



order under Supreme Court Rule 23).

¶ 5 In March 2010, defendant *pro se* filed a petition under the Post-Conviction Hearing Act (725 ILCS 5/122-1 through 122-8 (West 2004)), alleging the following: (1) his trial counsel was ineffective for his failure to (a) appear at a pretrial hearing and sending substitute counsel in his absence, (b) subpoena certain witnesses to testify in his defense; (c) file a motion to suppress certain evidence, and (d) raise the issue of his trial counsel's ineffectiveness on direct appeal; (2) substitute counsel was ineffective for agreeing to a continuance of a pretrial hearing; (3) his constitutional right to be defended by a privately retained attorney of his own choosing was violated by his counsel sending substitute counsel to the pretrial hearing; and (4) his speedy-trial right was violated.

¶ 6 In April 2010, James C. Dedman entered his appearance as defendant's attorney in the postconviction proceedings. Pursuant to an April 2010 docket entry, counsel was granted additional time (until May 30, 2010) to file an amended postconviction petition. Further, the State was given until July 15, 2010, to file a responsive pleading.

¶ 7 On July 15, 2010, the State filed an answer to defendant's *pro se* postconviction petition. (From a review of the record, it appears defendant's postconviction attorney did not file an amended postconviction petition.) Thereafter, the trial court dismissed defendant's *pro se* postconviction petition, finding that defendant failed to make a substantial showing of a violation of his constitutional rights.

¶ 8 In September 2010, defendant *pro se* filed a notice of appeal, and the trial court appointed OSAD to represent him.

¶ 9

## II. ANALYSIS

¶ 10 OSAD has filed a motion for summary remand for further proceedings in accordance with Illinois Supreme Court Rule 651(c) (eff. Dec. 1, 1984). The State concedes this cause should be remanded for compliance with Rule 651(c), and we accept the State's concession.

¶ 11 Illinois Supreme Court Rule 651(c) (eff. Dec. 1, 1984) states, in pertinent part, as follows:

"The record filed in [the appellate] court shall contain a showing, which may be made by the certificate of petitioner's attorney, that [1] the attorney has consulted with petitioner either by mail or in person to ascertain his contentions of deprivation of constitutional right, [2] has examined the record of the proceedings at the trial, and [3] has made any amendments to the petitions filed *pro se* that are necessary for an adequate presentation of petitioner's contentions."

Counsel may file a certificate to show that the Rule 651(c) requirements have been met, or the record as a whole may demonstrate that counsel has complied with the rule's provisions. *People v. Richmond*, 188 Ill. 2d 376, 380, 721 N.E.2d 534, 536-37 (1999). Further, Rule 651(c) is applicable to defendants who file *pro se* postconviction petitions but are later represented by retained counsel in the postconviction proceedings. *Richmond*, 188 Ill. 2d at 381, 721 N.E.2d at 537.

¶ 12 In the present case, the record does not (1) contain an amended postconviction

petition filed by defendant's postconviction counsel, (2) contain a certificate filed in accordance with Rule 651(c), and (3) indicate whether defendant's postconviction counsel complied with the requirements of Rule 651(c). Therefore, we agree with OSAD that this case should be remanded to the trial court for further proceedings consistent with Rule 651(c).

¶ 13

### III. CONCLUSION

¶ 14 Accordingly, we remand to the trial court with directions to hold further proceedings consistent with Illinois Supreme Court Rule 651(c) (eff. Dec. 1, 1984).

¶ 15 Remanded with directions.