2025 IL App (2d)250062-U
No. 2-25-0062
Order filed October 30, 2025

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Kane County.
Plaintiff-Appellee,	)	
v.	)	No. 23-CF-1975
FRANCISCO MORENO HERNANDEZ,	)	Honorable Julia A. Yetter,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE MULLEN delivered the judgment of the court.
Justices Hutchinson and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court's admonitions under Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024) were deficient because they did not inform defendant that if he could not afford an attorney, the court would appoint one to assist him in preparing a postplea motion. Rather, the admonitions stated that if defendant's postplea motion was denied, he had 30 days to file an appeal, and if he could not afford an attorney, the court would appoint one to assist him with "that part of the case," namely, an appeal.

¶ 2 Defendant, Francisco Moreno Hernandez, entered a negotiated plea of guilty to a single count of predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1) (West 2022)) and two counts of aggravated criminal sexual abuse (*id.* § 11-1.60(d)). Per defendant's agreement with

the State, he was sentenced to concurrent 6-year prison terms for the aggravated criminal sexual abuse convictions, to be served consecutively to a 26-year prison term for predatory criminal sexual assault of a child. Defendant filed a notice of appeal but failed to file a motion to withdraw his plea. On appeal, defendant argues that the case must be remanded to the trial court for further proceedings because the court failed to properly advise him of his right to counsel to assist him with postplea motions. We agree and, therefore, remand this case to the trial court for that purpose.

¶ 3 I. BACKGROUND

¶ 4 Defendant was represented by private counsel when he entered his guilty plea. After accepting the plea, the trial court admonished defendant as follows:

> "Now, Mr. Moreno Hernandez, even though you pled guilty here today with an agreement for what the sentences were going to be, you do have a right to appeal what has happened here today if you believe that mistakes were made with how your case was handled in court.
>
> If you were going to do that, the first thing that you would be required to do is within 30 days from today, you would need to file a written motion with the circuit clerk's office asking me to allow you to take back these pleas of guilty and undo these agreed sentences.
>
> If you filed that kind of a motion, you would have to include in your written motion every mistake you're claiming was made, and that's because if you left anything out of your written motion, you would be giving up the right to raise that issue going forward in court.
>
> If you filed that type of a motion, I would hold a hearing. And if at that hearing, I granted your motion, your guilty plea would be taken back, these sentences would be

undone, the charges that were dismissed as part of this agreement would also be brought back into court, and then the case would be set for a trial.

If after hearing your motion I denied your motion, then you would have the right to appeal my denial to a higher court. To do that, you would need to file a notice of appeal with the circuit clerk's office within 30 days of the day that I denied your motion. If you could not afford to pay for things at that time like transcripts of what's happened here in court or to hire an attorney to help you *with that part of the case*, those are things that the [c]ourt would provide to you for no charge." (Emphases added.)

¶ 5 Defendant was allowed to file a late notice of appeal. As noted, he did not file a motion to withdraw his guilty plea.

¶ 6 II. ANALYSIS

¶ 7 Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024) provides in pertinent part:

"No appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant, within 30 days of the imposition of sentence, files a motion to withdraw the plea of guilty and vacate the judgment. For purposes of this rule, a negotiated plea of guilty 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."

"Generally, when a defendant fails to file a timely motion to withdraw his guilty plea under Rule 604(d), the appellate court must dismiss the appeal." *People v. Hayes*, 2022 IL App (2d) 210014, ¶ 34.

¶ 8 To guard against the inadvertent loss of the right to appeal from a judgment entered on a guilty plea, Illinois Supreme Court Rule 605(c) (eff. Apr. 15, 2024) provides in pertinent part:

> "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;
>
> (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." Ill. S. Ct. R. 605(c) (eff. Apr. 15, 2024).

¶ 9 Unless the trial court has "strictly complied" with Rule 605(c)'s admonishment requirements, a defendant's failure to comply with Rule 604(d)'s motion requirement will not result in the irretrievable loss of the right to appeal; instead, the appellate court will remand the

case to the trial court for proper admonishments. *People v. Dominguez*, 2012 IL 111336, ¶ 11. This well-recognized principle is known as the "admonition exception." *People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 41 (2011). However, the strict-compliance standard does not require the court to advise the defendant using Rule 605(c)'s exact language. By its own terms, Rule 605(c) "requires only that a defendant be 'substantially' advised of the actual content of [the rule]." *Dominguez*, 2012 IL 111336, ¶ 11. A court complies with Rule 605(c) when it advises the defendant in language that "impart[s] *** largely that which is specified in the rule, or the rule's 'essence,' as opposed to 'wholly' what is specified in the rule." *Id.* ¶ 19. We review *de novo* the sufficiency of admonitions under Rule 605(c). *Id.* ¶ 13.

¶ 10 Defendant argues that the trial court did not substantially comply with Rule 605(c). According to defendant, the admonitions were deficient because the court did not advise him that if he was indigent, counsel would be appointed to assist him with the preparation of a postplea motion. According to defendant, the court mentioned the right to counsel only in connection with its discussion of defendant's right to appeal if the court denied the postplea motion. Specifically, the court stated that if the postplea motion was denied and defendant could not afford to hire an attorney, counsel would be appointed to help him "with that part of the case." As discussed below, in our recent decision in *People v. Cone*, 2025 IL App (2d) 240474, we considered a similar challenge to Rule 605(c) admonitions.

¶ 11 Before addressing defendant's arguments, however, we briefly address the State's contentions that we lack jurisdiction to hear this appeal and that defendant's guilty plea waived any nonjurisdictional error. The first contention stems from the general rule that a defendant's failure to file a postplea motion ordinarily requires dismissal of an appeal from a judgment entered on a guilty plea. See *Hayes*, 2022 IL App (2d) 210014, ¶ 34. However, the State overlooks that

courts have long held that the failure to file a postplea motion does not deprive the appellate court of the jurisdiction acquired when the defendant files a timely notice of appeal. We addressed this issue in *Cone*:

> " 'A Rule 604(d) motion is not jurisdictional in the same sense as a notice of appeal is essential to vest the appellate court with jurisdiction over a civil appeal. Jurisdiction has been defined as a court's authority to "take cognizance of and decide cases" [citation] and "exercise its power with respect to a particular matter" [citation]. Notwithstanding its jurisdiction, an appellate court may find an issue is waived for a variety of reasons. [Citations.] The underlying purpose of waiver is to preserve finite judicial resources by creating an incentive for litigants to bring to trial courts' attention alleged errors, thereby giving trial courts an opportunity to correct their mistakes. [Citation.] As such, the doctrine of waiver is an admonition to the parties, not a limitation on the appellate court's jurisdiction.' " *Cone*, 2025 IL App (2d) 240474, ¶ 9 (quoting *People v. McKay*, 282 Ill. App. 3d 108, 111 (1996)).

As we noted in *Cone* (*id.* ¶ 10), in *In re William M.*, 206 Ill. 2d 595, 601 (2003), our supreme court rejected the argument that filing a postplea motion is necessary to vest an appellate court with jurisdiction. Indeed, if the State were correct that the absence of a postplea motion requires dismissal for lack of jurisdiction, there would be no "admonition exception," which requires a remand *despite the absence of a postplea motion* where insufficient admonitions were given under Rule 605(c). See *Cone*, 2025 IL App (2d) 240474, ¶ 10.

¶ 12 The State fares no better with its argument that defendant's guilty plea precludes review of the adequacy of the trial court's Rule 605(c) admonitions. Again, we rejected the same argument in *Cone*. *Id.* ¶ 11. Although Illinois case law is replete with statements to the effect that "a

voluntary guilty plea waives all non-jurisdictional errors or irregularities" (*People v. Townsell*, 209 Ill. 2d 543, 545 (2004)), which is true in most contexts, it is more accurate to say that the plea waives only "any *prior* defect other than those of a jurisdictional nature" (emphasis added) (*People v. Stanley*, 50 Ill. 2d 320, 322 (1972)). See also *People v. Elam*, 39 Ill. App. 3d 705, 708 (1976) ("When a plea of guilty is voluntarily made, it admits every material fact alleged in the indictment and all the elements of the crime with which an accused is legally charged and it waives *prior* non-jurisdictional defects." (Emphasis added.)); *People v. Bassett*, 25 Ill. App. 3d 927, 931 (1975) ("[W]e note that the defendants entered a voluntary plea of guilty which, in Illinois, waives any non-jurisdictional defects in the *prior proceedings* against the defendants." (Emphases added.)) It would be incongruous to hold, as the State suggests, that the decision to plead guilty waives the procedural protections that are triggered precisely because the defendant has decided to forego a trial.

¶ 13 Turning to the merits, defendant argues, as noted, that the Rule 605(c) admonitions given here were inadequate because the trial court did not advise him of his right to counsel to assist with postplea motions (as opposed to the right to counsel on appeal). The State responds that, under *Dominguez*, the admonitions here were sufficient. In our view, *Dominguez* is distinguishable.

¶ 14 In *Dominguez*, the defendant pleaded guilty to a single count of predatory criminal sexual assault of a child and was sentenced to a 16-year prison term. *Dominguez*, 2012 IL 111336, ¶¶ 1, 5. After pronouncing the defendant's sentence, the trial court admonished him as follows:

> " 'Sir, even though you have pled guilty and been found guilty, you have certain rights. Those rights include your right to return to the courtroom within 30 days to file motions to vacate your plea of guilty and/or reconsider your sentence. The motions must be in writing and contain all the reasons to support them. Any reasons not contained therein will not be

> preserved for purposes of appeal. Should your motion to vacate your plea of guilty be granted, your plea of guilty and the judgment I have entered thereon will be vacated, meaning erased. Your case will be set back down on the trial calendar for further proceedings. Should your motion to reconsider sentence be granted, you will be resentenced. In the event the motions are denied, you have 30 days from denial to return to file a notice of appeal the Court's ruling. If you wish to do so and could not afford an attorney, we will give you an attorney free of charge, along with the transcripts necessary for those purposes.' " *Id.* ¶ 5.

¶ 15 Beyond the oral admonitions, the defendant had signed a written acknowledgment of his right to appeal, which recited the language of Rule 605(c) almost verbatim. *Id.* ¶¶ 5-6. The defendant argued that the oral admonitions were insufficient because they suggested that he would be entitled to counsel only if his Rule 604(d) motion was denied. *Id.* ¶ 47. The *Dominguez* court held that the oral admonitions were adequate under Rule 605(c) even though they "did not explicitly inform [the] defendant that he was entitled to have an attorney appointed to help him prepare the postplea motions." *Id.* ¶ 51. In reaching this conclusion, the court relied on *In re J.T.*, 221 Ill. 2d 338 (2006), and *People v. Dunn*, 342 Ill. App. 3d 872 (2003). *Dominguez*, 2012 IL 111336, ¶¶ 48-51.

¶ 16 Based on *J.T.* and *Dunn*, and the *Dominguez* court's comments on those authorities, we hold that this case is distinguishable from *Dominguez* because, while it is unnecessary for Rule 605(c) admonitions to expressly state that counsel will be available to assist the defendant in the preparation of postplea motions, Rule 605(c) admonitions are inadequate if they convey, as did the admonitions here, that counsel will be available *only* to assist *in an appeal* from the denial of a postplea motion. *Cone*, 2025 IL App (2d) 240474, ¶¶ 3, 24 (where only reference to counsel in

Rule 605(c) admonition was, "If you cannot afford an attorney on appeal, one would be provided for you," the defendant had "no reason to believe [he] had any right to counsel to assist [him] with postplea motions—for this particular right, the[] admonitions were worthless.")

¶ 17 In *Dunn*, the trial court admonished the defendant in relevant part:

> " 'Sir, you have a right to appeal. Prior to doing that, you have to file a motion to withdraw your plea of guilty within 30 days in writing setting forth all the reasons why you want me to allow you to withdraw your plea of guilty. Any reasons not set forth in your motion will be waived for purposes of appeal. If you couldn't afford an attorney or a copy of the transcript, those will be provided for you free of charge. If I allow you to withdraw your plea of guilty, all charges will be reinstated.' " *Dunn*, 342 Ill. App. 3d at 876.

The defendant argued that the trial court "failed to admonish him that appointed counsel could help him draft postplea motions." *Id.* at 882. The *Dunn* court disagreed: "[The] admonitions reflect that a court-appointed attorney would be available for [the] defendant. The language used by the trial court was not the exact language employed by the rule; however, the trial court's admonitions did convey the substance of the rule." *Id.* Thus, the court found compliance with Rule 605(c) even though the defendant was not explicitly told that appointed counsel would assist with the defendant's postplea motion.

¶ 18 *J.T.* came before our supreme court in a significantly different procedural posture than *Dominguez*. In *J.T.*, the question of compliance with Rule 605(c) arose in connection with a juvenile's appeal from an order revoking his probation, to which he had been sentenced after he admitted to the allegations of a wardship petition and was found delinquent. *J.T.*, 221 Ill. 2d at 342, 344. The juvenile argued that, when the trial court sentenced him to probation, it failed to admonish him properly under Rule 605(c). *Id.* at 344. Because the juvenile had not raised the

admonishment error in an appeal from the delinquency finding, the *J.T.* court concluded that the juvenile's only avenue for relief was through the supreme court's supervisory authority, which the court normally exercises only when "the normal appellate process will not afford adequate relief and the dispute involves a matter important to the administration of justice." *Id.* at 347. The court will exercise its supervisory authority when a party "[is] prejudiced or denied real justice and therefore *** 'fundamental fairness' requires the court to grant supervisory relief." *Id.* at 347.

¶ 19 In *J.T.*, the only reference to the right to counsel in the Rule 605(c) admonitions was: " '[I]f you go up on appeal and you are unable to hire an attorney to represent you, the Court will appoint an attorney for you free of charge.' " *Id.* at 343. In declining to exercise its supervisory authority, the court did not specifically address the question of whether that language was sufficient to inform the juvenile of the right to counsel in connection with postplea motions, as Rule 605(c) specifically requires. Rather, the court simply noted that "[w]hile these admonitions did not strictly comply with Rule 605(c), they were sufficient to put [the juvenile] on notice that he could challenge his guilty plea, and that some action on his part within 30 days was necessary if he wished to appeal." *Id.* at 347-48.

¶ 20 The dispositive issue in *J.T.* was whether the Rule 605(c) admonishments *as a whole* were so deficient that fundamental fairness required exercise of the supreme court's supervisory authority. In our view, *J.T.* cannot be read to hold that the *individual* admonition about the right to counsel was adequate and would have been upheld had the case come on appeal from the juvenile's sentencing.

¶ 21 We do not read *Dominguez* to interpret *J.T.* differently. To be sure, although the *J.T.* court did not address specifically whether the juvenile had been adequately advised of the right to

counsel to assist with postplea motions, the *Dominguez* court adverted to the facts of *J.T.* in deciding the adequacy of the Rule 605(c) admonitions in *Dominguez*:

> "Here, as in *J.T.* and *Dunn*, the trial court arguably did not explicitly inform [the] defendant that he was entitled to have an attorney appointed to help him prepare the postplea motions. However, as in both those cases, the admonitions reflect that a court-appointed attorney would be available for [the] defendant. Thus, like in those cases, the trial court's admonitions did convey the substance of the rule to [the] defendant and complied with Rule 605(c). ***." *Dominguez*, 2012 IL 111336, ¶ 51.

¶ 22 The *Dominguez* court fully recognized that *J.T.* arose in a different procedural posture—one in which the juvenile had a much higher bar to clear for relief. *Id.* ¶ 43 n.5. The *Dominguez* court reasoned that, nonetheless,

> "[the *J.T.* court's] finding that the 'admonitions did not strictly comply with Rule 605(c)' but 'were sufficient to put [the juvenile] on notice that he could challenge his guilty plea and that some action on his part within 30 days was necessary if he wished to appeal' is informative of what the standard should be for determining whether a circuit court has properly admonished a guilty plea defendant under Rule 605(b) or (c) so as not to violate due process. *This applies to the substantive analysis of whether Rule 605(c) admonitions were adequate, separate and apart from the prejudice and 'fundamental fairness' issues at play in J.T. due to the request for a supervisory order*." (Emphases added.) *Id.* (quoting *J.T.*, 221 Ill. 2d at 347-48).

Although the *Dominguez* court believed that *J.T.*'s comments were pertinent to the requirements for Rule 605(c) compliance, the court recognized that *J.T.* held merely that the admonitions in that case " 'were sufficient to put [the juvenile] on notice that he could challenge his guilty plea and

that some action on his part within 30 days was necessary if he wished to appeal.' " *Id.* (quoting *J.T.*, 221 Ill. 2d at 347-48). That is, the *Dominguez* court recognized that *J.T.* did not address specifically whether the juvenile had been adequately advised of the right to counsel to assist with postplea motions. Thus, we cannot read *Dominguez* to hold that the right-to-counsel admonition given in *J.T.* would have passed muster had the issue of Rule 605(c) compliance been properly presented in an appeal from the juvenile's sentencing.

¶ 23 Under *Dominguez*, Rule 605(c) admonitions need not "explicitly inform [the] defendant that he [is] entitled to have an attorney appointed to help him prepare *** postplea motions." *Id.* ¶ 51. Rather, the admonitions need only "reflect that a court-appointed attorney [will] be available for [the] defendant." *Id.* We take these statements to mean that a general admonition that an attorney will be available to assist the defendant (like the admonition in *Dunn*) is adequate, but an admonition that ties the right exclusively to the appellate process is not.

¶ 24 The foregoing encapsulates how we interpreted *Dominguez* in *Cone*. See *Cone*, 2025 IL App (2d) 240474, ¶¶ 13-19, 24. Also, we noted in *Cone* that *Dominguez* was similarly interpreted in *People v. Blackmon*, 2024 IL App (1st) 220586, which the defense cited in *Cone* and here. See *Cone*, 2025 IL App (2d) 240474, ¶¶ 21-22. In *Blackmon*, the defendant entered a negotiated guilty plea. After imposing the defendant's sentence, the trial court admonished him as follows:

> " '[E]ven though you plead guilty here today, you do have the right to appeal if within 30 days of today's date you file a written motion with the Clerk of the Circuit Court to withdraw your plea.
>
> If I grant your motion, I will set your matters down for trial in [*sic*] the cases that were dismissed or modified pursuant to the agreement would be reinstated if the State requested that I do so.

> If I deny your motion, you will have 30 days from the date of that denial to file a written notice of appeal.
>
> If you are indigent and cannot afford an attorney or transcript, both will be provided to you at no cost to help with the appeal process; do you understand?' " *Blackmon*, 2024 IL App (1st) 220586, ¶ 4.

¶ 25 As in this case, the defendant in *Blackmon* appealed without having filed the requisite postplea motion but argued that, because the trial court failed to admonish him that he had the right to counsel to help him prepare a postplea motion, the appeal was not subject to dismissal. *Id.* ¶¶ 4, 9. A divided panel remanded the case to the trial court to afford the defendant an opportunity, after proper admonitions, to move to withdraw his guilty plea. *Id.* ¶ 14. The court reasoned:

> "Both this court and the Fourth District have held that Rule 605(c) admonishments are insufficient if they suggest that a defendant will be appointed counsel only when his case reaches the appellate court. In *People v. Zavala*, 2021 IL App (1st) 182701-U, ¶¶ 13, 18, another panel of this court found that the trial court did not substantially comply with Rule 605(c) because it told the defendant that he 'had the right to appointed counsel to help him "exercise his right to appeal." ' Telling the defendant that counsel would be appointed 'on appeal did not necessarily mean to him that counsel could help him file the appropriate postplea motions in the trial court.' [Citation.] Similarly, in *People v. Murphy*, 2021 IL App (4th) 200523-U, ¶ 16, the Fourth District held that advising the defendant that he would be appointed counsel if he appealed after the denial of a postplea motion 'did not impart to [the] defendant the "essence" of Rule 605(c)(5)—that he was also entitled to appointed counsel during postplea proceedings.' We find the reasoning of these decisions persuasive." *Blackmon*, 2024 IL App (1st) 220586, ¶ 10.

¶ 26 Distinguishing *Dominguez*, the *Blackmon* court reasoned as follows:

> "In *Dominguez*, the defendant was provided with a written copy of the Rule 605(c) admonishments 'almost verbatim,' which he signed. [Citation.] There is no indication that occurred in this case. Furthermore, in *Dominguez*, the trial court's oral admonishments mentioned filing a motion to vacate the guilty plea and/or to reconsider the sentence five times before the trial court concluded by telling [the] defendant that if such a motion was denied, then [the] defendant could appeal, and that, ' "we will give you an attorney free of charge, along with the transcripts necessary *for those purposes*." ' (Emphasis added.) [Citation.] Read as a whole, the trial court's admonishments emphasized the importance of filing a motion to vacate the guilty plea and encompassed that step in the 'purposes' for which counsel would be appointed. The trial court in *Dominguez* did not connect the appointment of counsel to 'the appeals ([*sic*]) process.' By contrast, in this case, the trial court's admonishments did connect the appointment of counsel with 'the appeals ([*sic*]) process' specifically and exclusively." *Id.* ¶ 11.

¶ 27 Justice Reyes dissented, finding "no appreciable differences between the oral admonishments provided in this case and those found sufficient in *Dominguez*." *Id.* ¶ 24 (Reyes, J., dissenting). According to Justice Reyes:

> "Nothing in *Dominguez* suggests that, in order to comply with Rule 605(c), the trial court must make an explicit statement that counsel could be appointed to assist specifically with postplea motions. Indeed, the supreme court upheld the admonishment in that case while expressly noting that the trial court's admonishment arguably did *not* contain such an explicit statement." (Emphasis in original.) *Id.*

Justice Reyes disagreed with the majority that the trial court's reference to the " 'appeals ([*sic*]) process' " "indicated that counsel would be appointed only if [the] defendant filed an appeal." *Id.* ¶ 27. Justice Reyes noted that, "in both *Dominguez* and *J.T.*, our supreme court found admonishments sufficient even where they *arguably* made similar references." (Emphasis added.) *Id.*

¶ 28 The admonitions in this case suffer from the same infirmity as those in *Blackmon*. The admonitions stated in relevant part:

> " 'If after hearing your motion I denied your motion, then you would have the right to appeal my denial to a higher court. To do that, you would need to file a notice of appeal with the circuit clerk's office within 30 days of the day that I denied your motion. If you could not afford to pay for things at that time[,] like transcripts of what's happened here in *court or to hire an attorney to help you with that part of the case*, those are things that the [c]ourt would provide to you for no charge.' " (Emphases added.)

We fail to see how defendant could have understood "that part of the case" to mean anything other than the appeal. Thus, as in *Blackmon* (and unlike in *Dominguez*), this language specifically and exclusively connects the appointment of counsel to the appeals process.

¶ 29 The State contends that the dissent in *Blackmon* is better reasoned than the majority opinion. We disagree, as we did in *Cone*, 2025 IL App (2d) 240474, ¶ 24. Justice Reyes saw no meaningful difference between (1) the vague admonitions in *Dominguez*—which could conceivably be understood to mean that the defendant was entitled to counsel to assist with postplea motions—and (2) admonitions like those in *Blackmon*, *Cone*, and this case, which simply cannot be understood that way. Justice Reyes also mentioned the admonition in *J.T.*, which, indeed, was similar to those in *Blackmon* and this case. As noted, however, *J.T.* never addressed

the question presented in *Blackmon* and this case. The dispositive issue in *J.T.* was whether the admonishments, viewed as a whole, were so deficient as to warrant the exercise of our supreme court's supervisory authority. Thus, *Dominguez*'s reliance on J.T. as an "informative" decision does not indicate to us that the holding would have been the same had the issue been focused solely on the admonitions.

¶ 30 The State stresses that private counsel represented defendant. However, "[n]othing in Rule 605(c) suggests that the sufficiency of admonitions depends on whether the defendant was represented by retained counsel or appointed counsel when entering a plea. Furthermore, the State offers no explanation why the distinction is legally significant." *Cone*, 2025 IL App (2d) 240474, ¶ 27.

¶ 31 Arguably, a further ground for distinguishing *Dominguez* from this case is the fact that the defendant in *Dominguez* signed a written acknowledgment of his appeal rights, which recited the language of Rule 605(c) nearly verbatim. *Dominguez*, 2012 IL 111336, ¶¶ 5-6. The *Dominguez* court observed that such admonitions "can serve to supplement or complement the oral admonishments required under the rule" and "may inform the court's analysis of whether a defendant has been substantially advised under [the rule]." *Id.* ¶ 27. "[W]ritten admonishments, while not acceptable as a total substitute for required oral admonishments, can be of value where incomplete oral admonishments may have been given." *Id.* ¶ 30. Significantly, there were no such written admonishments here. See *Cone*, 2025 IL App (2d) 240474, ¶ 26 (distinguishing *Dominguez* based on the lack of written admonitions under Rule 605(c)); *Blackmon*, 2024 IL App (1st) 220586, ¶ 11 (same). But see *Blackmon*, 2024 IL App (1st) 220586, ¶ 25 (Reyes, J., dissenting) ("The supreme court's finding of substantial compliance [in *Dominguez*] was *** reached before its consideration of the written admonishment, which merely strengthened its conclusion.").

¶ 32 The State argues that this case is governed by our unpublished order in *People v. Aguirre* 2022 IL App (2d) 200598-U, ¶ 22, in which we held that the trial court's Rule 605(c) admonitions were adequate. According to the State, the trial court in *Aguirre* "admonished the defendant using the same essential language as the trial court did in this case." We disagree. In *Aguirre*, the trial court admonished the defendant as follows:

> " 'Sir, although you pled guilty, you still have a right to appeal my sentence. If you decide to do that, you have to file a motion to withdraw your plea in writing in 30 days in the clerk [*sic*].
>
> In the motion, you have to set forth all the grounds, the legal grounds that you feel are appropriate. Anything not in the motion is deemed waived on appeal. I would then have a hearing. And if I granted your request, all of the charges would be reinstated and set for trial.
>
> If I denied it, you would have 30 days to file what is called a notice of appeal. If you could not afford an attorney, one would be appointed and I would get you a free transcript of everything that you did here.' " *Id.* ¶ 6.

In contrast to the admonitions here and in *Cone* and *Blackmon*, the trial court in *Aguirre* did not specifically and exclusively link the appointment of counsel to the appeal process. *Cone*, 2025 IL App (2d) 240474, ¶ 29. Accordingly, like *Dominguez*, *Aguirre* is distinguishable.

¶ 33 Finally, the State argues that even if the trial court did not sufficiently comply with Rule 605(c), defendant suffered no prejudice and therefore is entitled to no relief. In support of this argument, the State cites *People v. Thompson*, 375 Ill. App. 3d 488 (2007), and *People v. Foerster*, 359 Ill. App. 3d 198 (2005). The State's reliance on these cases is misplaced.

¶ 34 As we explained in *Cone*:

[*Thompson*] dealt with compliance with Illinois Supreme Court Rule 402 (eff. July 1, 2012), which provides admonitions that must be given before a defendant enters a guilty plea. [Citation.] *Thompson* noted that 'whether an imperfect admonishment requires reversal depends on whether real justice has been denied or whether the inadequate admonishment prejudiced the defendant.' [Citation.] In contrast, where defective Rule 605(c) admonitions are given, the defendant is entitled to a remand without showing prejudice. [Citation.]" *Cone*, 2025 IL App (2d) 240474, ¶ 30.

¶ 35 In *Foerster*, the defendant was found guilty at a bench trial. *Foerster*, 359 Ill. App. 3d at 199. The trial court failed to admonish him per Illinois Supreme Court Rule 605(a) (eff. Oct. 1, 2001) that any claims of error in sentencing not raised in a motion to reconsider his sentence would be waived on appeal. *Foerster*, 359 Ill. App. 3d at 201. However, waived sentencing errors are potentially reviewable under the plain-error rule. *Id.* Additionally, "incomplete admonishments regarding the preservation of sentencing issues under Rule 605(a) does [*sic*] not prejudice a defendant where he does not challenge his sentence on appeal." *Id.* at 202. Our supreme court has specifically distinguished defective admonitions under Rule 605(a) from those under Rule 605(c), explaining that a showing of prejudice is required only in the former case. See *Dominguez*, 2012 IL 111336, ¶ 21 n.4.

¶ 36 III. CONCLUSION

¶ 37 For the reasons stated, we remand to the trial court for defendant to receive proper admonitions under Rule 605(c) and for such further proceedings as may be necessary under Rule 604(d).

¶ 38 Remanded with directions.