

indictment, with criminal drug conspiracy (720 ILCS 570/401(a)(2)(A), 405.1(a) (West 2006)), a Class X felony. In December 2007, a grand jury returned five more indictments against defendant, including two counts of unlawful possession of a controlled substance with intent to deliver (720 ILCS 570/401(a)(2)(B) (West 2006)), both Class X felonies; one count of unlawful possession of a controlled substance (720 ILCS 570/402(a)(2)(A) (West 2006)), a Class 1 felony; one count of unlawful possession of cannabis with intent to deliver (720 ILCS 550/5(e) (West 2006)), a Class 2 felony; and one count of unlawful possession of cannabis (720 ILCS 550/4(e) (West 2006)), a Class 3 felony. In May 2008, defendant pleaded guilty to criminal drug conspiracy and one count of unlawful possession of a controlled substance with intent to deliver in exchange for concurrent 24-year sentences on each count. The other four charges were dismissed as part of the plea agreement.

¶ 5 At the plea hearing, the trial court recited the terms of the plea, including the sentence and fines agreed to by the parties. The trial court then admonished defendant, in part, as follows:

"Any sentence to the Illinois Department of Corrections, including this 24-year sentence, will be followed by a three-year period of mandatory supervised release, formerly known as parole."

Following admonishment and the State's assertion of the factual basis, defendant persisted in his guilty plea. The court accepted defendant's plea and sentenced him to concurrent 24-year prison sentences with credit for 186 days' time served, three years of MSR on each count, and a \$23,200 fine with credit for \$930 against time served. The sentencing orders reflect these terms, including the three-year MSR terms.

¶ 6 In October 2009, defendant filed a *pro se* motion for postconviction relief claiming the trial court's failure to admonish him regarding a three-year MSR term resulted in a violation of his constitutional and due-process rights and arguing the court must amend his sentence pursuant to *Whitfield*, 217 Ill. 2d at 201-03, 840 N.E.2d at 673-74. In January 2010, the court issued a written order denying defendant's petition and appointed OSAD to represent defendant on his appeal.

¶ 7 In January 2011, OSAD moved to withdraw, including in its motion a brief in conformity with the requirements of *Pennsylvania v. Finley*, 481 U.S. 551 (1987). The record shows service of the motion on defendant, who is currently in prison. On its own motion, this court granted defendant leave to file additional points and authorities by February 18, 2011. Defendant filed additional points and authorities in February 2011, and filed supplemental additional points and authorities in March 2011. The State has responded. After examining the record and executing our duties in accordance with *Finley*, we grant OSAD's motion and affirm the trial court's judgment.

¶ 8 II. ANALYSIS

¶ 9 OSAD argues this appeal presents no meritorious claim upon which defendant could realistically expect to obtain relief. We agree with OSAD.

¶ 10 All of defendant's claims allege the trial court either failed to admonish him regarding MSR or improperly admonished him regarding MSR. As a result of the court's alleged errors, defendant argues his constitutional rights were violated and he was denied the benefit of his plea bargain because he was unaware the 24-year prison sentence he received would be followed by a three-year MSR term. This claim is belied by the record.

¶ 11 At a plea hearing, the trial court is required to admonish the defendant regarding, among other things, "the minimum and maximum sentence prescribed by law, including, when applicable, the penalty to which the defendant may be subjected because of prior convictions or consecutive sentences." Ill. S. Ct. R. 402(a)(2) (eff. July 1, 1997). In addition, "compliance with Rule 402(a)(2) requires that a defendant be admonished that the mandatory period of parole [now called mandatory supervised release] pertaining to the offense is a part of the sentence that will be imposed." (Alteration in original.) (Internal quotation marks omitted.) *Whitfield*, 217 Ill. 2d at 188, 840 N.E.2d at 665.

¶ 12 In *Whitfield*, 217 Ill. 2d at 201, 840 N.E.2d at 673, the supreme court held the trial court's failure to admonish the defendant regarding an MSR term attaching to his guilty plea, under the particular circumstances of the case, resulted in a violation of the defendant's constitutional rights. However, as this court recently clarified, "as long as the trial court informs a defendant at the time of his guilty plea that an MSR term must follow any prison sentence that is imposed upon him, he has received all the notice and all the due process to which he is entitled regarding MSR." *People v. Andrews*, 403 Ill. App. 3d 654, 665, 936 N.E.2d 648, 657 (2010).

¶ 13 In this case, the trial court directly admonished defendant he would be required to serve a three-year MSR term on each count, in addition to his prison sentence, pursuant to his plea agreement. The court's admonishment was sufficient as "an ordinary person in the circumstances of the accused would understand it to convey the required warning." (Internal quotation marks omitted.) *People v. Morris*, 236 Ill. 2d 345, 366, 925 N.E.2d 1069, 1082 (2010). The record does not support the gist of a claim under *Whitfield*; the court was not required to admonish defendant of all possible lengths of MSR, but only of the applicable MSR term, which

it did; and no due-process argument lies in enforcement of the plea agreement where defendant was admonished as required. Because defendant was properly admonished regarding the applicable MSR terms which would follow his prison sentences, none of the claims in his petition for postconviction relief present a meritorious issue on appeal.

¶ 14

III. CONCLUSION

¶ 15 For the reasons stated, we grant OSAD's motion to withdraw and affirm the trial court's judgment. As part of our judgment, we award the State its \$50 statutory assessment against defendant as costs of this appeal.

¶ 16

Affirmed.