

## **DEFENDANTS PROCEEDING PRO SE**

The Court is required to admonish Defendants who desire to proceed Pro Se, of Supreme Court Rule 401:

### **SUPREME COURT RULE 401**

**Waiver of Counsel.** Any waiver of counsel shall be in open court. The court shall not permit a waiver of counsel by a person accused of an offense punishable by imprisonment without first, by addressing the defendant personally in open court, informing him of and determining that he understands the following:

**(1) the nature of the charge;**

**(2) 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; and**

**(3) that he has a right to counsel and, if he is indigent, to have counsel appointed for him by the court.**

**(b) Transcript.** The proceedings required by this rule to be in open court shall be taken verbatim, and upon order of the trial court transcribed, filed and made a part of the common law record.

In addition to Supreme Court Rule 401, Courts are encouraged to also admonish Defendants of the admonishments in *People v. Ward*.

In *People v. Williams*, the Court stated:

This court in *Ward* did not set forth this list as a directive for trial courts, but, rather, as matters about which it would be *desirable* for a trial court to inform defendant. These matters do *not* constitute a prescribed litany of admonitions, requiring reversal if the court fails to mention any of them.

*People v. Williams*, 277 Ill. App. 3d 1053, 1057, 661 N.E.2d 1186, 1189 (1996)

## WARD ADMONISHMENTS

In Ward, 208 Ill. App. 3d at 1081-82, the court suggested that it would be desirable for a trial court to also warn a defendant of the following concerns:

(1) presenting a defense is not a simple matter of telling one's story, but requires adherence to various technical rules governing the conduct of the trial;

(2) a lawyer has substantial experience and training in trial procedure and the prosecution will be represented by an experienced attorney;

(3) a person unfamiliar with legal procedures (a) may allow the prosecutor an advantage by failing to make objections to inadmissible evidence, (b) may not make effective usage of such rights as the voir dire of jurors, and (c) may make tactical decisions that produce unintended consequences;

(4) the defendant proceeding pro se will not be allowed to complain on appeal about the competency of his representation;

(5) the effectiveness of his defense may well be diminished by his dual role as attorney and accused;

(6) defendant will receive no special consideration from the court;

(7) defendant will receive no extra time for preparation or greater library time (if in prison);

(8) a lawyer can render important assistance (a) by determining the existence of possible defenses to the charges against defendant, (b) through consultations with the prosecutor regarding possible reduced charges or lesser penalties, and (c) in the event of a conviction, by presenting to the court matters which might lead to a lesser sentence;

(9) in the event the court accepts defendant's decision to represent himself, defendant will not be given an opportunity to change his mind during trial; and

(10) if the court in its discretion is not going to appoint standby counsel, to specifically inform the defendant that there will be no standby counsel to assist him at any stage during trial."

\*\*\*\*\*

A court's reading of the Ward admonitions may dissuade a defendant's unwise decision to waive counsel and represent himself, "resulting in both more effective representation for him and smoother, less difficult courtroom proceedings for the court.\

The trial court's using the Ward admonitions is important for two separate reasons. First, after hearing the Ward admonitions, a defendant will have a better understanding of the daunting task before him and may be dissuaded from the unwise decision to represent himself. Second, if a defendant is not so persuaded, a trial court's reading of the Ward admonitions provides a clear record that the defendant (1) understood the perils of representing himself and (2) understandingly, knowingly, and voluntarily waived his right to be represented by counsel.

People v. Hood, 2022 IL App (4th) 200260, ¶¶ 79-81, appeal denied, 201 N.E.3d 572 (Ill. 2023)