

his sentence included a mandatory period of five years' postrelease supervision, of which he was not advised by the court. We conclude that this failure to advise defendant of a direct consequence of his conviction requires that his plea be vacated.

While a trial court has no obligation to explain to defendants who plead guilty the possibility that collateral consequences may attach to their criminal convictions, the court must advise a defendant of the direct consequences of the plea (see People v Ford, 86 NY2d 397 [1995]). Collateral consequences "are peculiar to the individual and generally result from the actions taken by agencies the court does not control." A direct consequence "is one which has a definite, immediate and largely automatic effect on defendant's punishment" (id. at 403).

Postrelease supervision is a direct consequence of a criminal conviction. In eliminating parole for all violent felony offenders in 1998, the Legislature enacted a scheme of determinate sentencing to be followed by periods of mandatory postrelease supervision (see L 1998, ch 1 ["Jenna's Law"]), and defined each determinate sentence to "also include[], as a part thereof, an additional period of post-release supervision" (Penal Law § 70.45 [1]; see also Senate Mem in Support, 1998 McKinney's Session Laws of NY, at 1489 [describing postrelease supervision as "a distinct but integral part of the determinate sentence"]). Whereas the term of supervision to be imposed may vary depending

on the degree of the crime and the defendant's criminal record (see Penal Law § 70.45 [2]), imposition of supervision is mandatory and thus "has a definite, immediate and largely automatic effect on defendant's punishment."

"A trial court has the constitutional duty to ensure that a defendant, before pleading guilty, has a full understanding of what the plea connotes and its consequences" (Ford, 86 NY2d at 402-403 [citations omitted]). Although the court is not required to engage in any particular litany when allocuting the defendant, "due process requires that the record must be clear that the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant" (id. at 403 [citation and internal quotation marks omitted]).

Postrelease supervision is significant. Upon release from the underlying term of imprisonment, a defendant must be furnished with a written statement setting forth the conditions of postrelease supervision in sufficient detail to provide for the defendant's conduct and supervision (see Penal Law § 70.45 [3]). In addition to supervision by and reporting to a parole officer, postrelease supervision may require compliance with any conditions to which a parolee may be subject (see id.), including, for example, a curfew, restrictions on travel, and substance abuse testing and treatment. Moreover, postrelease supervision may require up to six months of participation in a

residential treatment facility immediately following release from the underlying term of imprisonment (see id.; Correction Law § 2 [6]). A violation of a condition of postrelease supervision can result in reincarceration for at least six months and up to the balance of the remaining supervision period, not to exceed five years (see Penal Law § 70.45 [1]).

Because a defendant pleading guilty to a determinate sentence must be aware of the postrelease supervision component of that sentence in order to knowingly, voluntarily and intelligently choose among alternative courses of action, the failure of a court to advise of postrelease supervision requires reversal of the conviction. The refusal of the trial court and Appellate Division to vacate defendant's plea on the ground that he did not establish that he would have declined to plead guilty had he known of the postrelease supervision was therefore error (see also People v Coles, 62 NY2d 908, 910 [1984] ["harmless error rules were designed to review trial verdicts and are difficult to apply to guilty pleas"]).

In light of this result, we do not reach defendant's alternative claim of ineffective assistance of counsel.

Accordingly, the order of the Appellate Division should be reversed and the case remitted to Supreme Court for further proceedings in accordance with this Opinion.

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Order reversed and case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein. Opinion by Chief Judge Kaye. Judges G.B. Smith, Ciparick, Rosenblatt, Graffeo, Read and R.S. Smith concur.

Decided March 24, 2005