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2013 IL App (3d) 100191-U

Order filed January 7, 2013

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

A.D., 2013

PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit,
Plaintiff-Appellee,)	Peoria County, Illinois,
)	
v.)	Appeal Nos. 3-10-0191, 3-10-0192
)	Circuit Nos. 08-CF-256, 08-CF-187
)	
MONTERIUS HINKLE,)	
)	Honorable
Defendant-Appellant.)	Michael Brandt,
)	Judge, Presiding.

PRESIDING JUSTICE WRIGHT delivered the judgment of the court.
Justices Carter and O'Brien concurred in the judgment.

ORDER

1. *Held:* Where the record unequivocally establishes defendant advised the court he had not been coerced before the court accepted his guilty pleas, the trial court properly denied defendant's motion to withdraw his guilty pleas. Defendant also received effective assistance of counsel and counsel complied with Rule 604(d). Defendant has not demonstrated prejudice arose from the court's incomplete admonishment that the period of MSR would be three years, when in fact the sentence imposed by the court was a finite term of three years MSR.
2. The State charged defendant, Monterius Hinkle, with one count of predatory criminal

sexual assault of a child (720 ILCS 5/12-14.1(a)(1) (West 2006)) in 08-CF-187, and one count each of aggravated criminal sexual assault, criminal sexual assault, and aggravated criminal sexual abuse (720 ILCS 5/12-14(a)(1); 5/12-13(a)(1); and 5/12-16(d) (West 2006)) in 08-CF-256. In 08-CF-187, defendant pled guilty to predatory criminal sexual assault and the trial court sentenced defendant to serve 30 years of incarceration, followed by three years of mandatory supervised release (MSR). In 08-CF-256, defendant pled guilty to criminal sexual assault, and was sentenced to 15 years of incarceration, followed by a two-year term of MSR.

3. On appeal, defendant argues he was denied due process because his guilty pleas were coerced by the extensive publicity surrounding his case, and his counsel's presentation of that claim in his motion to withdraw guilty pleas was ineffective. Defendant further argues his guilty pleas were not knowingly made because he was not informed he would be subject to an MSR period of three years to natural life. We affirm.

4. **FACTS**

5. On February 5, 2008, defendant was indicted by a grand jury for aggravated criminal sexual assault (720 ILCS 5/12-14(a)(2) (West 2006)), criminal sexual assault (720 ILCS 5/12-13(a)(1) (West 2006)), and unlawful restraint (720 ILCS 5/10-3 (West 2006)) in Peoria County Case No. 08-CF-62. On February 19, 2008, a grand jury indicted defendant for predatory criminal sexual assault of a child (720 ILCS 5/12-14.1(a)(1) (West 2006)) in Peoria County Case No. 08-CF-187. On March 4, 2008, a grand jury indicted defendant for aggravated criminal sexual assault (720 ILCS 5/12-14(a)(1) (West 2006)), criminal sexual assault (720 ILCS 5/12-13(a)(1) (West 2006)), and aggravated criminal sexual abuse (720 ILCS 5/12-16(d) (West 2006)) in Peoria County Case No. 08-CF-256. Public defender Kevin Lowe represented defendant in all

three cases.

6. After a number of continuances, defendant filed a “Motion to Change Place of Trial” (motion for change of venue) on August 22, 2008, pursuant to section 114-6 of the Code of Criminal Procedure of 1963 (725 ILCS 5/114-6 (West 2006)), in case No. 08-CF-62. The motion included attached exhibits containing public commentary published by the media in response to online articles reporting the details surrounding the alleged sexual assaults, defendant's arrest, and pretrial proceedings. In addition, the attached articles focused on the November 2008 Peoria County State’s Attorney election. Specifically, the incumbent State’s Attorney accused his opponent, in the media, for interfering with the criminal investigations against defendant by visiting the home of one of defendant’s alleged sexual assault victims.

7. Thereafter, with leave of court, defendant filed his first and second supplemental affidavits on August 27, 2008, and September 24, 2008, respectively, which included additional media exhibits documenting the ongoing media attention surrounding defendant's pending charges. On September 24, 2008, the State filed its response to defendant’s motion for change of venue, together with an attached affidavit prepared by the Jury Manager for Peoria County stating that 101,055 potential jurors were available for jury duty in Peoria County.

8. The trial court denied defendant’s motion for change of venue on October 2, 2008. The court first noted it had considered the arguments and evidence, including “copies of the transcripts of newspaper and other articles and also broadcasts from radio and television” and defendant’s third supplemental affidavit. The court found defendant’s uncontradicted evidence “demonstrated that there was pretrial publicity” which “was and is extensive with reference to the case and happened to peak at some point this time in August of ‘08 with reference to the case

becoming an issue in a local campaign.” Nonetheless, the court found defendant failed to sustain his burden of establishing that “prejudice actually exist[ed], there’s a reasonable apprehension that [defendant] cannot receive a fair and impartial trial in this county.” The court and defendant would be “free to renew that particular [m]otion in the interests of justice should the need arise during the course of the proceedings of this trial, especially noted during jury selection.”

9. At the pretrial scheduling conference on October 10, 2008, the court granted the State’s motion *in limine* barring defendant from eliciting testimony concerning the victims’ prior sexual activity and discussed the individual jury selection method which would take place should the matter proceed to trial.

10. On October 16, 2008, defendant pled guilty to aggravated criminal sexual assault in case No. 08-CF-62, in exchange for the State's agreement to dismiss the two remaining counts in that case. On November 21, 2008, the court sentenced defendant to serve 26 years of incarceration, followed by three years of MSR. On December 11, 2008, defendant filed a motion to withdraw his guilty plea and to reconsider his sentence. After a February 26, 2009 hearing, the court denied defendant’s motion.¹

11. Following the proceedings in case No. 08-CF-62, the State elected to proceed on case No. 08-CF-256. On March 9, 2009, the trial court granted the State’s motion *in limine* allowing propensity evidence to be admitted against defendant.

12. On March 13, 2009, defendant filed another motion for change of venue, adopting and incorporating the supporting affidavits previously filed in support of the same request in case No. 08-CF-62. On March 26, 2009, the trial court conducted a hearing. The parties stipulated the

¹Defendant appealed and this court affirmed the conviction and sentence. *People v. Hinkle*, 3-09-0164 (Nov. 2, 2010) (unpublished order under Supreme Court Rule 23).

court “may consider as evidence of publicity the exhibits that have been incorporated herein by reference from the Motion to Change Place of Trial in 08 CF 62” and “that defendant’s plea of guilty in Case 08 CF 62 was published in the local media.” Neither party presented any further evidence and, following arguments, the court took the matter under advisement. On March 30, 2009, the court adopted its findings from case No. 08-CF-62 before denying the motion for change of venue. The court stated as follows: “Essentially nothing has changed in terms of this type of motion accepting [*sic*] the disposition, if you will, of case No. 08-CF-62, and the Court notes that additional evidence.”

13. The trial court allowed a request by the State to proceed on case No. 08-CF-187, due to the unavailability of a witness on the scheduled trial date in case No. 08-CF-256. On May 4, 2009, the court granted the State’s motion *in limine* allowing evidence of propensity to be admitted in both cases, including use of defendant’s conviction in case No. 08-CF-62.

14. On May 11, 2009, the parties presented a plea agreement for the court’s consideration in both case No. 08-CF-256 and case No. 08-CF-187. In case No. 08-CF-256, defendant agreed to plead guilty to criminal sexual assault, in exchange for dismissal of the two remaining counts. Before accepting defendant’s guilty plea in case No. 08-CF-256, the court admonished defendant that the range of punishment for the offense of criminal sexual assault included a sentence of 4 to 15 years of incarceration, followed by two years of MSR, a potential fine, and informed defendant that any sentence must be served consecutively with defendant’s sentences in case No. 08-CF-62 and case No. 08-CF-187.

15. Similarly, on May 11, 2009, defendant also agreed to plead guilty to predatory criminal sexual assault of a child in case No. 08-CF-187. The court admonished defendant that the range of punishment for the offense of predatory criminal sexual assault of a child included a minimum

sentence of six years and maximum sentence of 30 years of incarceration, followed by three years of MSR, a potential fine, and informed defendant that any sentence must be served consecutively with the sentences in case No. 08-CF-62 and case No. 08-CF-256.

16. After the State recited the factual basis for each guilty plea to the court, the court asked defendant if anyone was forcing, threatening, or coercing him to plead guilty in each case, to which defendant responded, “No, sir.” When asked by the trial court if he was “making this decision of [his] own free will,” defendant responded, “Yes, sir.” The court found a factual basis existed for each guilty plea and ordered a presentence investigation.

17. On May 26, 2009, the court conducted a sentencing hearing. In case No. 08-CF-187, the court sentenced defendant to 30 years of incarceration, followed by three years of MSR. In case No. 08-CF-256, the court sentenced defendant to 15 years of incarceration, followed by two years of MSR. Both sentences were to be served consecutively.

18. On June 24, 2009, defendant filed a “Motion to Withdraw Guilty Plea and to Reconsider Sentence,” in both case No. 08-CF-187 and case No. 08-CF-256, arguing his guilty pleas were not knowing or voluntary and the sentences were excessive. Defendant filed an “Amended Motion to Withdraw Guilty Plea and to Reconsider Sentence” on December 11, 2009, and again argued his sentences were excessive and his pleas were not knowing and voluntary. Specifically, defendant alleged that he was coerced by the “excessive media attention that painted [defendant] in a negative light,” the trial court erred in denying his motion for change of venue, and his juvenile record was inappropriately referenced during court hearings. That same day, defense counsel filed Rule 604(d) certificates.

19. The trial court conducted a hearing on defendant’s posttrial motion on February 24, 2010. Defendant testified that his pleas were not voluntary, and he was unaware of the rights he was

giving up by pleading guilty. Defendant informed the court he felt pressured into pleading guilty because he was scared since the media was portraying him as a “convicted felon” and a “monster,” the State’s Attorney and his opponent were “destroying” defendant in the media, and he believed he would not receive a fair trial due to this publicity. Defendant testified he felt his juvenile record was unfairly presented in court, causing additional pressure to plead guilty.

20. The court denied defendant’s posttrial motion, noting it had reviewed the open plea agreement transcript, the factual bases given for the pleas, and found that the “statements regarding coercion now are not supported by the record that was entered at the time of plea of guilty.” The court also denied defendant’s motion to reconsider the sentence. Defendant filed timely notices of appeal in case No. 08-CF-187 and case No. 08-CF-256. This court consolidated both cases for purposes of appeal on November 10, 2011.

21. ANALYSIS

22. Defendant appeals the trial court’s denial of his motion to withdraw his guilty pleas and reconsider his sentence on three grounds. First, defendant submits the relentless pretrial media coverage forced defendant to enter pleas of guilty after the court denied his motion for change of venue on March 30, 2009. Second, defendant claims his trial counsel was ineffective with regard to his subsequent motion to withdraw his guilty pleas. Finally, defendant argues his guilty pleas must be set aside because the trial court did not provide accurate information regarding the MSR admonishments that preceded his guilty pleas. The State argues defendant’s guilty pleas were both voluntary and knowing and contends defendant received effective assistance of counsel. Consequently, the State submits the trial court properly denied defendant’s posttrial motion.

23. The record reveals defendant’s motion to withdraw his guilty pleas and reconsider his sentence, in both case No. 08-CF-187 and case No. 08-CF-256, alleged that “the case garnered

excessive media attention and painted [defendant] in a negative light, referring to him inappropriately as a ‘monster’ and ‘convicted felon,’ thus prejudicing him.” Based on this negative pretrial publicity and further “politicization of his cases” in the media, due to the ongoing State's Attorney's race, defendant asserts his guilty pleas resulted from “an inherently coercive atmosphere”.

24. The State responds that defendant failed to raise the contention concerning the impact of the State's Attorney's race in either his posttrial motion or his testimony before the trial court. However, the record shows that during his testimony in the hearing on his posttrial motion, defendant discussed the publicity of his case as it related to the conduct and statements of the candidates. In our view, this issue regarding publicity surrounding the conduct of the candidates in the State’s Attorney election has not been forfeited for purposes of this consolidated appeal.

25. Next, we consider the merits of defendant’s argument that the trial court should have allowed his amended motion to withdraw his guilty pleas due to the pressure arising out of the negative pretrial publicity defendant's case received. The case law provides that the decision to grant or deny a motion to withdraw a guilty plea rests in the sound discretion of the trial court and will not be disturbed absent an abuse of discretion. *People v. Baez*, 241 Ill. 2d 44, 109-10 (2011). A defendant does not have an automatic right to withdraw a plea of guilty, rather, a defendant must show a manifest injustice occurred under the facts involved. *People v. Jamison*, 197 Ill. 2d 135, 163 (2001).

26. In this case, the trial court carefully asked defendant whether he was being forced, threatened, or coerced into pleading guilty, and defendant responded, “No sir.” Defendant also acknowledged he was making the decision to plead guilty of his own free will. See *People v. Ramirez*, 162 Ill. 2d. 235, 243 (1994) (the record demonstrated that the allegations made by

defendant were refuted by defendant's responses to the trial court's questions at the guilty plea hearing). Additionally, defendant pled guilty on May 11, 2009, six months after the State's Attorney election, and nine months after the pretrial publicity "peaked" in August 2008. Under these circumstances, we conclude defendant's allegation that his guilty pleas were involuntary and coerced by media coverage is not supported by the record. See *People v. Gendron*, 41 Ill. 2d 351, 355-56 (1968) (an interval of six months between the publicity complained of and the trial can reasonably be regarded as having been sufficient to dissipate any unfavorable effect from it or to reduce it to unimportance).

27. Moreover, this argument appears to be a disguised attempt by defendant to challenge the trial court's ruling on the motion for a change of venue. In this case, the court preliminarily denied the motion for change of venue but clearly indicated to both parties that the request could be renewed, by the court or either party, at a later point in time, specifically once jury selection began. The issue of whether a fair and impartial jury could ultimately be selected from the large jury pool was waived when defendant waived his right to a jury trial. *People v. Dunn*, 52 Ill. 2d 400, 402 (1972) (a guilty plea waives all non-jurisdictional defects).

28. Defendant's second contention on appeal is that his trial counsel was ineffective for failing to support the original and amended motions to withdraw his guilty pleas with media reports dating from the time of his arrest in 2008 through the hearing date of February 24, 2010, and this failure prejudiced defendant. Defendant argues counsel should have known the cases "continued to attract significant media and public attention even after the court denied the motion to change venue in case number 08-CF-62" and acted unreasonably by failing to supplement the posttrial motion with additional evidence of postplea publicity for the trial court to consider.

29. Defendant requests this court to take judicial notice of the numerous postplea media

reports contained in the “appendix” to his brief.² Having stricken the appendix in this case, we decline defendant’s invitation to take judicial notice of the media reports. First, the articles contained in the stricken appendix are not public records typically subject to judicial notice. *People v. Mehlberg*, 249 Ill. App. 3d 499, 531 (1993) (a court may take judicial notice of matters which are commonly known or of facts which, while not generally known, are readily verifiable from sources of indisputable accuracy, but a court will not take judicial notice of evidentiary material not presented in the court below). Second, any postplea media coverage is not relevant to whether defendant felt undue pressure to enter his pleas of guilty on May 11, 2009. In this case, counsel provided the trial court with ample evidence of negative pretrial publicity. Therefore, we reject defendant’s contention that his trial counsel was ineffective for failing to attempt to supplement his posttrial motion with additional published news stories regarding the State's Attorney's race or the progress of his cases.

30. Defendant suggests that counsel failed to comply with Illinois Supreme Court Rule 604(d) as further evidence of counsel's ineffectiveness. Rule 604(d) requires that defense counsel make “any amendments to the motion necessary for adequate presentation of any defects in those proceedings.” Ill. S. Ct. R. 604(d) (eff. July 1, 2006). In this case, counsel amended the original “Motion to Withdraw Guilty Plea and to Reconsider Sentence” by filing an “Amended Motion to Withdraw Guilty Plea and Reconsider Sentence” on December 11, 2009, raising additional contentions to support the motion. In addition, counsel filed a certificate of compliance with Rule 604(d). Therefore, nothing in the record suggests counsel failed to comply

²Appellate counsel attached to the opening brief, in this case, an 85-page “appendix” of media reports, many of which are dated after October 2, 2008. On March 26, 2012, this court granted the State’s motion to strike the media reports and any references to those documents contained in the briefs.

with the mandates set forth in Rule 604(d).

31. Defendant finally contends his due process rights were violated because the trial court and defense counsel “failed to advise [defendant] that pleading guilty would subject him to [MSR] terms of 3 years to life.” Defendant concedes he forfeited any error arising out of the trial court’s admonishments regarding the applicable range of MSR by failing to raise the issue when before the trial court. However, defendant urges this court to reach the forfeited issue by applying the plain error doctrine. Supreme Court Rule 402 provides that “every defendant who enters a plea of guilty has a due process right to be properly and fully admonished.” Ill. S. Ct. R. 402(a) (eff. July 1, 1997); *People v. Whitfield*, 217 Ill. 2d 177, 188 (2005). Compliance with Rule 402(a)(2) requires that a defendant be admonished that the period of MSR pertaining to the offense is a part of the sentence that will be imposed. *Id.* Supreme Court Rule 615(a) provides that “[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the trial court.” Ill. S. Ct. R. 615(a) (eff. Aug 27, 1999). The alleged failure to provide proper admonishments under Illinois Supreme Court Rule 402(a) (eff. July 1, 1997) may be, and routinely is, reviewed for plain error. See *People v. Fuller*, 205 Ill. 2d 308, 322-23 (2002); *People v. Davis*, 145 Ill. 2d 240, 250-51 (2002).

32. With respect to MSR, we recognize the trial court committed two separate errors in this case. First, and foremost, the trial court erred by *admonishing* defendant that he would serve two years of MSR for the offense of criminal sexual assault and a determinate MSR term of three years for predatory criminal sexual assault of a child. Second, the trial court erred by *sentencing* defendant, consistent with the erroneous admonishment, to two years of MSR for the offense of criminal sexual assault and a three year determinate term of MSR for predatory criminal sexual assault of a child. See *People v. Rinehart*, 2012 IL 111719, ¶¶ 29, 30 (sex offender sentencing

provisions contemplate indeterminate MSR terms, not determinate terms).

33. The remedy for the trial court's admonishment error, absent forfeiture, is to allow defendant to withdraw his guilty pleas, thereby reinstating his not guilty pleas and the possibility of trial. The remedy for the sentencing error is merely a new sentencing hearing. Defendant does not seek either remedy in this appeal and does not challenge the sentence he received or request a new sentencing hearing. Instead, defendant has asked this court to afford him the greatest relief available by reversing his convictions because his "pleas violated due process and are therefore void." With these concepts in mind, we turn to the issue regarding the MSR mis-admonishments alone.

34. Contrary to defendant's position in this direct appeal, not every error in *admonishments*, preceding a defendant's decision to enter an open guilty plea, automatically results in plain error and requires the reviewing court to set aside a conviction resulting from a guilty plea that is not fully negotiated. For example, in *People v. Davis*, 145 Ill. 2d 240 (1991), our supreme court cautioned:

"The failure to properly admonish a defendant, alone, does not automatically establish grounds for reversing the judgment or vacating the plea. [Citation.] Consequently, the fact that the court improperly admonished defendant as to his minimum sentence should not, in and of itself, provide grounds for reversal of the trial court's decision. Whether reversal is required depends on whether real justice has been denied or whether defendant has been prejudiced by the inadequate admonishment." *Id.* at 250.

Ultimately, our supreme court determined the admonishments in *Davis* did give rise to a "prejudicial effect." (Emphasis added.) *Id.* Yet, the court's decision in *Davis* makes it clear that defendant must establish that the admonishments he received in the case at bar also had a

prejudicial effect, operated to his detriment, or resulted in the denial of real justice. Without prejudice, successfully challenging the fairness of guilty plea proceedings based on mis-admonishments becomes more difficult.

35. Similarly, the Second District recently reiterated that an inaccurate admonishment concerning punishment does not automatically establish grounds for vacating an open guilty plea. *People v. Williams*, 2012 IL App (2d) 110559. The Second District held that the trial judge's inaccurate admonishment regarding defendant's eligibility for TASC probation was not a sufficient ground to allow defendant to withdraw his guilty plea. *Id.* After distinguishing a number of cases cited by the defendant to support his position, the *Williams* court specifically noted that defendant failed to allege that he would not have pled guilty had he received the proper admonishments, thus defeating his claim of prejudice. *Id.* at ¶ 18.

36. In the case at bar, like the circumstances in *Williams*, this defendant similarly does not allege he would have maintained his innocence if he had received the proper MSR admonishments from the court. In fact, defendant has not identified for this court the nature of the prejudice he suffered due to the MSR mis-admonishments in the instant case. When considering the potential for actual prejudice, we note that defendant will serve a single MSR term for the more serious offense, predatory criminal sexual assault of a child. 730 ILCS 5/5-8-4(g)(2) (West 2006); *People v. Jackson*, 231 Ill. 2d 223, 227 (2008).

37. We also note the DOC website states defendant is currently facing MSR of “3 YRS TO LIFE – TO BE DETERMINED.” It is difficult to discern prejudice in this case when the challenged MSR term imposed by the court represents the most lenient MSR term within the range of three years to natural life that the DOC may require defendant to serve. Having many years of incarceration to serve before his MSR term begins, defendant is unable to assert he has

suffered an existing sentencing injury and resulting prejudice that this court can now recognize. *People v. Mengedoht*, 31 Ill. App. 3d 1084, 1086 (1976) (declining to consider constitutional question regarding defendant’s parole because “the situation had not developed to the point of parole and no injury had yet occurred.”)

38. Moreover, during oral arguments, the State indicated that it was attempting to ensure the DOC would cap defendant’s term of MSR at three years, as ordered by the trial court, and filed a “Motion for Leave to Hold Ruling in Abeyance Pending Reply from the Prisoner Review Board.” Although we declined to hold our ruling in abeyance, it remains possible that the Prisoner Review Board may honor the trial court’s order or that defendant may earn release after serving just three years of MSR based on future exemplary conduct.

39. At this time, like the defendant in *Williams*, defendant does not contend he would have maintained his not guilty pleas if the MSR admonishments for predatory criminal sexual assault of a child were correct. Further, defendant does not contend that his expectation of receiving a finite term three year term of MSR remains unfulfilled. We note that the trial court sentenced defendant to serve a three year term of MSR, in error, but recognize that the incorrect three year term was entirely consistent with the admonishment given to defendant prior to his guilty pleas.

40. Hence, at this point in time, the MSR mis-admonishments preceding the *not* fully negotiated guilty pleas, have not ripened into actual prejudice or the denial of justice to defendant. Consequently, we conclude the admittedly forfeited error in the admonishments, in our view, does not automatically constitute substantial error based on these facts, and does not satisfy the second prong of the plain error test. See *People v. Harvey*, 211 Ill. 2d 368, 387-88 (2004) (the second prong of the plain error rule is invoked only in those exceptional circumstances where, despite the absence of objection, application of the rule is necessary to

preserve the integrity and reputation of the judicial process).

41. In support of his attack on the propriety of his guilty pleas, defendant cites to *People v. Strom*, 2012 IL App (3d) 100198. The defendant in *Strom* did not seek to have his fully negotiated guilty plea set aside based on the admonishments provided by the court. This significantly different procedural context renders the holding in *Strom* inapplicable to the MSR admonishment issue raised by defendant in this appeal.

42. In *Strom*, the fully negotiated, but void, plea agreement included a two year MSR term for the offense of criminal sexual assault, which was contrary to the indeterminate term of three years to natural life required by section 5-8-1(d)(4) of the Unified Code of Corrections. *Id.* at ¶ 5. Following the DOC's decision to require Strom to serve at least three years of MSR and up to natural life, this court refused to modify the agreed, but unauthorized, sentence to give defendant the benefit of his bargain. *Id.* at ¶ 10. Consequently, this court remanded the matter to the trial court to give Strom an opportunity to request to other relief by withdrawing his fully negotiated guilty plea, if he desired to do so. *Id.* at ¶ 11. Unlike *Strom*, however, this case does not involve either a fully negotiated but unauthorized plea agreement or a request to modify a fully negotiated, but void sentence, imposed by the court.

43. Since this defendant is entitled to chart the course of his own direct appeal and has not elected to challenge the sentence at this time, we will not consider whether the sentence may be void for several reasons. First, this defendant may have specific reasons for not raising an issue claiming his sentence is void during this direct appeal. See *People v. Arna*, 168 Ill. 2d 107, 113 (1995) (a void sentence is one that does not conform to statutory requirements and may be raised at any time). Second, addressing the propriety of his sentence as part of a postconviction petition or other collateral proceeding may, in fact, be this defendant's strategic preference.

44. At this juncture, we recognize there is forfeited error in both the admonishments given to this defendant and the sentence handed down by the trial court. Yet, we also recognize that defendant has clearly elected his remedy on appeal by requesting this court to set aside his convictions because his pleas should be viewed as “void,” rather than vacating the sentences.

45. In this appeal, defendant concedes he forfeited this admonishment issue below. We conclude defendant has not established that he has suffered any existing prejudice arising out of the mis-admonishments at issue. Therefore, we have determined plain error does not apply, forfeiture of the admonishment issue exists, and the convictions following defendant’s guilty pleas should stand. See *People v. Walker*, 232 Ill. 2d 113, 124 (2009) (where defendant fails to satisfy his burden of showing plain error, the result is that the procedural default must be honored). Consequently, based on forfeiture, we decline to remand the matter to the trial court to allow defendant to withdraw his guilty pleas as unknowing on the basis of the MSR admonishments given.

46. CONCLUSION

47. For the foregoing reasons, the judgment of the circuit court of Peoria County is affirmed.

48. Affirmed.