d) 160783, ¶ 15; *People v. Gregory*, 379 Ill. App. 3d 414, 418 (2008). A judgment is void only if (1) it was entered by a court that lacked personal or subject-matter jurisdiction or (2) it was based on a statute that is facially unconstitutional and void *ab initio*. *People v. Abdullah*, 2019 IL 123492, ¶ 13.

¶ 23 It is clear from the record that there is nothing that that would support a finding of voidness under either condition. Any argument to the contrary would lack merit. We therefore agree with OSAD that there is no nonfrivolous basis for such claim.

¶ 24 B. Court's Compliance With Rule 402A

¶ 25 Before accepting a defendant's admission to a violation of probation, the circuit court must substantially comply with Illinois Supreme Court Rule 402A. *People v. Bailey*, 2021 IL App (1st) 190439, ¶ 17. The rule requires the trial judge to determine that the admission is voluntary and that a factual basis exists for the admission. Ill. S. Ct. R. 402A(b), (c) (eff. Nov. 1, 2003). Additionally, the trial judge must provide and confirm the defendant's understanding of the following admonishments:

“(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).

¶ 26 A defendant's claim challenging the revocation of his probation on the basis that the trial judge failed to admonish him pursuant to Rule 402A(a) is not subject to forfeiture. *Bailey*, 2021

IL App (1st) 190439 ¶ 20; *Curry*, 2019 IL App (3d) 160783 ¶ 22. When reviewing for substantial compliance, we look for “an affirmative showing in the record that the defendant understood each of the required admonitions,” and we may consider the entire record, including earlier proceedings. (Internal quotation marks omitted.) *Bailey*, 2021 IL App (1st) 190439 ¶ 27 (quoting *People v. Saleh*, 2013 IL App (1st) 121195, ¶ 14).

¶ 27 As with our review of the circuit court’s Rule 605(c) admonishments, a review of the record shows that the circuit court substantially complied with Rule 402A. At the hearing on the State’s petition to revoke his problem-solving court status, the circuit court confirmed that defendant understood the allegations in the petition, and that by consenting to the petition, he was foregoing his right to have a hearing, with appointed counsel, where the State would be required to prove its allegations by a preponderance of the evidence. Defendant indicated that he understood the allegations, his rights, and his waiver of those rights by consenting to the revocation. The circuit court further inquired whether defendant’s admission was voluntary, and defendant confirmed that it was. Defendant indicated that no one was forcing him or making him any promises to secure his admission. The circuit court also found a sufficient factual basis for the State’s allegations.

¶ 28 The only admonition that the circuit court did not provide at the December 8, 2023, hearing was the range of penalties available for the underlying offenses. See Ill. S. Ct. R. 402A(a)(6) (eff. Nov. 1, 2003). However, the circuit court previously admonished defendant of the range for these offenses at his guilty plea hearing, where it explained that he was extended-term eligible, and could face 6 years in prison for the Class 4 conviction and up to 10 years in prison for the Class 3 convictions. Thus, we find that the circuit court substantially complied with Rule 402A, and there is no meritorious argument to the contrary.

¶ 29

C. Court's Finding of Violation of Order, Sentencing

¶ 30 A trial court has broad discretionary powers in imposing a sentence, and its sentencing decisions are entitled to great deference. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010). A sentence within the statutorily mandated range is presumed to be proper. *People v. Hamilton*, 361 Ill. App. 3d 836, 846 (2005). We review the trial court's sentencing decisions for an abuse of discretion. *Alexander*, 239 Ill. 2d at 212. We will not find that the court abused its discretion unless the sentence is “ ‘greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.’ ” *Id.* (quoting *People v. Stacey*, 193 Ill. 2d 203, 210 (2000)); *People v. Means*, 2017 IL App (1st) 142613, ¶ 14.

¶ 31 We give great deference to the circuit court's judgment regarding sentencing because the circuit court, having observed the defendant and the proceedings, “ ‘has the opportunity to weigh such factors as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age.’ ” *Alexander*, 239 Ill. 2d at 213 (quoting *Stacey*, 193 Ill. 2d at 209). Therefore, we will not substitute our judgment for that of the circuit court merely because we would have weighed these factors differently. *Id.*

¶ 32 Here, defendant pled guilty to five total charges, which included four Class 3 felonies and the Class 4 felony of possession of a controlled substance pursuant to section 402(c) of the Illinois Controlled Substances Act (720 ILCS 570/402(c) (West 2022)). The Class 3 felonies were: possession of a substance containing methamphetamine (720 ILCS 646/60(a)(1) (West 2022)); forgery (720 ILCS 5/17-3(a)(2) (West 2022)); and two charges of aggravated battery (*id.* § 12-3(a)(2)). OSAD argues that all five convictions were extended-term eligible because defendant was convicted of Class 1 vehicular invasion and Class 2 burglary in 2010, resulting in a 10-year sentence. 730 ILCS 5/5-5-3.2(b)(1) (West 2022).

¶ 33 Pursuant to section 5-5-3.2(b)(1) of the Unified Code of Corrections (730 ILCS 5/5-3.2(b)(1) (West 2022)), the court may impose an extended-term sentence “[w]hen a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody.” The 2010 convictions mentioned by OSAD here occurred more than 10 years prior to the convictions in the present matter. However, the record does not show that the circuit court relied on these prior convictions to determine that defendant was extended-term eligible, nor did the circuit court specify whether it was imposing extended-term sentences. Regardless, the circuit court’s sentences were within the statutorily mandated ranges for nonextended-term convictions, and we therefore need not consider whether defendant was extended-term eligible.

¶ 34 The sentence of imprisonment for a nonextended-term Class 3 felony is 2 to 5 years, and 5 to 10 years for an extended term. *Id.* § 5-4.5-40(a). The sentence of imprisonment for a nonextended-term Class 4 felony is one to three years, and three to six years for an extended term. *Id.* § 5-4.5-45(a).

¶ 35 Defendant received sentences of five years for the Class 3 felonies and three years for the Class 4 felony. The sentences were to run concurrently, although OSAD notes that the circuit court had discretion to order the sentences to be served consecutively because defendant committed four of the offenses while on pretrial release. *Id.* § 5-8-4(c)(3). OSAD further recognizes that the circuit court did not specify whether it was imposing extended-term sentences.

¶ 36 However, even if we disregard the question of defendant’s extended-term eligibility, his sentences for both classes of felonies were still within the legal nonextended-term sentencing ranges for the offenses to which he pled guilty. Consequently, we presume the sentencing was

proper, and we defer to the discretion of the circuit court. *Hamilton*, 361 Ill. App. 3d at 846; see also *People v. Varghese*, 391 Ill. App. 3d 866, 876 (2009) (a defendant whose probation is revoked may receive any sentence that could have been imposed for the original offense).

¶ 37 Lastly, the record shows that the circuit court considered several factors in aggravation and mitigation. The circuit court found defendant's employment status, learning disability, health, and statement in allocution to be mitigating factors, while his criminal history, deterrence, and the fact that some of his conduct caused serious harm were factors in aggravation. We afford great deference to the circuit court's weighing of these factors, as the circuit court was able to observe the defendant and the proceedings first-hand. We cannot reweigh these factors to substitute our judgment for that of the circuit court if we would have weighed the factors differently. *Alexander*, 239 Ill. 2d at 213. Thus, we conclude that the circuit court did not abuse its discretion in sentencing defendant, and any argument claiming otherwise would lack merit.

¶ 38 III. CONCLUSION

¶ 39 As this appeal presents no issue of arguable merit, we grant OSAD leave to withdraw and affirm the circuit court's judgment.

¶ 40 Motion granted; judgment affirmed.