

No. 1-12-1861

**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. 11 MC 1237581
	)	
CARMELITA M. MADISON,	)	Honorable
	)	Gloria Chevere,
Defendant-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE HYMAN delivered the judgment of the court.  
Justices Neville and Pucinski concurred in the judgment.

**O R D E R**

¶ 1 **Held:** Where defendant was substantially admonished of her appellate rights under Supreme Court Rule 605(c), her failure to file a timely motion to withdraw her plea cannot be excused by the admonition exception, and the appeal is dismissed.

¶ 2 Defendant, Carmelita Madison, entered a negotiated plea of guilty to one count of criminal damage to property, and was sentenced to 18 months' supervision. On appeal, Madison contends that the trial court failed to properly admonish her of her appellate rights under Illinois Supreme Court Rule 605(c), and, as a result, she requests this court remand the case for compliance.

¶ 3 The record on appeal shows that Madison was charged with one count of misdemeanor battery and two counts of criminal damage to property. On March 28, 2011, she struck the complainant, Michele Nelson, and caused damage to a French door window pane. On March 15, 2012, Madison entered a negotiated plea of guilty to one count of criminal damage to property, in exchange for a sentence of 18 months' supervision and the State's dismissal of the remaining charges as well as a separate assault case.

¶ 4 After sentencing Madison to the agreed terms, the trial court admonished her,

"You have the right to appeal; however, before you can appeal my decision, you have to, within 30 days of today's date, file a written notice with the clerk of the court indicating you wish to withdraw your guilty plea and set this matter down for trial.

If I grant that motion, nothing's gonna [sic] happen. If I deny the motion, you have another 30 days to appeal. In any event, if you can't afford it, transcripts of today's proceedings, along with an attorney will be provided to you free of charge to help you with the appeals process."

Madison acknowledged her understanding of the admonitions. she did not attempt to perfect an appeal from the judgment entered on her guilty plea conviction during the 30 days that followed, but filed a notice of appeal on June 12, 2012.

¶ 5 Madison contends that the trial court failed to properly admonish her of her appellate rights following her negotiated plea, requiring a remand for compliance. The State initially responds that this court has no jurisdiction to entertain Madison's appeal because she failed to file a timely notice of appeal, or a timely motion to withdraw her plea. Madison has failed to address the jurisdictional issue, focusing solely on the trial court's admonitions.

¶ 6 In noncapital cases, an appeal is perfected by the timely filing of a notice of appeal, and it is this step that vests the appellate court with jurisdiction. *In re J.T.*, 221 Ill. 2d 338, 346 (2006).

Rule 606(b) provides that a notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from or if a motion directed against the judgment is timely filed, within 30 days after the entry of the order disposing of the motion. Ill. Sup. Ct. R. 606(b) (eff. Mar. 20, 2009). This court also may allow the filing of a late notice of appeal in certain circumstances. Ill. Sup. Ct. R. 606(c) (eff. Mar. 20, 2009). Rule 604(d) requires that before taking an appeal, a defendant must file in the trial court, within 30 days of the date on which sentence is imposed, a written motion to withdraw the plea of guilty and vacate the judgment. Ill. Sup. Ct. R. 604(d) (eff. July. 1, 2006).

¶ 7 Madison, who entered a negotiated guilty plea, did not file a timely notice of appeal, a written motion to withdraw her plea and vacate the judgment, or a motion for leave to file a late notice of appeal. Consequently, we do not have jurisdiction to consider issues relating to her plea. *J.T.*, 221 Ill. 2d at 346.

¶ 8 Madison's veiled attempt to avoid that result through the application of the admonition exception fails too. Illinois Supreme Court Rule 605(c) (eff. Oct. 1, 2001) sets forth the required admonishments for negotiated guilty pleas. The supreme court has determined that the court must substantially advise a defendant of his or her Rule 605(c) rights. *People v. Dominguez*, 2012 IL 111336, ¶¶ 16-21, 43. The admonishments need not be a verbatim recitation of the rule, but rather, the court has substantially complied with Rule 605(c) so long as its admonitions are sufficient to impart to defendant the essence or substance of the rule. *Dominguez*, ¶¶ 11, 19, 22, 51.

¶ 9 The court explained to Madison that she had the right to appeal, but to do so, she must file a written motion to withdraw her guilty plea with the court within 30 days. By informing her that she had certain appellate rights, but that she had to file a motion challenging the plea within

30 days to exercise them, the trial court properly imparted the essence of the rule and therefore substantially advised defendant under Rule 605(c). *People v. Claudin*, 369 Ill. App. 3d 532, 534 (2006). Madison told the trial court that she understood this requirement, but took no action until she filed a notice of appeal nearly three months late. Under these circumstances, Madison's failure to file a Rule 604(d) motion to vacate the judgment and withdraw the guilty plea is not excused under the admonition exception. Thus, she has waived her right to a direct appeal. *Claudin*, 369 Ill. App. 3d at 534.

¶ 10 For the reasons stated, we dismiss Madison's appeal.

¶ 11 Dismissed.