

No. 1-13-2472

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 6455
	)	
PAUL WILLIAMS,	)	Honorable
	)	Thomas M. Davy,
Defendant-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE SIMON delivered the judgment of the court.  
Justices Pierce and Liu concurred in the judgment.

**O R D E R**

¶ 1 *Held:* Defendant's appeal dismissed because he entered a negotiated guilty plea but failed to file the requisite postplea motion to perfect his appeal.

¶ 2 Defendant Paul Williams entered a negotiated guilty plea to unlawful use of unidentified sound or audio visual recordings and was sentenced to two years' probation. On appeal, defendant contends the appointment of counsel should be required when a guilty plea defendant files a *pro se* notice of appeal without first filing a postplea motion. For the reasons that follow, we dismiss defendant's appeal.

¶ 3 On June 7, 2013, defendant entered a negotiated guilty plea to a single count of unlawful use of unidentified sound or audio visual recordings. Defendant does not contest the propriety of the court's postplea admonishments, which, in relevant part, specifically advised defendant that he had a right to appeal but "[b]efore filing the notice of appeal, however, you must file, within 30 days of today's date a motion asking me to allow you to withdraw the plea."

¶ 4 Defendant did not file a motion to withdraw his guilty plea. Instead, 28 days after his guilty plea, defendant filed a *pro se* notice of appeal. On the notice of appeal, next to the word "Attorney," defendant handwrote "need one appointed."

¶ 5 As a threshold matter, defendant concedes that the failure to file a motion to withdraw his negotiated guilty plea results in his appeal being dismissed under Illinois Supreme Court Rule 604(d) (eff. July 1, 2006), which provides that no appeal can be taken unless a proper postplea motion is filed within 30 days of the plea in the trial court. The only exception to this rule obtains when the trial court failed to properly admonish the guilty plea defendant in accordance with Illinois Supreme Court Rule 605(c) (eff. Oct. 1, 2001), which pertains to perfecting an appeal from a negotiated guilty plea. See *People ex rel. Alvarez v. Skryd*, 241 Ill. 2d 34, 41 (2011). Defendant does not contest the propriety of the postplea admonishments here and, therefore, this appeal should be dismissed.

¶ 6 On appeal, defendant seeks to avoid dismissal by contending that his constitutional right to an appeal should be protected by requiring the appointment of counsel to prepare the proper postplea motion when a guilty plea defendant expresses the intent to appeal his conviction, even if he files the incorrect document. Defendant maintains that this protection can be construed from Illinois Supreme Court Rule 606(a) (eff. Sept. 1, 2006), which provides in relevant part:

"[A]ppeals shall be perfected by filing a notice of appeal with the clerk of the trial court. The notice may be signed by the appellant or his attorney. If the defendant so requests in open court at the time he is advised of his right to appeal or subsequently in writing, the clerk of the trial court shall prepare, sign, and file forthwith a notice of appeal for the defendant. No step in the perfection of the appeal other than the filing of the notice of appeal is jurisdictional." Ill. S. Ct. R. 606(a) (eff. Sept. 1, 2006).

¶ 7 Defendant's constitutionality claim was previously addressed and rejected by this court in *People v. Merriweather*, 2013 IL App (1st) 113789. In *Merriweather*, a defendant represented by counsel entered a negotiated guilty plea to aggravated unlawful use of a weapon. *Id.* ¶ 14. The defendant argued that Rule 606(a) "should be construed by this court as requiring the appointment of counsel to assist with perfecting an appeal whenever an indigent defendant, who has pled guilty, files a *pro se* notice of appeal." *Id.* ¶ 29. In examining the defendant's request, this court stated Rule 606(a)'s plain language was "clear and unambiguous." *Id.* ¶ 32. Because the plain language of Rule 606(a) allowed the defendant himself to file a *pro se* notice of appeal, this court declined "to depart from the plain language of the rule by reading into it exceptions, limitations, or conditions that conflict with the expressed intent" of the rule. *Id.* citing *People v. Dominguez*, 2012 IL 111336, ¶ 16.

¶ 8 Additionally, like the defendant in *Merriweather*, defendant cites *Roe v. Flores-Ortega*, 528 U.S. 470 (2000), *Evitts v. Lucey*, 469 U.S. 387 (1985) and *People v. Ross*, 229 Ill. 2d 255 (2008), for the proposition that dismissing defendant's appeal in these circumstances would violate his right to counsel's assistance in perfecting his appeal. However, as we did in *Merriweather*, we reject defendant's notion that those cases require us to interpret Rule 606(a) in a manner contrary to its plain language. As we stated in *Merriweather*, "none of these cases

stand for the proposition that a defendant who pleads guilty and later defaults on the procedural requirements of Rule 604(d), shall be entitled to the appointment of counsel to assist him in perfecting an appeal upon the filing of a *pro se* notice of appeal under Rule 606(a)."

*Merriweather*, 2013 IL App (1st) 113789, ¶ 33. Furthermore, we respectfully decline defendant's request to reconsider the holding in *Merriweather*, and we continue to adhere to its reasoning.

¶ 9 Accordingly, because of defendant's noncompliance with Illinois Supreme Court Rule 604(d) (eff. July 1, 2006), we dismiss his appeal.

¶ 10 Appeal dismissed.