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ILLINOIS CRIMINAL JUSTICE DIGEST

AUGUST 2025 ISSUE

(August 2025 Cases)

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PART A:

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CONFESSIONS AND ADMISSIONS (**Miranda** Violation): Did the trial court err in denying this defendant's motion to suppress his statements after the defendant's Miranda rights were violated? (Yes). **People v. Steve Rainey, 2025 IL App (1st) 230639, August 27, 2025.** AHC - - Reversed and Remanded. **Case #15).**

CONSTITUTIONALITY OF STATUTE (UUWF): Did the Unlawful Use of Weapons by a Felon statute violate the Second Amendment? (No). **People v. Carmen Cox, 2025 IL App (1st) 241260, August 25, 2025.** Denial of Petition for Relief From Judgment (UUWF) - - Affirmed. **Case #13).**

CONSTITUTIONALITY OF STATUTE (AHC): Did the Armed Habitual Criminal statute violate the Second Amendment? (No). **People v. Anthony Rich, 2025 IL App (1st) 230818, August 12, 2025.** AHC - - Affirmed. **Case #6).**

COUNSEL (Effectiveness – Failure to File Motion to Suppress): Did the defense counsel provide ineffective assistance by failing to file a motion to suppress? (No). **People v. Anthony Rich, 2025 IL App (1st) 230818, August 12, 2025.** AHC - - Affirmed. **Case #6).**

COUNSEL (Effectiveness – Failure to perfect Impeachment of a Witness): Did the defense attorney fail to provide effective assistance by failing to properly impeach a witness for the People? (No). **People v. Carl Francik, 2025 IL App (2d) 240585, August 19, 2025.** Eavesdropping - - Affirmed. **Case #10).**

DUE PROCESS (Constitutionality of Statute - - Sealing of Records): Was the statute that failed to authorize the sealing of certain records of conviction unconstitutional? (No). **People v. Julius R. McCain, 2025 IL App (1st) 240873, August 8, 2025.** Denial of Petition to Seal Records - - Affirmed. **Case #2).**

DUE PROCESS (Judicial Conduct): Did the conduct of this trial judge during the defendant's bench trial deny this defendant a fair trial? (Yes). **People v. Jorge Velazquez, 2025 IL App (1st) 230449, August 29, 2025.** Predatory Criminal Sexual Assault of a Child - - Reversed and Remanded. **Case #19).**

DUE PROCESS (Revocation of Probation - - Mootness): Should this appeal be dismissed as Moot? (Yes). **People v. Nalanía Vargas, 2025 IL App (2d) 240609, August 8, 2025.** Revocation of Probation - - Appeal Dismissed as Moot. **Case #4).**

DUE PROCESS (Certificate of Innocence): Did the trial court err in refusing to issue a certificate of innocence to this defendant? (Yes). **People v. Shoulder, 2025 IL App (5th) 240016, August 27, 2025.** Denial of Petition for Issuance of a Certificate of Innocence - - Reversed. **Case #16).**

LAW ENFORCEMENT RISK MANAGEMENT (Damage Caused by Fleeing Suspect): Did the trial court err in ordering a new trial after a jury returned a verdict in favor of the plaintiffs for \$10 million? (No). **Henry Harell v. The City of Chicago, 2025 IL App (1st) 240119, August 19, 2025.** Law Enforcement Liability (Grant of New Trial) - - Affirmed. **Case #9).**

POST-CONVICTION PROCEDURE (Relief From Judgment – U UW): Should this defendant's U UW conviction be vacated based upon the unconstitutionality of the U UW statute? (No). **People v. Terence Temple, 2025 IL App (1st) 240917, August 8, 2025.** Denial of Relief from Judgement (U UW) - - Affirmed. **Case #3).**

POST-CONVICTION PROCEDURE (Motion to Withdraw Plea): Did the defense counsel's failure to file a motion to withdraw the defendant's negotiated plea violate Supreme Court Rule 604(d) and entitle this defendant to another try at filing a proper post-conviction petition? (Yes). **People v. Travis Trynell Williams, 2025 IL App (4th) 240738, August 26, 2025.** Denial of Motion to Reconsider Sentence (Aggravated DUI) - - Reversed and Remanded. **Case #14).**

PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release): Did the circuit court err in denying this defendant pre-trial releases after the People failed to bring him to trial with 90 days of the entry of his order of detention? (Yes). **People v. Jerome K. Brownlee, 2025 IL App (2d) 250198, August 13, 2025.** Denial of Pre-Trial Release - - Reversed. **Case #7).**

PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release): Did a second judge have the authority to revisit a prior judge's order denying pre-trial release? (Yes). **People v. Aaron Rice, 2025 IL App (3d) 250262, August 28, 2025.** Grant of Pre-Trial Release (Aggravated Cruelty to Animals) - - Affirmed. **Case #18).**

PRE-TRIAL PROCEDURE (Pre-Trial Release): Did the trial court err in granting this defendant pre-trial release after a prior judge and denied pre-trial release? (No). **People v. Aaron Rice, 2025 IL App (3d) 250262, August 28, 2025.** Grant of Pre-Trial Release (Aggravated Cruelty to Animals) - - Affirmed. **Case #18).**

REASONABLE DOUBT (Predatory Criminal Sexual Assault of a Child): Did the People present sufficient evidence to support this defendant’s conviction? (Yes). **People v. Jorge Velazquez, 2025 IL App (1st) 230449, August 29, 2025.** Predatory Criminal Sexual Assault of a Child - - Reversed and Remanded. **Case #19).**

REASONABLE DOUBT (Eavesdropping): Did the People present sufficient evidence to sustain the defendant’s conviction for Eavesdropping? (Yes). **People v. Carl Francik, 2025 IL App (2d) 240585, August 19, 2025.** Eavesdropping - - Affirmed. **Case #10).**

REASONABLE DOUBT (Weapons Offense): Was sufficient evidence introduced to prove that Garcia knowingly possessed the firearm discovered under the driver’s seat of the vehicle he drove? (Yes). **People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025.** Unlawful Possession of a Firearm - - Affirmed. **1).**

SEARCH AND SEIZURE (Probable Cause to Search): Did the police lack sufficient probable cause to justify a warrantless search of Garcia’s vehicle? (No). **People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025.** Unlawful Possession of a Firearm - - Affirmed. **Case #1).**

SEARCH AND SEIZURE (Warrantless Search – Firearm – Consent): Did the trial court err in granting this defendant’s motion to suppress evidence after the defendant attempted to bring a firearm into Six Flags? (Yes). **People v. Clishaun Long, 2025 IL App (2d) 240237, August 11, 2025.** Denial of Motion to Suppress (Weapons Offenses) - - Affirmed. **Case #5).**

SEARCH AND SEIZURE (Probable Cause – Phone Records Search): Did the trial court err in granting this defendant’s motion to suppress evidence seized as a result of a warrant to search for phone records? (Yes and No). **People v. Travion D. Terrell, 2025 IL App (3d) 240567, August 22, 2025.** Grant of Motion to Suppress - - Affirmed in Part; Reversed in Part; Case Remanded for Further Proceedings. **Case #12).**

SENTENCES (Excessive): Was this defendant’s 15-year sentence for being an Armed Habitual Criminal excessive? (No). **People v. Anthony Rich, 2025 IL App (1st) 230818, August 12, 2025.** AHC - - Affirmed. **Case #6).**

SENTENCING (Credit): Was this defendant entitled to additional sentencing credit for the time he spent on electronic home detention? (No). **People v. Randall M. Stafford, II, 2025 IL App (2d) 240250, August 14, 2025.** Aggravated Domestic Battery - - Affirmed. **Case #8).**

SENTENCING (Counsel – Effectiveness): Did the defense counsel provide ineffective assistance by failing to produce evidence relevant to the youth-based factors in mitigation and in failing to object to improper victim impact evidence? (Yes). **People v. Clayton T. Bell, 2025 IL App (4th) 240929, August 19, 2025.** Aggravated DUI - - Conviction Affirmed; Sentence Vacated; Case Remanded for Resentencing. **Case #11).**

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PART B:

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an appellate court, sua sponte, order reassignment to a new circuit court judge on remand for reasons other than bias, potential bias, or prejudice on the part of the prior circuit court judge? (No). Case #17.

FIRST DISTRICT APPELLATE COURT

1). People v. Julius R. McCain, 2025 IL App (1st) 240873, August 8, 2025. Denial of Petition to Seal Records - - Affirmed. **ISSUE: DUE PROCESS (Constitutionality of Statute - - Sealing of Records):** Was the statute that failed to authorize the sealing of certain records of conviction unconstitutional? (No). Case #2.

2). People v. Terence Temple, 2025 IL App (1st) 240917, August 8, 2025. Denial of Relief from Judgement (UUV) - - Affirmed. **ISSUE: POST-CONVICTION PROCEDURE (Relief From Judgment – UUV):** Should this defendant's UUV conviction be vacated based upon the unconstitutionality of the UUV statute? (No). Case #3.

3). People v. Anthony Rich, 2025 IL App (1st) 230818, August 12, 2025. AHC - - Affirmed. **ISSUES: A). COUNSEL (Effectiveness – Failure to File Motion to Suppress):** Did the defense counsel provide ineffective assistance by failing to file a motion to suppress? (No). **B). SENTENCES (Excessive):** Was this defendant's 15-year sentence for being an Armed Habitual Criminal excessive? (No). **C). CONSTITUTIONALITY OF STATUTE (AHC):** Did the Armed Habitual Criminal statute violate the Second Amendment? (No). Case #6.

4). Henry Harell v. The City of Chicago, 2025 IL App (1st) 240119, August 19, 2025. Law Enforcement Liability (Grant of New Trial) - - Affirmed. **ISSUE: LAW ENFORCEMENT RISK MANAGEMENT (Damage Caused by Fleeing Suspect):** Did the trial court err in ordering a new trial after a jury returned a verdict in favor of the plaintiffs for \$10 million? (No). Case #9.

5). People v. Carmen Cox, 2025 IL App (1st) 241260, August 25, 2025. Denial of Petition for Relief From Judgment (UUVF) - - Affirmed. **ISSUE: CONSTITUTIONALITY OF STATUTE (UUVF):** Did the Unlawful Use of Weapons by a Felon statute violate the Second Amendment? (No). Case #13.

6). People v. Steve Rainey, 2025 IL App (1st) 230639, August 27, 2025. AHC - - Reversed and Remanded. **ISSUE: CONFESSIONS AND ADMISSIONS (Miranda Violation):** Did the trial court err in denying this defendant's motion to suppress his statements after the defendant's Miranda rights were violated? (Yes). Case #15.

7). People v. Jorge Velazquez, 2025 IL App (1st) 230449, August 29, 2025. Predatory Criminal Sexual Assault of a Child - - Reversed and Remanded. **ISSUE: A). REASONABLE DOUBT (Predatory Criminal Sexual Assault of a Child):** Did the People present sufficient evidence to support this defendant's conviction? (Yes). **B). DUE PROCESS (Judicial Conduct):** Did the conduct of this trial judge during the defendant's bench trial deny this defendant a fair trial? (Yes). Case #19.

SECOND DISTRICT APPELLATE COURT

1). People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025. Unlawful Possession of a Firearm - - Affirmed. **ISSUES: A). SEARCH AND SEIZURE (Probable Cause to Search):** Did the police lack sufficient probable cause to justify a warrantless search of Garcia's vehicle? (No). **B). REASONABLE DOUBT (Weapons Offense):** Was sufficient evidence introduced to prove that Garcia knowingly possessed the firearm discovered under the driver's seat of the vehicle he drove? (Yes). Case #1.

2). People v. Nalanía Vargas, 2025 IL App (2d) 240609, August 8, 2025. Revocation of Probation - - Appeal Dismissed as Moot. **ISSUE: DUE PROCESS (Revocation of Probation - - Mootness):** Should this appeal be dismissed as Moot? (Yes). Case #4.

3). People v. Clishaun Long, 2025 IL App (2d) 240237, August 11, 2025. Denial of Motion to Suppress (Weapons Offenses) - - Affirmed. **ISSUE: SEARCH AND SEIZURE (Warrantless Search – Firearm – Consent):** Did the trial court err in granting this defendant’s motion to suppress evidence after the defendant attempted to bring a firearm into Six Flags? (Yes). **Case #5**.

4). People v. Jerome K. Brownlee, 2025 IL App (2d) 250198, August 13, 2025. Denial of Pre-Trial Release - - Reversed. **ISSUE: PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release):** Did the circuit court err in denying this defendant pre-trial releases after the People failed to bring him to trial with 90 days of the entry of his order of detention? (Yes). **Case #7**.

5). People v. Randall M. Stafford, II, 2025 IL App (2d) 240250, August 14, 2025. Aggravated Domestic Battery - - Affirmed. **ISSUE: SENTENCING (Credit):** Was this defendant entitled to additional sentencing credit for the time he spent on electronic home detention? (No). **Case #8**.

6). People v. Carl Francik, 2025 IL App (2d) 240585, August 19, 2025. Eavesdropping - - Affirmed. **ISSUES: A). REASONABLE DOUBT (Eavesdropping):** Did the People present sufficient evidence to sustain the defendant’s conviction for Eavesdropping? (Yes). **B). COUNSEL (Effectiveness – Failure to perfect Impeachment of a Witness):** Did the defense attorney fail to provide effective assistance by failing to properly impeach a witness for the People? (No). **Case #10**.

THIRD DISTRICT APPELLATE COURT

1). People v. Travion D. Terrell, 2025 IL App (3d) 240567, August 22, 2025. Grant of Motion to Suppress - - Affirmed in Part; Reversed in Part; Case Remanded for Further Proceedings. **ISSUE: SEARCH AND SEIZURE (Probable Cause – Phone Records Search):** Did the trial court err in granting this defendant’s motion to suppress evidence seized as a result of a warrant to search for phone records? (Yes and No). **Case #12**.

2). People v. Aaron Rice, 2025 IL App (3d) 250262, August 28, 2025. Grant of Pre-Trial Release (Aggravated Cruelty to Animals) - - Affirmed. **ISSUE: A). PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release):** Did a second judge have the authority to revisit a prior judge’s order denying pre-trial release? (Yes). **B). PRE-TRIAL PROCEDURE (Pre-Trial Release):** Did the trial court err in granting this defendant pre-trial release after a prior judge and denied pre-trial release? (No). **Case #18**.

FOURTH DISTRICT APPELLATE COURT

1). People v. Clayton T. Bell, 2025 IL App (4th) 240929, August 19, 2025. Aggravated DUI - - Conviction Affirmed; Sentence Vacated; Case Remanded for Resentencing. **ISSUE: SENTENCING (Counsel – Effectiveness):** Did the defense counsel provide ineffective assistance by failing to produce evidence relevant to the youth-based factors in mitigation and in failing to object to improper victim impact evidence? (Yes). **Case #11**.

2). People v. Travis Trynell Williams, 2025 IL App (4th) 240738, August 26, 2025. Denial of Motion to Reconsider Sentence (Aggravated DUI) - - Reversed and Remanded. **ISSUE: POST-CONVICTION PROCEDURE (Motion to Withdraw Plea):** Did the defense counsel’s failure to file a motion to withdraw the defendant’s negotiated plea violate Supreme Court Rule 604(d) and entitle this defendant to another try at filing a proper post-conviction petition? (Yes). **Case #14**.

FIFTH DISTRICT APPELLATE COURT

1). People v. Shoulder, 2025 IL App (5th) 240016, August 27, 2025. Denial of Petition for Issuance of a Certificate of Innocence - - Reversed. **ISSUE: DUE PROCESS (Certificate of Innocence):** Did the trial court err in refusing to issue a certificate of innocence to this defendant? (Yes). **Case #16**.

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PART C:

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1). People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025. Unlawful Possession of a Firearm - - Affirmed. **ISSUES: A). SEARCH AND SEIZURE (Probable Cause to Search):** Did the police lack sufficient probable cause to justify a warrantless search of Garcia’s vehicle? (No). **B). REASONABLE DOUBT (Weapons Offense):** Was sufficient evidence introduced to prove that Garcia knowingly possessed the firearm discovered under the driver’s seat of the vehicle he drove? (Yes).

2). People v. Julius R. McCain, 2025 IL App (1st) 240873, August 8, 2025. Denial of Petition to Seal Records - - Affirmed. **ISSUE: DUE PROCESS (Constitutionality of Statute - - Sealing of Records):** Was the statute that failed to authorize the sealing of certain records of conviction unconstitutional? (No).

3). People v. Terence Temple, 2025 IL App (1st) 240917, August 8, 2025. Denial of Relief from Judgement (UW) - - Affirmed. **ISSUE: POST-CONVICTION PROCEDURE (Relief From Judgment – UW):** Should this defendant’s UW conviction be vacated based upon the unconstitutionality of the UW statute? (No).

4). People v. Nalania Vargas, 2025 IL App (2d) 240609, August 8, 2025. Revocation of Probation - - Appeal Dismissed as Moot. **ISSUE: DUE PROCESS (Revocation of Probation - - Mootness):** Should this appeal be dismissed as Moot? (Yes).

5). People v. Clishaun Long, 2025 IL App (2d) 240237, August 11, 2025. Denial of Motion to Suppress (Weapons Offenses) - - Affirmed. **ISSUE: SEARCH AND SEIZURE (Warrantless Search – Firearm – Consent):** Did the trial court err in granting this defendant’s motion to suppress evidence after the defendant attempted to bring a firearm into Six Flags? (Yes).

6). People v. Anthony Rich, 2025 IL App (1st) 230818, August 12, 2025. AHC - - Affirmed. **ISSUES: A). COUNSEL (Effectiveness – Failure to File Motion to Suppress):** Did the defense counsel provide ineffective assistance by failing to file a motion to suppress? (No). **B). SENTENCES (Excessive):** Was this defendant’s 15-year sentence for being an Armed Habitual Criminal excessive? (No). **C). CONSTITUTIONALITY OF STATUTE (AHC):** Did the Armed Habitual Criminal statute violate the Second Amendment? (No).

7). People v. Jerome K. Brownlee, 2025 IL App (2d) 250198, August 13, 2025. Denial of Pre-Trial Release - - Reversed. **ISSUE: PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release):** Did the circuit court err in denying this defendant pre-trial releases after the People failed to bring him to trial with 90 days of the entry of his order of detention? (Yes).

8). People v. Randall M. Stafford, II, 2025 IL App (2d) 240250, August 14, 2025. Aggravated Domestic Battery - - Affirmed. **ISSUE: SENTENCING (Credit):** Was this defendant entitled to additional sentencing credit for the time he spent on electronic home detention? (No).

9). Henry Harell v. The City of Chicago, 2025 IL App (1st) 240119, August 19, 2025. Law Enforcement Liability (Grant of New Trial) - - Affirmed. **ISSUE: LAW ENFORCEMENT RISK MANAGEMENT**

(Damage Caused by Fleeing Suspect): Did the trial court err in ordering a new trial after a jury returned a verdict in favor of the plaintiffs for \$10 million? **(No).**

10. People v. Carl Francik, 2025 IL App (2d) 240585, August 19, 2025. Eavesdropping - - Affirmed. **ISSUES: A. REASONABLE DOUBT (Eavesdropping):** Did the People present sufficient evidence to sustain the defendant's conviction for Eavesdropping? **(Yes).** **B. COUNSEL (Effectiveness – Failure to perfect Impeachment of a Witness):** Did the defense attorney fail to provide effective assistance by failing to properly impeach a witness for the People? **(No).**

11. People v. Clayton T. Bell, 2025 IL App (4th) 240929, August 19, 2025. Aggravated DUI - - Conviction Affirmed; Sentence Vacated; Case Remanded for Resentencing. **ISSUE: SENTENCING (Counsel – Effectiveness):** Did the defense counsel provide ineffective assistance by failing to produce evidence relevant to the youth-based factors in mitigation and in failing to object to improper victim impact evidence? **(Yes).**

12. People v. Travion D. Terrell, 2025 IL App (3d) 240567, August 22, 2025. Grant of Motion to Suppress - - Affirmed in Part; Reversed in Part; Case Remanded for Further Proceedings. **ISSUE: SEARCH AND SEIZURE (Probable Cause – Phone Records Search):** Did the trial court err in granting this defendant's motion to suppress evidence seized as a result of a warrant to search for phone records? **(Yes and No).**

13. People v. Carmen Cox, 2025 IL App (1st) 241260, August 25, 2025. Denial of Petition for Relief From Judgment (UUWF) - - Affirmed. **ISSUE: CONSTITUTIONALITY OF STATUTE (UUWF):** Did the Unlawful Use of Weapons by a Felon statute violate the Second Amendment? **(No).**

14. People v. Travis Trynell Williams, 2025 IL App (4th) 240738, August 26, 2025. Denial of Motion to Reconsider Sentence (Aggravated DUI) - - Reversed and Remanded. **ISSUE: POST-CONVICTION PROCEDURE (Motion to Withdraw Plea):** Did the defense counsel's failure to file a motion to withdraw the defendant's negotiated plea violate Supreme Court Rule 604(d) and entitle this defendant to another try at filing a proper post-conviction petition? **(Yes).**

15. People v. Steve Rainey, 2025 IL App (1st) 230639, August 27, 2025. AHC - - Reversed and Remanded. **ISSUE: CONFESSIONS AND ADMISSIONS (Miranda Violation):** Did the trial court err in denying this defendant's motion to suppress his statements after the defendant's Miranda rights were violated? **(Yes).**

16. People v. Shoulder, 2025 IL App (5th) 240016, August 27, 2025. Denial of Petition for Issuance of a Certificate of Innocence - - Reversed. **ISSUE: DUE PROCESS (Certificate of Innocence):** Did the trial court err in refusing to issue a certificate of innocence to this defendant? **(Yes).**

17. People v. Angel Class, 2025 IL 129695, August 28, 2025. Grant of Substitution of Judge (First-Degree Murder) - - Reversed and Remanded. **ISSUE: APPELLATE JURISDICTION (Substitution of Judge):** Can an appellate court, sua sponte, order reassignment to a new circuit court judge on remand for reasons other than bias, potential bias, or prejudice on the part of the prior circuit court judge? **(No).**

18. People v. Aaron Rice, 2025 IL App (3d) 250262, August 28, 2025. Grant of Pre-Trial Release (Aggravated Cruelty to Animals) - - Affirmed. **ISSUE: A. PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release):** Did a second judge have the authority to revisit a prior judge's order denying pre-trial release? **(Yes).** **B. PRE-TRIAL PROCEDURE (Pre-Trial Release):** Did the trial court err in granting this defendant pre-trial release after a prior judge and denied pre-trial release? **(No).**

19. People v. Jorge Velazquez, 2025 IL App (1st) 230449, August 29, 2025. Predatory Criminal Sexual Assault of a Child - - Reversed and Remanded. **ISSUE: A. REASONABLE DOUBT (Predatory Criminal Sexual Assault of a Child):** Did the People present sufficient evidence to support this defendant's conviction?

(Yes). **B). DUE PROCESS (Judicial Conduct):** Did the conduct of this trial judge during the defendant's bench trial deny this defendant a fair trial? (Yes).

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PART D:

CASE ANALYSIS

Case # 1.

1). People v. Jesus Garcia, 2025 IL App (2d) 240449, August 4, 2025. Unlawful Possession of a Firearm -
- Affirmed.

ISSUES: **A). SEARCH AND SEIZURE (Probable Cause to Search):** Did the police lack sufficient probable cause to justify a warrantless search of Garcia's vehicle? (No). **B). REASONABLE DOUBT (Weapons Offense):** Was sufficient evidence introduced to prove that Garcia knowingly possessed the firearm discovered under the driver's seat of the vehicle he drove? (Yes).

FACTS: Following a bench trial, the trial court found Garcia, guilty of, inter alia, unlawful possession of a firearm without a Firearm Owner's Identification (FOID) card (430 ILCS 65/2(a)(1))) and sentenced him to 3½ years' imprisonment (to be served at 50%).

ARGUMENTS: On appeal, defendant argues (1) the trial court erred in denying his motion to quash and suppress because the police lacked probable cause to search his vehicle based solely on the positive alert from a trained police dog and (2) the State failed to prove beyond a reasonable doubt that he knowingly possessed a firearm found under the driver's seat of his car.

APPELLATE COURT FINDINGS: The Appellate Court held that:

- 1 trained drug-detection dog's positive alert on defendant's vehicle during traffic stop was sufficient to provide probable cause for police officers to conduct warrantless search of vehicle;
- 2 there was sufficient evidence that defendant had control over premises where firearm was located in vehicle, as supported finding that he constructively possessed firearm; and
- 3 there was sufficient evidence that defendant had knowledge of firearm, as supported finding that he constructively possessed firearm.

CONCLUSIONS AND REASONING:

A). SEARCH AND SEIZURE (Dog Sniff – Cannabis - Probable Cause): Trained drug-detection dog's positive alert on defendant's vehicle during lawful traffic stop was sufficient to provide probable cause for police officers to conduct warrantless search of vehicle, despite defendant's argument that dog was trained to detect cannabis, regardless of its legality. **WHY:** *The defendant could not lawfully possess any cannabis because he was under 21 years of age; there was no indication that when the dog alerted, he was most likely detecting burnt cannabis, as opposed to one of the illegal items on his olfaction palate; and, indeed, the officers found raw cannabis in the driver's door pocket, and the totality of facts and circumstances known to the officers at the time of the search, which were indicative of drug activity, included more than just the dog's positive alert.* U.S. Const. Amend. 4; Ill. Const. art. 1, § 6; 410 Ill. Comp. Stat. Ann. 705/10-5; 720 Ill. Comp. Stat. Ann. 550/4.

B). REASONABLE DOUBT (UW – Constructive Possession): There was sufficient evidence to prove that the defendant had control over the premises where the firearm was located in his vehicle during a lawful traffic

stop, so as to support a finding that he constructively possessed the firearm, as required to convict him of the unlawful possession of a firearm without a firearm owner's identification (FOID) card. **WHY:** *The defendant was the owner of the vehicle where the firearm was located; the defendant was the sole occupant of the vehicle at the time of the stop; and the firearm was found directly under the defendant's seat.* 430 Ill. Comp. Stat. Ann. 65/2(a)(1).

C). REASONABLE DOUBT (UW – Knowledge): There was sufficient evidence that the defendant had knowledge of firearm found in his vehicle during this valid traffic stop, so as to support a finding that he constructively possessed the firearm, as required to convict him of the unlawful possession of a firearm without a firearm owner's identification (FOID) card. **WHY:** *There was no dispute that the defendant owned vehicle, the defendant was sole occupant of the vehicle at the time of the stop, an uncased and loaded firearm was directly under the driver's seat; the defendant's DNA was found on the firearm; and when a police officer asked the defendant if there was anything illegal in the vehicle, the defendant responded that his girlfriend owned a firearm and used his vehicle to go to the firing range.* 430 Ill. Comp. Stat. Ann. 65/2(a)(1); 720 Ill. Comp. Stat. Ann. 5/4-5.

RESULT: The appellate court affirmed Garcia's conviction and sentence.

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Case # 2.

2). People v. Julius R. McCain, 2025 IL App (1st) 240873, August 8, 2025. Denial of Petition to Seal Records - - Affirmed.

ISSUE: DUE PROCESS (Constitutionality of Statute - - Sealing of Records): Was the statute that failed to authorize the sealing of certain records of a conviction unconstitutional? (No).

FACTS: McCain appealed the trial court's denial of his petition to seal certain records. The records were the result of a traffic stop on March 5, 1998, when defendant was issued tickets for (1) speeding (625 ILCS 5/11-601), (2) driving with a suspended license (625 ILCS 5/6-303), and (3) operating an uninsured motor vehicle (625 ILCS 5/3-707). Defendant was issued a recognizance bond and instructed to appear in court. However, when he failed twice to appear, the court entered judgment on the bond forfeiture executed (JBFX) with respect to all three tickets. Twenty-five years later, on May 19, 2023, defendant filed a petition to seal the records related to this bond forfeiture, pursuant to the Criminal Identification Act (Act) (20 ILCS 2630/5.2). The State objected on the ground that no final disposition had been entered, and the trial court agreed, denying his petition. A year later, the appellate court issued People v. Green, 2024 IL App (1st) 231167, an opinion in which it found that bond forfeitures in traffic cases were not eligible for sealing pursuant to the Act.

ARGUMENTS: In the instant appeal, defendant did not argue that the Green opinion was wrongly decided. For the purposes of this appeal, he accepted that the words of the Act do not authorize sealing. Instead, he raised constitutional challenges to the Act, arguing that this result violates procedural due process, substantive due process, and equal protection.

APPELLATE COURT FINDINGS: The Appellate Court held that:
1 record sealing provision of Criminal Identification Act did not violate motorist's substantive due process rights, and
2 provision did not violate motorist's equal protection rights.

CONCLUSIONS AND REASONING:

A). CRIMINAL LAW (Forfeiture of Claim – Forfeiture of Argument): The People forfeited on appeal any argument that the motorist seeking to seal his records related to traffic tickets forfeited his due process claim, which he raised for the first time in his motion to reconsider the denial of his petition to seal, and an equal protection claim, which he raised for the first time on appeal, forfeited such claims, **WHY:** *The People did not challenge the claims on the basis of forfeiture.* U.S. Const. Amend. 14; Ill. Const. art. 1, § 2.

B). STATUTORY AUTHORITY (Criminal Identification Act – Sealing – Eligibility - Speeding): This motorist's speeding ticket was excluded from the record sealing provisions of the Criminal Identification Act, and thus, the records, which related to a bond forfeiture judgment with respect to a ticket, were not eligible for sealing. **WHY:** *Speeding qualified as a minor traffic offense under Act.* 20 Ill. Comp. Stat. Ann. 2630/5.2(a)(1)(G), 2630/5.2(a)(3)(A); 625 Ill. Comp. Stat. Ann. 5/11-601.

C). STATUTORY AUTHORITY (Criminal Identification Act – Sealing – Eligibility – Uninsured Motorist): This motorist's ticket for operating an uninsured motor vehicle was excluded from the record sealing provisions of the Criminal Identification Act, and thus, the records, relating to a bond forfeiture judgment with respect to the ticket, were not eligible for sealing, whether or not a bond forfeiture qualified as a conviction under the Act. **WHY:** *The offense of operating an uninsured motor vehicle was specifically defined by the statute as a petty offense.* 20 Ill. Comp. Stat. Ann. 2630/5.2(a)(1)(G), 2630/5.2(a)(3)(A); 625 Ill. Comp. Stat. Ann. 5/3-707(c).

D). DUE PROCESS (Criminal Identification Act – Sealing – Eligibility): This motorist's claim, on appeal from the trial court's denial of his petition to seal records related to a bond forfeiture judgment entered with respect to his traffic tickets, that the Criminal Identification Act's failure to treat bond forfeitures as convictions subject to the record sealing provisions of Act violated his procedural due process was one of substantive, as opposed to procedural, due process. **WHY:** *The motorist did not argue—with respect to any proceeding connected with sealing petition or underlying bond forfeiture—that he was deprived of notice or opportunity to be heard, and instead argued that the legislators acted arbitrarily and unreasonably when they failed to extend protections of the sealing provision to cover bond forfeitures.* U.S. Const. Amend. 14; Ill. Const. art. 1, § 2; 20 Ill. Comp. Stat. Ann. 2630/5.2.

E). DUE PROCESS (Criminal Identification Act – Sealing – Eligibility): The absence of bond forfeitures from the record sealing provision of the Criminal Identification Act was neither arbitrary nor unreasonable, and thus did not violate the substantive due process rights of this motorist who was seeking to seal records related to his ticket for driving with a suspended license, which resulted in a bond forfeiture judgment. **WHY:** *The legislators who drafted the Act stressed a criminal disposition and chose not to reward those who failed to appear for it, as reflected in the provision stating that the earliest records were eligible to be sealed was after termination of a defendant's sentence, such that if there was no risk of a sentence, there was no privilege of sealing.* U.S. Const. Amend. 14; Ill. Const. art. 1, § 2; 20 Ill. Comp. Stat. Ann. 2630/5.2(a)(1)(A), 2630/5.2(a)(1)(C), 2630/5.2(c)(2), 2630/5.2(c)(3); 625 Ill. Comp. Stat. Ann. 5/6-303(a); 730 Ill. Comp. Stat. Ann. 5/5-1-12.

F). EQUAL PROTECTION (Criminal Identification Act – Sealing – Eligibility): The sealing provision of Criminal Identification Act, which applied only to convictions, did not violate the equal protection rights of this motorist even though, similar to a conviction, a bond forfeiture could result in an enhanced sentence. **WHY:** *There was no final sentencing order or mittimus and no sentencing hearing in the motorist's case, in which he had avoided sentencing for over 25 years before seeking to seal his records, and double jeopardy did not apply, such that the bond forfeiture was not similarly situated to a conviction by a guilty plea or a verdict, and the possibility of an enhanced sentence in traffic case was too slim a similarity to shoulder an equal protection challenge.* U.S. Const. Amends. 5, 14; Ill. Const. art. 1, § 2; 20 Ill. Comp. Stat. Ann. 2630/5.2; 625 Ill. Comp. Stat. Ann. 5/6-303(a).

RESULT: The appellate court found his constitutional arguments unpersuasive and affirmed the judgment of the circuit court.

XX

Case # 3.

3). People v. Terence Temple, 2025 IL App (1st) 240917, August 8, 2025. Denial of Relief from Judgement (U UW) - - Affirmed.

ISSUE: POST-CONVICTION PROCEDURE (Relief From Judgment – U UW): Should this defendant’s U UW conviction be vacated based upon the unconstitutionality of the U UW statute? (No).

FACTS: Temple appealed from the circuit court’s denial of his petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401) following his conviction for U UW.

ARGUMENTS: On appeal, he argued that his 2010 conviction for unlawful use of a weapon (U UW) in a public park is void because the statute under which he was convicted is facially unconstitutional under the second amendment, as interpreted by the United States Supreme Court in *New York State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1 (2022), and other recent cases.

APPELLATE COURT FINDINGS: The Appellate Court held that:
1 defendant's facial constitutional challenge to U UW statute's public places prohibition was not time barred;
2 as a matter of apparent first impression, statute governing U UW in public park was not facially unconstitutional under Second Amendment;
3 “more nuanced” approach to sensitive places analysis applied to defendant's facial challenge to statute; and
4 the fact that penalty imposed for violation of statute was more severe than its historical analogues did not render statute facially unconstitutional under Second Amendment.

CONCLUSIONS AND REASONING:

A). CONSTITUTIONALITY OF STATUTE (U UW – Public Places – 2nd Amendment): This defendant's facial constitutional challenge to the U UW statute's public places prohibition, asserting the statute violated the Second Amendment, was not time barred, although the defendant filed his petition for relief from judgment was filed more than two years after his conviction, in which he pled guilty to U UW. **WHY:** *The defendant was challenging the judgment as void, as he asserted that his conviction was based on a facially unconstitutional statute.* U.S. Const. Amend. 2; 735 Ill. Comp. Stat. Ann. 5/2-1401.

B). CONSTITUTIONALITY OF STATUTE (U UW – 2nd Amendment – History of Regulation): The statute governing U UW in public park was within the nation's history of regulating firearms in places analogous to public parks, and thus was not facially unconstitutional under the Second Amendment, although the defendant asserted that the People failed to show why the need for self-defense was limited in public parks. **WHY:** *The park that was considered the first modern public park was subject to a firearm ban from its inceptions; the governments enacted similar regulations as parks emerged across the nation; such regulations were not questioned as unconstitutional; and the Bruen test for Second Amendment challenges to firearm regulations did not require policy justifications for the regulation in order to find it facially constitutional.* U.S. Const. Amend. 2; 735 Ill. Comp. Stat. Ann. 5/2-1401.

C). CONSTITUTIONALITY OF STATUTE (U UW – 2nd Amendment – “sensitive areas”): A “more nuanced” approach to the sensitive places analysis applied to the defendant's facial challenge to the statute governing the unlawful use of a weapon (U UW) in a public park under the second amendment, as opposed to

“fairly straightforward” standard. **WHY:** *The green spaces at the time of the nation’s founding, such as areas used primarily for grazing animals and for holding military exercises, were not relevantly similar to parks in their modern form, and the green spaces did not begin taking shape of modern parks until the middle of the nineteenth century.* U.S. Const. Amend. 2; 735 Ill. Comp. Stat. Ann. 5/2-1401.

D). CONSTITUTIONALITY OF STATUTE (UUW – 2nd Amendment – Imposed Penalty): The fact that the penalty imposed for a violation of the statute governing the unlawful use of a weapon (UUW) in a public park, a felony punishable by imprisonment of two to five years, was more severe than its historical analogues did not undermine the regulations historical consistency, and thus did not render the statute facially unconstitutional under the Second Amendment. **WHY:** *Although the early regulations may have relied on lesser penalties, such as fines or misdemeanor charges, those penalties served the same function as this statute’s penalty, which was to deter the public from carrying firearms in parks, and this statute was otherwise consistent with the nation’s historical tradition of firearm regulation.* U.S. Const. Amend. 2; 720 Ill. Comp. Stat. Ann. 5/24-1(a)(10), 5/24-1(c)(1.5); 730 Ill. Comp. Stat. Ann. 5/5-4.5-40; 735 Ill. Comp. Stat. Ann. 5/2-1401.

RESULT: The appellate court affirmed the judgment of the circuit court.

XX

Case # 4.

4). People v. Nalania Vargas, 2025 IL App (2d) 240609, August 8, 2025. Revocation of Probation - - Appeal Dismissed as Moot.

ISSUE: DUE PROCESS (Revocation of Probation - - Mootness): Should this appeal be dismissed as Moot? (Yes).

FACTS: Vargas appealed from an order of the circuit court that terminated her probation unsatisfactorily based on her failure to pay a court-ordered probation fee.

ARGUMENTS: Defendant contends that the State failed to prove that her failure to pay was willful. The State contends that the appeal is moot and, alternatively, that the evidence was sufficient to justify revoking defendant’s probation.

APPELLATE COURT FINDINGS: The Appellate Court held that:
1 defendant failed to establish concrete injuries-in-fact resulting from her probation revocation to warrant application of collateral consequences exception to mootness;
2 appeal did not fall within scope of public-interest exception to mootness doctrine; and
3 appeal did not fall within scope of capable-of-repetition-yet-evading-review exception to mootness doctrine.

CONCLUSIONS AND REASONING:

A). DUE PROCESS (Termination of Probation – Appeal – Mootness): This defendant forfeited her argument that her appeal of the trial court’s unsatisfactory termination of her probation was not rendered moot by the completion of her sentence because it carried consequences for her ongoing immigration proceedings, even though the defendant argued generally in her opening brief that the issue was not moot. **WHY:** *The defendant based her argument in her initial brief only on the assertion that a probation revocation might affect future sentencing proceedings, and made no mention of immigration issues.* Ill. Sup. Ct. R. 341(h)(7).

B). DUE PROCESS (Termination of Probation – Injuries in Fact – Failure to Establish): This defendant failed to meet her burden to establish concrete injuries-in-fact resulting from her probation revocation to warrant application of collateral consequences exception to mootness in her appeal of trial court's order terminating her probation unsatisfactorily based on her failure to pay court-ordered probation fee, despite defendant's contention that unsatisfactory termination of probation was factor considered in determining whether she was eligible for naturalization and for asylum; **WHY:** defendant failed to establish that she had applied or would apply for naturalization, and defendant did not claim that any collateral consequences were affecting her asylum status. 8 C.F.R. § 316.10(c)(1).

C). DUE PROCESS (Termination of Probation – Mootness Doctrine – Question of Public Nature): The issue raised by this defendant's appeal of the trial court's order terminating her probation unsatisfactorily based on her failure to pay a court-ordered probation fee—whether evidence was sufficient to establish that the defendant willfully failed to pay her \$40 probation fee—was not a question of public nature, and thus her appeal following the completion of her sentence did not fall within the scope of the public-interest exception to the mootness doctrine.

D). DUE PROCESS (Termination of Probation – Mootness Doctrine – Capable of Repetition Yet Evading Review Exception): This defendant's appeal of the trial court's order terminating her probation unsatisfactorily based on her failure to pay court-ordered probation fee did not fall within the scope of the “capable-of-repetition-yet-evading-review” exception to the mootness doctrine, absent a showing that the defendant would be subjected to a probation revocation hearing in the future.

RESULT: The appellate court agreed that the appeal was moot. Accordingly, it dismissed the appeal.

XX

Case # 5.

5). People v. Clishaun Long, 2025 IL App (2d) 240237, August 11, 2025. Denial of Motion to Suppress (Weapons Offenses) - - Affirmed.

ISSUE: SEARCH AND SEIZURE (Warrantless Search – Firearm – Consent): Did the trial court err in granting this defendant’s motion to suppress evidence after the defendant attempted to bring a firearm into Six Flags? (Yes).

FACTS: After a gun was found in his possession as he attempted to enter Six Flags Great America theme park (Six Flags) in Gurnee, defendant, Clishaun Long, was arrested and charged with various weapon offenses. Defendant moved to suppress evidence recovered during the warrantless search of his belongings. The trial court granted the motion, and the State now appealed.

ARGUMENTS: On appeal, the People argued that the trial court erred in concluding that the warrantless search of the bag was unlawful. They contended that the fourth amendment was not implicated because the defendant voluntarily consented to the search of his belongings by security in order to enter the park. The People further insisted that the police officers did not need a warrant to search defendant’s bag once they had probable cause to believe that defendant’s bag contained a gun. In response, Long did not dispute that he consented to his bag being screened by Six Flags’ security personnel. He also did not deny that his bag contained a gun and that the police were justified in seizing his bag while they investigated. He insists, however, that he never consented to the Gurnee police officers searching his bag and that their search violated his fourth amendment rights. He therefore maintained that the trial court properly granted his motion to suppress.

APPELLATE COURT FINDINGS: The Appellate Court held that:

- 1 defendant relinquished any reasonable expectation of privacy, and impliedly consented to search of his bag, when he elected to proceed through metal detector screening area which was situated immediately in front of park's entrance;
- 2 fact that search by park's security personnel consisted only of metal detector and X-ray machine did not mean that defendant consented to only those types of searches;
- 3 on-site police officers' tactile search of bag did not exceed scope of park's search;
- 4 discovery of contraband in defendant's bag eliminated any privacy interest protected by Fourth Amendment that he had in continued possession of gun; and
- 5 officers had probable cause to associate bag with criminal activity.

CONCLUSIONS AND REASONING:

A). SEACH AND SEIZURE (Expectation of Privacy – Theme Park – Metal Detector): This defendant relinquished any reasonable expectation of privacy, and impliedly consented to a search of his bag, which contained gun, when he elected to proceed through a metal detector screening area which was situated immediately in front of theme park's entrance. U.S. Const. Amend. 4.

B). SEACH AND SEIZURE (Expectation of Privacy – Theme Park – Metal Detector): It is inherently reasonable for the owners of an amusement park to require that persons seeking to enter their park consensually undergo a search for firearms or other prohibited items on at least two grounds. **WHY:** *First, the park's business would likely suffer through reduced attendance if potential visitors were concerned that fellow visitors to the park were carrying firearms, and second, by inadequately monitoring whether guests were bringing firearms into their park, the park could be subjecting itself to civil liability for failing to take precautions to keep people with firearms out of the park.* U.S. Const. Amend. 4.

C). SEACH AND SEIZURE (Officer Tactile Search – Consent - Scope of Search Authority): An on-site police officers' warrantless tactile search of this defendant's bag, after the defendant consented to the bag being searched by the theme park's security personnel, during which a gun had been observed on an X-ray scan, did not exceed the scope of the park's search, as would violate the Fourth Amendment. **WHY:** *Any expectation of privacy had already been relinquished by the time the officers searched the bag, and the officers' search revealed no new information, but rather confirmed what they already knew, namely, that the defendant had a gun in the bag.* U.S. Const. Amend. 4.

D). SEACH AND SEIZURE (X-Ray Screening – Expectation of Privacy): The discovery of contraband in the defendant's bag during an X-ray screening process at the theme park entrance, namely, a gun which the defendant admitted he was not allowed to possess, eliminated any privacy interest protected by the Fourth Amendment that the defendant had in the continued possession of the gun. U.S. Const. Amend. 4.

E). SEACH AND SEIZURE (Officer Tactile Search – Expectation of Privacy): Police officers, in an on-site office near the entrance to the theme park, had probable cause to associate the defendant's bag with criminal activity, and thus the officers' warrantless tactile search of the bag did not unreasonably infringe upon the defendant's individual interests in preserving the privacy of the bag's contents, in violation of Fourth Amendment. **WHY:** *The park's security personnel had observed a gun in the bag on an X-ray scan; the defendant himself had acknowledged in the officers' presence that there was a gun in the bag; and the officers also knew from the defendant's statements that he did not have a right to possess the gun.* U.S. Const. Amend. 4.

RESULT: The appellate court reversed the judgment of the circuit court and remanded the case for additional proceedings.

XX

Case # 6.

6). People v. Anthony Rich, 2025 IL App (1st) 230818, August 12, 2025. AHC - - Affirmed.

ISSUES: A). **COUNSEL** (Effectiveness – Failure to File Motion to Suppress): Did the defense counsel provide ineffective assistance by failing to file a motion to suppress? (No). B). **SENTENCES** (Excessive): Was this defendant's 15-year sentence for being an Armed Habitual Criminal excessive? (No). C). **CONSTITUTIONALITY OF STATUTE** (AHC): Did the Armed Habitual Criminal statute violate the Second Amendment? (No).

FACTS: Following trial, a jury found defendant guilty of being an armed habitual criminal (AHC), and the trial court sentenced him to 15 years in prison.

ARGUMENTS: On appeal, defendant contends that (1) trial counsel rendered ineffective assistance by failing to file a motion to suppress evidence as the product of his unlawful arrest, (2) his sentence is excessive, and (3) Illinois's AHC and unlawful use of a weapon by a felon (UUWF) statutes are unconstitutional.

APPELLATE COURT FINDINGS: The Appellate Court held that:

- 1 probable cause existed to arrest defendant based on observation of defendant walking in the middle of street in violation of Vehicle Code and municipal code;
- 2 reasonable suspicion existed for law enforcement officer to conduct Terry stop of defendant;
- 3 law enforcement officers had probable cause to arrest defendant for obstructing a police officer;
- 4 sentence was not excessive;
- 5 neither AHC statute nor UUWF statute was unconstitutional facially or as-applied to defendant under Second Amendment; and
- 6 neither AHC statute nor UUWF statute was unconstitutional facially or as-applied under state constitution.

CONCLUSIONS AND REASONING:

A). SEACH AND SEIZURE (Arrest – Probable Cause): Probable cause to arrest this suspect existed based on the law enforcement officer's observation of the suspect walking in the middle of road that featured an unobstructed sidewalk, in violation of the Vehicle Code and the municipal code provisions prohibiting such conduct. U.S. Const. Amend. 4; 625 Ill. Comp. Stat. Ann. 5/11-1007(a), 5/16-102(a) (2018).

B). EVIDENCE (Due Process – Judicial Notice – Digital Mapping): The Appellate Court would take judicial notice, using a digital mapping and navigation service, that the intersection at which the law enforcement officers observed the defendant walking in the middle of the street featured sidewalks on all sides at the time of this incident, when determining whether probable cause to arrest the defendant existed based on a violation of Vehicle Code and municipal code provisions prohibiting pedestrian from walking along a roadway when a sidewalk was provided, on appeal from a conviction for possessing a firearm as an armed habitual criminal. U.S. Const. Amend. 4; 625 Ill. Comp. Stat. Ann. 5/11-1007(a), 5/16-102(a) (2018); 720 Ill. Comp. Stat. Ann. 5/24-1.7(a) (2018).

C). SEACH AND SEIZURE (Reasonable Suspicion – Terry Stop): Reasonable suspicion existed for the law enforcement officer to conduct a *Terry* stop of the suspect, such that the *Terry* stop was lawful. **WHY:** The officer observed the suspect walking in the middle of a street that featured an unobstructed sidewalk, in violation of the Vehicle Code and the municipal code provisions prohibiting such conduct. U.S. Const. Amend. 4; 625 Ill. Comp. Stat. Ann. 5/11-1007(a) (2018).

D). SEACH AND SEIZURE (Arrest – Probable Cause): Law enforcement officers had probable cause to arrest the suspect for obstructing a police officer. **WHY:** The suspect ran from a lawful *Terry* stop premised on the suspect's actions in walking in the middle of a street that featured an unobstructed sidewalk, in violation of

the Vehicle Code and the municipal code provisions prohibiting such conduct. U.S. Const. Amend. 4; 625 Ill. Comp. Stat. Ann. 5/11-1007(a), 5/16-102(a).

E). SEACH AND SEIZURE (Probable Cause – Forfeiture of Argument): The People did not forfeit theories of probable cause to arrest the defendant asserted for the first time on appeal in support of their argument that the trial counsel was not ineffective for failing to file motion to suppress evidence based on alleged unlawful arrest during this prosecution for possessing a firearm as an armed habitual criminal. **WHY:** *The defendant did not challenge the legality of arrest in the trial court.* U.S. Const. Amends. 4, 6; 720 Ill. Comp. Stat. Ann. 5/24-1.1(a); 720 Ill. Comp. Stat. Ann. 5/24-1.7(a) (2018).

F). SEACH AND SEIZURE (Probable Cause – Forfeiture of Argument): The determination that probable cause existed to arrest the defendant based on a violation of the Vehicle Code and the municipal code provisions prohibiting a pedestrian from walking along a roadway when a sidewalk was provided, as a basis for determining that the defense counsel was not ineffective for failing to file motion to suppress evidence based on an unlawful arrest, was not precluded on the basis that the People did not present any evidence that sidewalks were available for the defendant's practicable use. **WHY:** *The People did not present such evidence because it did not charge the defendant with violations of either code, and it could be inferred from trial evidence and judicial notice that the street in which the defendant was observed walking did have sidewalks that the defendant chose not to use.* U.S. Const. Amends. 4, 6; 625 Ill. Comp. Stat. Ann. 5/11-1007(a), 5/16-102(a) (2018).

G). SENTENCES (AHC - Excessive): This defendant's sentence to 15 years in prison for possessing a firearm as an armed habitual criminal, which was within the statutory range, did not vary greatly from the spirit and purpose of the law and was not manifestly disproportionate to the offense, and thus the sentence was not excessive, even though the defendant's conduct did not cause actual harm and the defendant struggled with mental issues, had a supportive family, and was 26 years old at the time of the offense. **WHY:** *The defendant possessed a fully loaded firearm on the street in the middle of the day for no apparent reason despite having five prior felony convictions; the defendant was on parole at the time of offense for a vehicular hijacking conviction; and the defendant's criminal background amply supported a significant term of imprisonment.* 720 Ill. Comp. Stat. Ann. 5/24-1.1(a) (2010); 720 Ill. Comp. Stat. Ann. 5/24-1.7(a), 5/24-1.7(b) (2018); 730 Ill. Comp. Stat. Ann. 5/5-4.5-25(a) (2018).

H). CONSTITUTIONALITY OF STATUTE (AHC – Second Amendment – Forfeiture of Argument): The defendant did not forfeit his argument for this appeal that the armed habitual criminal (AHC) and the unlawful use of a weapon by a felon (UUWF) statutes were unconstitutional as applied under the Second Amendment and the Illinois constitution by failing to raise the challenges in his posttrial motions in this prosecution for being an AHC premised on the defendant possessing a firearm after being convicted of UUWF in a prior case and vehicular hijacking. **WHY:** *The record was sufficiently developed to evaluate the challenge to the AHC statute because the charge went to trial, and the circumstances of the UUWF conviction were immaterial to the constitutional analysis, as all that mattered was that the defendant was a felon, which was shown in the trial court by stipulation.* U.S. Const. Amend. 2; Ill. Const. art. 1, § 22; 720 Ill. Comp. Stat. Ann. 5/18-3(a) (2014); 720 Ill. Comp. Stat. Ann. 5/24-1.1(a) (2010); 720 Ill. Comp. Stat. Ann. 5/24-1.7(a) (2018).

I). STATUTORY CONSTRUCTION (Second Amendment – Scope): Possessing a firearm while having a felony conviction did not fall within the scope of the Second Amendment, and thus neither being an armed habitual criminal (AHC) nor the unlawful use of a weapon by a felon (UUWF) statute, which prohibited felons from possessing a firearm, was unconstitutional under the Second Amendment, facially or as-applied to this defendant. **WHY:** *The Second Amendment protected the rights of law-abiding citizens to possess firearms.* U.S. Const. Amend. 2; 720 Ill. Comp. Stat. Ann. 5/18-3(a) (2014); 720 Ill. Comp. Stat. Ann. 5/24-1.1(a) (2010); 720 Ill. Comp. Stat. Ann. 5/24-1.7(a) (2018).

J). CONSTITUTIONALITY OF STATUTE (AHC – Illinois Constitution): Neither the armed habitual criminal (AHC) statute nor the unlawful use of a weapon by a felon (UUWF) statute, which prohibited felons from possessing a firearm, was unconstitutional under Illinois constitution, facially or as-applied to this defendant. **WHY:** The right to bear arms under the Illinois constitution was subject to the state police power, and the AHC and UUWF statutes were determined to be a proper exercise of that power. U.S. Const. Amend. 2; Ill. Const. art. 1, § 22; 720 Ill. Comp. Stat. Ann. 5/18-3(a) (2014); 720 Ill. Comp. Stat. Ann. 5/24-1.1(a) (2010); 720 Ill. Comp. Stat. Ann. 5/24-1.7(a) (2018).

K). CONSTITUTIONALITY OF STATUTE (AHC – Second Amendment – Non-Violent Felonies): The Armed habitual criminal (AHC) statute and the unlawful use of a weapon by a felon (UUWF) statute were not unconstitutional under the Second Amendment or the Illinois constitution as applied to this. **WHY:** *The defendant had been convicted of vehicular hijacking and robbery, both of which required use of force or threatening the imminent use of force.* U.S. Const. Amend. 2; Ill. Const. art. 1, § 22; 720 Ill. Comp. Stat. Ann. 5/18-1, 5/18-3(a) (2014); 720 Ill. Comp. Stat. Ann. 5/24-1.1(a) (2010); 720 Ill. Comp. Stat. Ann. 5/24-1.7(a) (2018).

RESULT: The appellate court affirmed Rich’s conviction and sentence.

XX

Case # 7.

7). People v. Jerome K. Brownlee, 2025 IL App (2d) 250198, August 13, 2025. Denial of Pre-Trial Release - - Reversed.

ISSUE: PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release): Did the circuit court err in denying this defendant pre-trial releases after the People failed to bring him to trial with 90 days of the entry of his order of detention? (Yes).

FACTS: Brownlee appealed from an order of the circuit court denying his motion for release from pretrial detention because he was not brought to trial within 90 days, as required under section 110-6.1(i) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1(i)).

ARGUMENTS: On appeal, defendant argued that the trial court erred in denying his motion to be released because he had not been tried within 90 days of the offense for which he had been detained as required by section 110-6.1(i) of the Code (725 ILCS 5/110-6.1(i)). Section 110-6.1(i) provides, in relevant part, as follows: “If the court enters an order for the detention of the defendant pursuant to subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90-day period required by the preceding sentence, he shall not be denied pretrial release. In computing the 90-day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant and any period of delay resulting from a continuance granted at the request of the State with good cause shown pursuant to Section 103-5 [of the Speedy Trial Act].”

The People asserted that, because section 110-6.1(i) of the Code refers to section 103-5 of the Speedy Trial Act (id. § 103-5), it makes sense to incorporate section 103-5(e) into the Code. Section 103-5(e) of the Speedy Trial Act (id. § 103-5(e)) applies when a defendant is in simultaneous custody on multiple offenses. In the absence of any allowable delays that are enumerated in the statute, the State must try the defendant on one of the charges within 120 days. Id. § 103-5(a). The People must then resolve all other pending charges within 160 days of the date judgment is entered on the first case. Id. § 103-5(e). The People argued that, similarly, section 110-6.1(i) should be interpreted such that the State has 90 days to try a defendant on one charge and following a resolution

on that charge such as a dismissal or a conviction, the People has an additional 90 days to bring a defendant to trial on any of the remaining charges.

APPELLATE COURT FINDINGS: The Appellate Court held that:

1 although defendant was already released from custody pending appeal, magnitude of interests involved in his appeal warranted action, and thus public interest exception to mootness doctrine applied, and

2 once state dismissed defendant's first elected misdemeanor domestic battery case, 90-day period for him to be brought to trial in separate felony domestic battery case did not restart, and thus state was not allowed an additional 90 days to bring him to trial.

CONCLUSIONS AND REASONING:

A). TRIAL PROCEDURE (Mootness – Public Interest Exception): Although the defendant was released from custody pending appeal from the denial of his motion for pretrial release, the magnitude of the interests involved in his appeal warranted action, and thus the public interest exception to the mootness doctrine applied.

WHY: *The defendant's appeal was a matter of public nature because all individuals charged with a detainable offense were subject to the provisions of code denying pretrial release; the circumstances were likely to recur because a significant number of defendants could be involved in more than one case; and the authoritative guidance about how the provisions of the code applied were needed because the parties demonstrated confusion.* 725 Ill. Comp. Stat. Ann. 5/110-6.1(i).

B). PRE-TRIAL PROCEDURE (Statutory Construction - Denial of Pre-Trial Release – Deadline): Once the People dismissed the defendant's first elected misdemeanor domestic battery case, the 90-day period for him to be brought to trial in a separate felony domestic violence case did not restart while he was in custody for those multiple cases, and thus the People not allowed an additional 90 days to bring him to trial on the domestic violence charges, under the statute for the denial of pretrial release. **WHY:** *The plain language of the denial of pretrial release statute did not provide for an additional exception that the People asked for, and it did not authorize attribution of the time spent in custody to different offenses.* 725 Ill. Comp. Stat. Ann. 5/110-6.1(i).

RESULT: The appellate court reversed the judgment of the circuit court.

XX

Case # 8.

8). People v. Randall M. Stafford, II, 2025 IL App (2d) 240250, August 14, 2025. Aggravated Domestic Battery - - Affirmed.

ISSUE: SENTENCING (Credit): Was this defendant entitled to additional sentencing credit for the time he spent on electronic home detention? (No).

FACTS: After a bench trial, Stafford was convicted of aggravated domestic battery (720 ILCS 5/12-3.3(a-5)) and sentenced to six years' imprisonment.

ARGUMENTS: On appeal, defendant contended that the trial court erred in refusing him sentencing credit for the time he spent on electronic home monitoring while he was released on bond.

APPELLATE COURT FINDINGS: The Appellate Court held that:

1 plain language of statute granting sentencing credit for time spent in home detention excludes from home detention any home confinement, with or without electronic home monitoring, where the terms and conditions were established by the trial court;

- 2 county court services and county sheriff's office did not establish terms and conditions of defendant's confinement;
- 3 accepting plain meaning of home detention from home detention law in constructing statute granting sentencing credit for home detention as excluding home confinement where terms and conditions were established by trial court did not create absurd result; and
- 4 amendment of sentencing statute requiring custodial credit for each day defendant spent subjected to home confinement did not apply retroactively.

CONCLUSIONS AND REASONING:

A). STATUTORY CONSTRUCTION (Sentencing – Public Interest Exception): The plain language of the statute granting sentencing credit for time spent in home detention, taken in consideration with the definition of home detention from the home detention statute, excludes from home detention any home confinement, with or without electronic home monitoring. **WHY:** *The terms and conditions were established by the trial court.* 730 Ill. Comp. Stat. Ann. 5/5-4.5-100(b), 5/5-8A-2(C).

B). SENTENCING (Credit – Home Confinement): The county court services and the county sheriff's office did not establish the terms and conditions of the defendant's confinement, and thus the defendant was not entitled to sentencing credit for his home detention following his conviction for aggravated domestic battery, although the county agencies administered GPS and a curfew using the established process to monitor the defendant's confinement. **WHY:** *The trial court, not the county agencies, had previously established the terms and conditions and exercised all power to decide where the defendant could go and when he could do so.* 720 Ill. Comp. Stat. Ann. 5/12-3.3(a-5); 730 Ill. Comp. Stat. Ann. 5/5-4.5-100(b).

C). SENTENCING (Credit – Home Confinement): Accepting the plain meaning of home detention from the home detention law in constructing the statute granting sentencing credit for home detention as excluding home confinement where the terms and conditions were established by the trial court did not create an absurd result, and thus the defendant was not entitled to home detention sentencing credit, although instances in which someone other than trial court would establish terms and conditions of release from jail would be rare. **WHY:** *The sentencing credit statute had been amended multiple times after a previous judicial construction of the statute, and the term had not disturbed the definition of home detention.* 720 Ill. Comp. Stat. Ann. 5/12-3.3(a-5); 730 Ill. Comp. Stat. Ann. 5/5-4.5-100(b), 5/5-8A-2(C).

D). SENTENCING (Statutory Amendment – Application): The amendment of the sentencing statute requiring custodial credit for each day the defendant spent subjected to home confinement did not apply retroactively to mandate credit for the defendant's prior sentencing for aggravated domestic battery. 720 Ill. Comp. Stat. Ann. 5/12-3.3(a-5); 725 Ill. Comp. Stat. Ann. 5/110-5(h).

RESULT: The appellate court affirmed Stafford's conviction and sentence.

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Case # 9.

9). Henry Harell v. The City of Chicago, 2025 IL App (1st) 240119, August 19, 2025. Law Enforcement Liability (Grant of New Trial) - - Affirmed.

ISSUE: LAW ENFORCEMENT RISK MANAGEMENT (Damage Caused by Fleeing Suspect): Did the trial court err in ordering a new trial after a jury returned a verdict in favor of the plaintiffs for \$10 million? **(No).**

FACTS: The Plaintiffs, Kimberlyn Myers and her deceased mothers' estate, sued to recover damages resulting from an accident between their car and a Kia Sorrento, the latter of which was fleeing from officers of the Chicago Police Department (CPD), the defendants here. The accident claimed the life of Kimberlyn's mother, Stacy. The complaint alleged that the officers engaged in "willful and wanton conduct" in initiating and continuing their pursuit of the Kia that led to the fatal car crash. After trial, the jury awarded over \$10 million to plaintiffs. Defendants moved for a new trial, claiming a litany of intentional and material violations of various motions in limine, as well as improper closing argument. The trial court agreed that several violations, collectively, deprived defendants of a fair trial and ordered a new trial.

ARGUMENTS: Plaintiffs timely appealed, claiming the trial court erred, that in fact no material violations of the pretrial motions occurred, and certainly not enough to warrant a new trial.

APPELLATE COURT FINDINGS: The Appellate Court held that:

- 1 decision to strike plaintiffs' timely petition for leave to appeal for noncompliance with supreme court rules did not deprive Court of jurisdiction with respect to compliant amended petition;
- 2 city and officers did not forfeit right to seek new trial; and
- 3 cumulative error warranted new trial based on combination of improper testimony and burden-shifting remarks in closing argument.

CONCLUSIONS AND REASONING:

A). APPELLATE PROCEDURE (Appellate Jurisdiction - Striking Appellate Brief): The Appellate Court's decision to strike the plaintiffs' timely petition for leave to appeal the order granting a new trial, for noncompliance with Supreme Court Rule governing page and word-count limits for appellate briefs, did not deprive the Court of jurisdiction on the ground that the plaintiff filed a compliant amended petition more than 30 days after entry of the challenged order. **WHY:** The Court struck the petition as a discretionary sanction and not due to a jurisdictional flaw; the plaintiffs satisfied the jurisdictional requirement for appellate review by petitioning for leave to appeal under the rule governing an interlocutory appeal by permission, and the Court granted the plaintiffs leave to amend the petition. Ill. Sup. Ct. R. 306(a)(1), 306(c)(1), 341(b)(1).

B). APPELLATE JURISDICTION (Right to Seek New Trial - Forfeiture): The City and the city police officers did not forfeit their right to seek a new trial, based on allegations that the plaintiffs' violations of motions in limine and improper closing argument deprived them of a fair trial, by failing to seek a mistrial or a curative instruction or by objecting to some violations but not others, in the plaintiffs' action to recover damages resulting from a fatal collision with a driver fleeing the police. **WHY:** *The trial court had discretion to order a new trial in the interests of justice regardless of whether a mistrial was sought, and a contemporaneous objection raised at trial was sufficient to avoid forfeiture.*

C). TRIAL PROCEDURE (New Trial – Improper Conduct): Cumulative error warranted a new trial in this action for damages brought by the estate and the daughter of a motorist killed by a driver fleeing from the police against the city and police officers, based on a combination of improper testimony on topics which the court had barred on motions in limine and burden-shifting remarks in closing argument. **WHY:** *Despite trial court's clear rulings and admonitions, the plaintiff's counsel repeatedly questioned the defendant officers regarding a post-accident investigation and introduced expert testimony on reasonable suspicion for a traffic stop leading to the fatal chase, such that the jury heard about those disallowed topics, and the counsel in closing highlighted the fact that the defendants, which had no burden of proof, could not find an expert to rebut the testimony by the plaintiffs' expert on the topic of reasonable suspicion.*

RESULT: The appellate court held that while it may not agree with all the trial court's findings of violations, overall it cannot say that the grant of a new trial was an abuse of discretion. Therefore, it affirmed the judgement of the circuit court.

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Case # 10.

10). People v. Carl Francik, 2025 IL App (2d) 240585, August 19, 2025. Eavesdropping - - Affirmed.

ISSUES: **A). REASONABLE DOUBT (Eavesdropping):** Did the People present sufficient evidence to sustain the defendant's conviction for Eavesdropping? (Yes). **B). COUNSEL (Effectiveness – Failure to perfect Impeachment of a Witness):** Did the defense attorney fail to provide effective assistance by failing to properly impeach a witness for the People? (No).

FACTS: After a bench trial, Francik was convicted of eavesdropping (720 ILCS 5/14-2(a)(1))) and sentenced to 30 months' probation.

ARGUMENTS: On appeal, he argues that (1) he was not proved guilty beyond a reasonable doubt because (a) the recording at issue was unintelligible and (b) there was no evidence that he knowingly and intentionally utilized the eavesdropping device in question and (2) his trial counsel was ineffective for failing to perfect the impeachment of the complaining witness.

APPELLATE COURT FINDINGS: The Appellate Court held that:
1 portions of recorded private conversations were intelligible and, thus, even if statute governing offense of eavesdropping required recording to be intelligible, such requirement did not preclude defendant's conviction;
2 prosecution was not judicially estopped from contending that intelligibility of recording of private conversation was not required to sustain defendant's conviction;
3 evidence supported finding that defendant knowingly and intentionally utilized recording device to eavesdrop, as required for conviction; and
4 defense counsel's failure to perfect impeachment of defendant's former wife with testimony of detective who investigated incident did not prejudice defendant and, thus, was not ineffective assistance.

CONCLUSIONS AND REASONING:

A). REASONABLE DOUBT (Eavesdropping – Sufficient Evidence): Portions of the recorded private conversations of the defendant's former wife, captured by a recording device the defendant placed in his child's coat during a parenting exchange with the former wife, were intelligible and, thus, even if the statute governing the offense of eavesdropping required the recording to be intelligible, such requirement did not preclude the defendant's eavesdropping conviction. **WHY:** *In excerpts of the recordings played in court, the former wife was conversing in person with the child and over a speaker phone with her mother, and the entire statements, not just isolated words, by the former wife were clearly discernible in the excerpts.* 720 Ill. Comp. Stat. Ann. 5/14-2(a)(1).

B). TRIAL PROCEDURE (Eavesdropping – Judicial Estoppel): The prosecution was not judicially estopped, based on having argued in a prior case that the eavesdropping statute required the intelligible recording of a private conversation, from contending that the intelligibility of the recording of the private conversation was not required to sustain the defendant's conviction under the eavesdropping statute. **WHY:** *Judicial estoppel barred only inconsistent factual assertions, not inconsistent legal positions.* 720 Ill. Comp. Stat. Ann. 5/14-2(a)(1).

C). APPELLATE PROCEDURE (Eavesdropping – Preservation of Appeal): The defendant adequately preserved, for appeal, his challenge to the sufficiency of the evidence supporting his eavesdropping conviction based on his claim that the prosecution did not prove he knowingly and intentionally utilized a recording device to eavesdrop, in this prosecution based on the defendant's alleged placement of a device in a child's coat during a parenting exchange with his former wife, resulting in the recording of the wife's private conversations. **WHY:**

The defendant argued, in a brief with citations to legal authority, that there was no substantial proof that he planted a device in the coat, that his ex-wife did not see the defendant place the object in the coat, that object was not linked to the defendant by DNA or fingerprints, that it was possible that the child had placed the object in coat, and that no technical evidence was introduced to show how the object worked. 720 Ill. Comp. Stat. Ann. 5/14-2(a)(1); Ill. Sup. Ct. R. 341(h)(7).

The
D). REASONABLE DOUBT (Eavesdropping – Sufficient Evidence): The evidence in this case was sufficient to support a finding that the defendant knowingly and intentionally utilized a recording device to eavesdrop, as required for an eavesdropping conviction based on the recorded private conversations of the defendant's former wife created by a device discovered in the child's coat pocket by the former wife shortly after a parenting exchange with the defendant. **WHY:** The wife testified that the defendant told her that the child must have taken the device off his kitchen counter, but the wife also testified that the counter was “slightly higher” than the barstools next to the kitchen island, the child was only one year old, the device recorded sounds while it was in the wife's home, such that someone must have activated it before it ended up in child's coat, and the defendant's motivations were easily inferable from his inharmonious relationship with his wife. 720 Ill. Comp. Stat. Ann. 5/14-2(a)(1).

E). DUE PROCESS (Counsel – Effectiveness): The defense counsel's failure to perfect the impeachment of the defendant's former wife with testimony of a detective who investigated the incident did not prejudice the defendant and, thus, was not ineffective assistance of counsel at a bench trial for eavesdropping based on the defendant's alleged placement of a recording device in his child's coat pocket during a parenting exchange with his ex-wife, which resulted in recording of the ex-wife's private conversations without her consent. **WHY:** While the defendant claimed the testimony could have affected the result of his trial by suggesting that the wife had motive to testify falsely to improve her custody situation, the trial court noted that, in finding the defendant guilty, it recognized that the wife wanted to damage the defendant in some way, stating directly that the perfection of the impeachment would not have changed the verdict. U.S. Const. Amend. 6.

RESULT: The Appellate Court affirmed.

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Case # 11.

11). People v. Clayton T. Bell, 2025 IL App (4th) 240929, August 19, 2025. Aggravated DUI - - Conviction Affirmed; Sentence Vacated; Case Remanded for Resentencing.

ISSUE: SENTENCING (Counsel – Effectiveness): Did the defense counsel provide ineffective assistance by failing to produce evidence relevant to the youth-based factors in mitigation and in failing to object to improper victim impact evidence? (Yes).

FACTS: Bell appealed the 14-year sentence he received after pleading guilty to aggravated driving under the influence (aggravated DUI) (625 ILCS 5/11-501(d)(1)(F)) and reckless homicide (720 ILCS 5/9-3(a)). He was 16 years old at the time of his offense.

ARGUMENTS: On appeal, Bell argued that the trial court erred in finding he was provided the effective assistance of counsel at sentencing after his counsel failed to produce evidence relevant to the youth-based factors in mitigation (see 730 ILCS 5/5-4.5-105) and failed to object to unauthorized victim impact evidence.

APPELLATE COURT FINDINGS: The Appellate Court held that:
1 Appellate Court would disregard any argument included by defendant in his statement of facts;
2 counsel provided deficient performance when he failed to address youth-based sentencing factors in mitigation or present any argument related to those factors; and

3 a reasonable probability existed that defendant's sentence was affected by trial counsel's deficient performance.

CONCLUSIONS AND REASONING:

A). DUE PROCESS (Counsel – Effectiveness): The trial counsel provided a deficient performance when he failed to address the youth-based sentencing factors in mitigation or present any argument related to those factors, the one element necessary to establish ineffective assistance of counsel during sentencing for aggravated driving under the influence (DUI) and reckless homicide. **WHY:** *The defendant was a minor when the crash occurred, and thus the court was required to consider the youth-based sentencing factors to mitigate the potential sentence; the counsel elected not to discuss the sentencing factor that requiring consideration of “peer pressure,” even though the witness testimony and a video indicated the passengers in the vehicle were urging the defendant to drive faster and “catch air” before the crash, and instead employed a strategy of accepting responsibility and not shifting blame to the passenger who died.* U.S. Const. Amend. 6; Ill. Const. art. 1, § 8; 720 Ill. Comp. Stat. Ann. 5/5-4.5-105(a).

B). DUE PROCESS (Counsel – Effectiveness): A reasonable probability existed that the defendant's sentence was affected by the trial counsel's deficient performance, the second element necessary to establish ineffective assistance of counsel during sentencing for aggravated driving under the influence (DUI) and reckless homicide. **WHY:** *The sentencing range for aggravated DUI was three to 14 years imprisonment; the defendant was sentenced to the maximum for acts committed when he was a juvenile, and the counsel's failure to present youth-based mitigating evidence resulted in the court believing the defendant was acting contrary to his passengers when speeding before the crash, rather than knowing that the defendant and the passengers had consumed alcohol together, the defendant was asked to drive, and the defendant was encouraged by the passengers to “catch air” before he sped up the hill.* U.S. Const. Amend. 6; Ill. Const. art. 1, § 8; 625 Ill. Comp. Stat. Ann. 5/5-4.5-105(a), 5/11-501(d)(2)(G).

RESULT: The appellate court agreed with Bell, reversed the imposed sentence, and remanded the case for resentencing with directions.

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Case # 12.

12). People v. Travion D. Terrell, 2025 IL App (3d) 240567, August 22, 2025. Grant of Motion to Suppress - - Affirmed in Part; Reversed in Part; Case Remanded for Further Proceedings.

ISSUE: SEARCH AND SEIZURE (Probable Cause – Phone Records Search): Did the trial court err in granting this defendant’s motion to suppress evidence seized as a result of a warrant to search for phone records? (Yes and No).

FACTS: *Terrell was charged with numerous felony offenses arising out of shooting into a Chevrolet Tahoe. The People sought and obtained a warrant to search Terrell’s phone. Terrell then filed a pretrial “Motion To Suppress Evidence From Search Of Defendant’s Phone Records As Search Warrant Was Issued Without Probable Cause,” seeking to suppress all evidence gathered as a result of the warrant. The trial court concluded that, “based upon all the evidence and arguments on this four corner motion, it found that there was no probable cause to issue the warrant as to [Terrell’s] phone records based upon what’s in the four corners of the search warrant.” Accordingly, the trial court entered an order finding that “there was no probable cause to issue search warrant for the T-Mobile phone records relating to the phone number attributed to [defendant],” granting defendant’s motion to suppress.*

ARGUMENTS: On appeal, the People argued that the trial court erred in granting Terrell’s motion to suppress.

APPELLATE COURT FINDINGS: The Appellate Court held that:

- 1 there was probable cause to search defendant's phone records regarding charged shooting;
- 2 there was no probable cause to search defendant's cellphone records relating to three prior, uncharged shootings;
- 3 good-faith exception to exclusionary rule did not apply to evidence regarding uncharged shootings;
- 4 Court of Appeals would decline to find that People forfeited request for remand based on the partial validity of the warrant; and
- 5 remand was warranted for the trial court to determine which evidence was related to the valid portion of the warrant and which evidence was not.

CONCLUSIONS AND REASONING:

A). SEACH AND SEIZURE (Cell Phone Records – Probable Cause): Evidence of distinctive similarities between the offending vehicle involved in a shooting and the defendant's vehicle, that the driver observed two Black males in the offending vehicle, and that the defendant was social-media friends with the individual who was identified as being the passenger in the offending vehicle, sufficiently established probable cause that evidence related to shooting that gave rise to charges for aggravated battery, aggravated discharge of a firearm, reckless conduct, and aggravated reckless driving would be found in defendant's cellphone. U.S. Const. Amend. 4; Ill. Const. art. 1, § 6; 625 Ill. Comp. Stat. Ann. 5/11-503(a)(1), 5/11-503(c); 720 Ill. Comp. Stat. Ann. 5/12-3.05(e)(1), 5/12-3.05(h); 720 Ill. Comp. Stat. Ann. 5/12-5; 720 Ill. Comp. Stat. Ann. 5/24-1.2(a)(2).

B). SEACH AND SEIZURE (Cell Phone Records – Probable Cause): The affidavit in support of a complaint for a warrant to search the defendant's cellphone for information that covered a period starting more than two months before the charged shooting established no connection between the defendant and three uncharged shootings that occurred prior to the shooting that formed the basis of the charges for aggravated battery, aggravated discharge of a firearm, reckless conduct, and aggravated reckless driving and thus did not establish probable cause to believe that evidence related to the uncharged shootings during time- period sought would be found on defendant's cell phone. U.S. Const. Amend. 4; Ill. Const. art. 1, § 6; 625 Ill. Comp. Stat. Ann. 5/11-503(a)(1), 5/11-503(c); 720 Ill. Comp. Stat. Ann. 5/12-3.05(e)(1), 5/12-3.05(h); 720 Ill. Comp. Stat. Ann. 5/12-5; 720 Ill. Comp. Stat. Ann. 5/24-1.2(a)(2).

C). SEACH AND SEIZURE (Cell Phone Records – Probable Cause – Good Faith): The warrant to search the defendant's cellphone records was based on a bare-bones affidavit, such that it was unreasonable to believe probable cause existed, and thus the good-faith exception to the exclusionary rule did not apply. **WHY:** *The complaint for the warrant presented no factual basis for concluding that evidence of the shootings would be found in the cellphone records, and, instead, it only established a connection between the defendant's social-media friend and the shootings.* U.S. Const. Amend. 4; Ill. Const. art. 1, § 6; 625 Ill. Comp. Stat. Ann. 5/11-503(a)(1), 5/11-503(c); 720 Ill. Comp. Stat. Ann. 5/12-3.05(e)(1), 5/12-3.05(h); 720 Ill. Comp. Stat. Ann. 5/12-5; 720 Ill. Comp. Stat. Ann. 5/24-1.2(a)(2); 725 Ill. Comp. Stat. Ann. 5/114-12(b)(1).

D). SEACH AND SEIZURE (Cell Phone Records – Remand – Forfeiture): The Court of Appeals would decline to find that the People forfeited their request for remand for a trial court to determine what evidence was related to a valid portion of the warrant to search the defendant's cellphone records and what evidence was related to the invalid portion of warrant. **WHY:** *While the People did not squarely seek a determination as to the partial validity of the warrant, they made a similar argument in response to the defendant's claim that the warrant was overbroad, and the People addressed the scope of records requested in arguing that the items sought in the warrant met the particularity requirement.* U.S. Const. Amend. 4; Ill. Const. art. 1, § 6; Ill. Sup. Ct. R. 341(h)(7).

E). SEACH AND SEIZURE (Cell Phone Records – Remand – Probable Cause): Remand was warranted for the trial court to determine what evidence was related to a portion of the warrant to search the defendant's cellphone that was supported by probable cause to believe that information relevant to the shooting that gave rise

to the charged offenses found on his phone and evidence obtained pursuant to the portion of the warrant for which there was not probable cause to believe that the cellphone would contain evidence of three prior, uncharged shootings; **WHY:** *The partial invalidity of the warrant did not require that the entire warrant be quashed.* U.S. Const. Amend. 4; Ill. Const. art. 1, § 6; 625 Ill. Comp. Stat. Ann. 5/11-503(a)(1), 5/11-503(c); 720 Ill. Comp. Stat. Ann. 5/12-3.05(e)(1), 5/12-3.05(h); 720 Ill. Comp. Stat. Ann. 5/12-5; 720 Ill. Comp. Stat. Ann. 5/24-1.2(a)(2).

RESULT: The appellate court affirmed the judgment of the circuit court, in part, reverse in part, and remand the case for further proceedings.

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Case # 13.

13). People v. Carmen Cox, 2025 IL App (1st) 241260, August 25, 2025. Denial of Petition for Relief From Judgment (UUWF) - - Affirmed.

ISSUE: CONSTITUTIONALITY OF STATUTE (UUWF): Did the Unlawful Use of Weapons by a Felon statute violate the Second Amendment? (No).

FACTS: Cox appealed from the circuit court's dismissal of his pro se petition for relief from judgment filed pursuant to section 2-1401 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1401).

ARGUMENTS: On appeal, Cox contended, for the first time, that his conviction for unlawful use or possession of a weapon by a felon (UUWF) is void and must be vacated because the UUWF statute is facially unconstitutional pursuant to the second amendment of the United States Constitution (U.S. Const., amend. II) and article I, section 22 of the Illinois Constitution (Ill. Const. 1970, art. I, § 22).

APPELLATE COURT FINDINGS: The Appellate Court held that:
1 UUWF statute was facially constitutional under Second Amendment, and
2 UUWF statute was constitutional under analogous provision of Illinois Constitution.

CONCLUSIONS AND REASONING:

A). CONSTITUTIONALITY OF STATUTE (UUWF – 2nd Amendment): The statute criminalizing the unlawful use or possession of a weapon by a felon (UUWF) comported with the longstanding tradition of disarming individuals based upon criminal conduct, and thus was facially constitutional under the Second Amendment, even though the defendant claimed the absence of any “compelling historical analogues” for permanent disarmament based upon a prior felony or “significant” imprisonment for that possession. **WHY:** *The UUWF statute did not permanently ban felon firearm possession, and the founding-era historical record and Supreme Court precedent supported the legislature's ability to prohibit firearm possession by people who had demonstrated disrespect for legal norms of society, which would include those with felony convictions.* U.S. Const. Amend. 2; 720 Ill. Comp. Stat. Ann. 5/24-1.1(a).

B). CONSTITUTIONALITY OF STATUTE (UUWF – Illinois Constitution): The statute criminalizing the unlawful use or possession of a weapon by a felon (UUWF) is constitutional under the provision of the Illinois Constitution protecting a citizen's right to bear and keep arms. Ill. Const. art. 1, § 22.

RESULT: The appellate court affirmed the judgment of the circuit court.

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Case # 14.

14). People v. Travis Trynell Williams, 2025 IL App (4th) 240738, August 26, 2025. Denial of Motion to Reconsider Sentence (Aggravated DUI) - - Reversed and Remanded.

ISSUE: POST-CONVICTION PROCEDURE (Motion to Withdraw Plea): Did the defense counsel's failure to file a motion to withdraw the defendant's negotiated plea violate Supreme Court Rule 604(d) and entitle this defendant to another try at filing a proper post-conviction petition? **(Yes).**

FACTS: Williams pled guilty to aggravated driving under the influence (DUI) (625 ILCS 5/11-501(a)(1), (d)(1)(f) based on his act of driving under the influence of alcohol that resulted in the death of another person. As part of the plea negotiations, the State dismissed other charges and agreed not to seek an extended term of up to 28 years' incarceration. However, it is undisputed on appeal that defendant was not eligible for the 28-year extended term. The trial court sentenced defendant to 12 years' imprisonment. Following sentencing, defense counsel filed a motion to reconsider sentence, alleging the court improperly considered the victim's death in aggravation and improperly considered the existence of the 28-year extended term as a sentencing factor. The court denied the motion.

ARGUMENTS: On appeal, Williams contended the trial court erred in denying his motion to reconsider his sentence. The People argued in part that the Williams' claim is barred on appeal because he failed to file a motion to withdraw the negotiated plea. Williams responded that the People's mistaken belief it could seek an extended term of up to 28 years converted the negotiated plea into an open plea because the People did not make a valid sentence concession. Thus, Williams asserted that he was able to challenge the plea via a motion to reconsider sentence instead of a motion to withdraw the plea. In the alternative, Williams maintained that, if he was required to file a motion to withdraw the plea, his defense counsel failed to strictly comply with the certificate requirement of Illinois Supreme Court Rule 604(d) (eff. July 1, 2017) by filing the wrong type of motion to challenge the sentence.

APPELLATE COURT FINDINGS: The Appellate Court held that:

1 defendant was not eligible for term of 28 years' imprisonment since statute authorized sentence of six to 28 years only when DUI resulted in death of two or more people;
2 as matter of first impression, effect of mutual mistake of law and fact as to defendant's eligibility for extended term sentence for aggravated DUI did not convert defendant's negotiated plea into open plea; and
3 counsel failed to comply with rule, stating that no appeal shall be taken upon negotiated plea of guilty challenging sentence as excessive unless defendant files motion to withdraw plea, when he filed invalid motion to reconsider sentence.

CONCLUSIONS AND REASONING:

A). STATUTORY CONSTRUCTION (Sentencing – DUI): The defendant, who was convicted of aggravated driving under the influence (DUI) which resulted in the death of one person, was not eligible for term of 28 years' imprisonment. **WHY:** *The statute authorized the sentence of six to 28 years only when the DUI resulted in the death of two or more people.* 625 Ill. Comp. Stat. Ann. 5/11-501(d)(2)(G).

B). APPELLATE PROCEDURE (Guilty Plea – Mutual Mistake): The effect of the mutual mistake of law and fact as to the defendant's eligibility for an extended term sentence for aggravated driving under influence (DUI) resulting in death of one person did not convert the defendant's negotiated plea into an open plea, and since the defendant had entered a negotiated plea, he was required to file a motion to withdraw his plea in order to challenge his sentence. **WHY:** *The parties entered what would normally be considered a negotiated plea when the defendant accepted the People's agreement to forgo seeking a 28-year extended term sentence, but the*

defendant was not eligible for an extended term of 28 years' imprisonment, as that sentence was for DUI offenses that resulted in the death of two or more people. 625 Ill. Comp. Stat. Ann. 5/11-501(d)(2)(G); Ill. Sup. Ct. R. 604(d).

C). APPELLATE PROCEDURE (Guilty Plea – Mutual Mistake – Withdrawal of Plea): Because the guilty plea and the sentence go hand in hand as material elements of the plea bargain, applying contract principles, a defendant may seek to modify the terms of a negotiated guilty plea only by withdrawing that plea and vacating the judgment, thereby returning the parties to the status quo. **WHY:** Allowing the defendant to move to reconsider his sentence without withdrawing his plea unfairly binds the People to the terms of the plea agreement while giving the defendant the opportunity to avoid or modify those terms. Ill. Sup. Ct. R. 604(d).

D). APPELLATE PROCEDURE (Guilty Plea – Rule 604(d) – Strict Compliance): Counsel must strictly comply with the rule requiring counsel to file a certification that the counsel has consulted with the defendant and examined the trial court file when the defendant, after pleading guilty, files either a motion to reconsider sentence or to withdraw guilty plea. **WHY:** The certification requirement enables the trial court to ensure that the counsel reviewed the defendant's claim and considered all relevant bases for a motion to withdraw guilty plea or to reconsider sentence. Ill. Sup. Ct. R. 604(d).

E). APPELLATE PROCEDURE (Guilty Plea – Rule 604(d) – Strict Compliance – Remand): Remand is required when the counsel's certificate of compliance fails to comply strictly with the rule requiring the counsel to file a certification that the counsel has consulted with the defendant and examined the trial court file when defendant, after pleading guilty, files either motion to reconsider sentence or to withdraw guilty plea, and on remand, the defendant has the opportunity to file a new post-plea motion and receive a new hearing on that motion. Ill. Sup. Ct. R. 604(d).

F). APPELLATE PROCEDURE (Guilty Plea – Rule 604(d) – Strict Compliance – Remand): The defense counsel failed to comply with the rule, stating that no appeal shall be taken upon a negotiated plea of guilty challenging the sentence as excessive unless the defendant files a motion to withdraw plea, when, instead of filing a motion to withdraw the plea, he filed an invalid motion to reconsider the sentence instead, and because the record rebutted the counsel's certificate of compliance, the matter would be remanded for a new post-plea motion if defendant so chose and strict compliance with rule. Ill. Sup. Ct. R. 604(d).

G). APPELLATE PROCEDURE (Rule 604(d) – Strict Compliance – Remand - Prejudice): The defendant is not required to show prejudice to obtain a remand when his counsel fails to comply with the rule requiring counsel to file a certification that the counsel has consulted with the defendant and examined the trial court file when the defendant, after pleading guilty, files either a motion to reconsider sentence or to withdraw his guilty plea. Ill. Sup. Ct. R. 604(d).

RESULT: The appellate court held that the effect of the mistake as to eligibility for an extended term did not convert the negotiated plea into an open plea. Accordingly, defendant entered a negotiated plea, which required him to file a motion to withdraw his plea to challenge his sentence. However, it agreed that, by filing the wrong motion, the defense counsel failed to strictly comply with Rule 604(d). Accordingly, the appellate court reversed the trial court's judgment, and remanded this case to allow Williams to file a new post-plea motion to withdraw his plea should he wish to do so and for strict compliance with Rule 604(d).

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Case # 15.

15). People v. Steve Rainey, 2025 IL App (1st) 230639, August 27, 2025. AHC - - Reversed and Remanded.

ISSUE: CONFESSIONS AND ADMISSIONS (Miranda Violation): Did the trial court err in denying this defendant's motion to suppress his statements after the defendant's Miranda rights were violated? (Yes).

FACTS: Following a jury trial, Rainey was convicted of violating the armed habitual criminal (AHC) statute and sentenced to 12 years' imprisonment.

ARGUMENTS: On appeal, he argues the trial court erred by (1) denying his motion to suppress statements, (2) admitting evidence of recovered ammunition, and (3) failing to account for mitigating factors in determining his sentence.

APPELLATE COURT FINDINGS: The Appellate Court held that:

- 1 defendant was in custody for purposes of Miranda;
- 2 questioning conducted during execution of search warrant of defendant's home constituted interrogation for Miranda purposes;
- 3 defendant's statements made in custodial interrogation without Miranda warnings were not admissible pursuant to public safety exception;
- 4 admission of defendant's statements in violation of Miranda was not harmless;
- 5 evidence was sufficient to establish defendant's constructive possession of firearm;
- 6 bullets recovered from defendant's apartment were relevant; and
- 7 bullets recovered from defendant's apartment were not evidence of other crimes.

CONCLUSIONS AND REASONING:

A). CONFESSIONS AND ADMISSIONS (Miranda – Custody): A reasonable person would not have felt at liberty to terminate the questioning, which occurred during the execution of search warrant at the defendant's home, and leave, and thus the defendant was in custody for purposes of Miranda. **WHY:** Numerous police officers were present at the interrogation; the entrances to the apartment were guarded; all occupants were placed in handcuffs and held in the living area; the defendant's subsequent movement to and from the bedroom only occurred upon police direction and escort; the officer informed the defendant he was the target of a search warrant in a narcotics investigation; the officers asked the defendant a question presupposing they would find something that should not be there; the officer confirmed the defendant was not free to leave; and the defendant was not informed he was free to refrain from answering questions.

B). CONFESSIONS AND ADMISSIONS (Miranda – Interrogation): Questioning conducted during the execution of a search warrant of the defendant's home constituted an interrogation for Miranda purposes. **WHY:** The officer informed the defendant he was the target of the search warrant and under investigation before asking the question presupposing the presence of contraband; the officer did not pose a single question but a line of questioning with the purpose of getting the defendant to reiterate his knowledge of the handgun's presence and to reveal its precise location; the officer asked subsequent questions about "dope;" and the officer separated the defendant from the other apartment occupants before posing questions to him.

C). CONFESSIONS AND ADMISSIONS (Miranda – Separating Suspects): Questioning a suspect apart from family members, friends, or other witnesses is indicative of the questioning being an interrogation for Miranda purposes. **WHY:** It prevents others from assisting or influencing the suspect and enables the police to confront the suspect with inconsistencies from the others' statements.

D). CONFESSIONS AND ADMISSIONS (Miranda – Admissibility – Public Safety Exception): The defendant's statements made in a custodial interrogation without Miranda warnings were not admissible pursuant to the public safety exception in trial for violation of armed habitual criminal (AHC) statute, although the firearm found in the bedroom posed a potential threat to the officers and others at the scene. **WHY:** The officers questioning presupposing the presence of contraband did not relate to an objectively reasonable need to protect

anyone from danger; by the time the officer asked the defendant the question, the officers had control of the premises; the defendant and the other apartment occupants were handcuffed and guarded; the question was limited to the bedroom where the officers were about to search; the officer asked subsequent questions related to a drug investigation; and the officer's question did not relate to safety.

E). CONFESSIONS AND ADMISSIONS (Miranda – Admissibility – Harmless Error): The admission of the defendant's statements made during a custodial interrogation, which occurred while the police executed a search warrant in the defendant's apartment, in violation of Miranda, was not harmless in this trial for a violation of the armed habitual criminal (AHC) statute. **WHY:** The statements were the most significant evidence presented to prove constructive possession of the handgun; the People presented slim evidence apart from the statements to support constructive possession; the defendant was not the only occupant of the apartment or even the bedroom where the handgun was found; a single piece of mail addressed to the defendant at the address and the handgun were found in separate bags; and the People repeatedly pointed to the statements as proof of the defendant's possession of the firearm during closing argument. 720 Ill. Comp. Stat. Ann. 5/24-1.7.

F). REASONABLE DOUBT (AHC – Proof of Possession): The evidence in this case was sufficient to establish the defendant's constructive possession of the firearm, so as to support a conviction for a violation of the armed habitual criminal (AHC) statute. **WHY:** The firearm was found during the execution of a search warrant in a room where the defendant was present; circumstantial evidence supported the inference that he exercised dominion and control over room; a hospital letter addressed to the defendant, using his alias, at that location implied he had resided there for some time; and the defendant's statements to the police proved he had knowledge of the firearm's presence. 720 Ill. Comp. Stat. Ann. 5/24-1.7.

F). EVIDENCE (Bullets – Admissibility - Relevance): The bullets recovered from the defendant's apartment were relevant, and thus were admissible in this trial for a violation of the armed habitual criminal (AHC) statute, although all but three bullets did not match the caliber of the handgun that was recovered. **WHY:** The bullets and firearms were inherently connected such that a reasonable person would expect that where one was found the other was likely present, the bullets were numerous, some bullets were in plain view, and some bullets were in backpack connected to the defendant. 720 Ill. Comp. Stat. Ann. 5/24-1.7; Ill. R. Evid. 401.

G). EVIDENCE (Bullets – Evidence of Other Crimes): The bullets recovered from the defendant's apartment were not evidence of other crimes, and thus were admissible. **WHY:** The recovery of the bullets and the recovery of the firearm occurred during the same event and in the same place. 720 Ill. Comp. Stat. Ann. 5/24-1.7.

RESULT: The appellate court found that Rainey's statements should have been suppressed, as they were obtained during a custodial interrogation without Miranda warnings (see Miranda v. Arizona, 384 U.S. 436 (1966)) and were not admissible under the public safety exception. It also find admission of the statements was not harmless beyond a reasonable doubt. Therefore, it reversed Rainey's conviction and remand this case for a new trial.

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Case # 16.

16). People v. Shoulder, 2025 IL App (5th) 240016, August 27, 2025. Denial of Petition for Issuance of a Certificate of Innocence - - Reversed.

ISSUE: DUE PROCESS (Certificate of Innocence): Did the trial court err in refusing to issue a certificate of innocence to this defendant? (Yes).

FACTS: Shoulder appealed the circuit court's denial of his petition for issuance of a certificate of innocence (COI) under section 2-702 of the Code of Civil Procedure (Civil Code) (735 ILCS 5/2-702). The petitioner pled guilty to being an armed habitual criminal (AHC) (720 ILCS 5/24-1.7(a)(1) (West 2016)), predicated on two prior felony convictions. Following his conviction, the petitioner was sentenced to six years in the Illinois Department of Corrections (DOC) plus three years of mandatory supervised release (MSR). After his AHC conviction was reversed because it was predicated on a void prior conviction, the petitioner sought the issuance of a COI. The circuit court denied the petition, finding the petitioner could have been found guilty of the lesser-included offense of unlawful use of a weapon by a felon (UUWF) (id. § 24-1.1(a)).

ARGUMENTS: The petitioner appeals, arguing that the circuit court erred in denying his petition for a COI where UUWF is not a lesser-included offense of being an AHC and that the State was collaterally estopped from asserting that UUWF is a lesser-included offense. Alternatively, the petitioner contends that, assuming UUWF is a lesser-included offense of being an AHC because he was not charged with or imprisoned for UUWF, he was entitled to a COI. Finally, the petitioner contends that because he did not receive effective assistance of plea counsel, he did not voluntarily cause or bring about his own conviction.

APPELLATE COURT FINDINGS: The Appellate Court held that:

1 there was no final judgment on the merits in defendant's earlier appeal, where he sought relief from conviction, concerning state's argument that defendant's conviction should be reduced from armed habitual criminal to lesser-included offense of unlawful use of weapon by felon, and thus state was not collaterally estopped from asserting that argument at COI hearing;

2 even if unlawful use of weapon by felon was lesser-included offense, defendant was not required to prove that he was innocent of lesser-included offense in order to obtain COI, and thus his conviction could not be reduced to unlawful use of weapon by felon;

3 defendant's action as charged in information did not constitute crime under armed habitual criminal statute, and thus supported grant of COI;

4 defendant could not have brought about or caused his own conviction by pleading guilty to charge of armed habitual criminal that was predicated on crime that state supreme court ruled did not exist, and thus supported grant of COI; and

5 defendant satisfied all four statutory prerequisites to obtain COI after his conviction for being armed habitual criminal was reversed, and thus defendant was entitled to COI.

CONCLUSIONS AND REASONING:

A). TRIAL PROCEDURE (Certificate of Innocence – Collateral Estoppel): There was no final judgment on the merits in this defendant's separate appeal, where he sought relief from a conviction, concerning the People's argument that the defendant's conviction should be reduced from armed habitual criminal, after his conviction was based on a facially unconstitutional statute, to the lesser-included offense of unlawful use of weapon by felon, and thus People were not collaterally estopped from asserting that argument at the defendant's certificate of innocence (COI) hearing. **WHY:** *The court, in separate appeal for relief from conviction, rejected People's argument for failure to comply with the rule that required the People to include the argument in its appellate briefs after People attempted to cite authority that did not support their argument.* 720 Ill. Comp. Stat. Ann. 5/24-1.1(a), 5/24-1.7(a)(1); 735 Ill. Comp. Stat. Ann. 5/2-702.

B). DUE PROCESS (Certificate of Innocence – Lesser Included Offenses): Even if unlawful use of weapon by felon was a lesser-included offense of armed habitual criminal, this defendant was not required to prove that he was innocent of the lesser-included offense in order to obtain a certificate of innocence (COI), after his conviction for being an armed habitual criminal was reversed due to a conviction being predicated on an unconstitutional statute, and thus his conviction could not be reduced to unlawful use of weapon by felon. **WHY:** *The terms of the defendant's plea agreement allowed him to plead guilty to the sole count of being an armed habitual criminal in exchange for a minimum sentence; there were no other charges for which he was required*

to prove his innocence after his conviction for being an armed habitual criminal was reversed, and the plain language of the COI statute made no reference to lesser-included offenses. 720 Ill. Comp. Stat. Ann. 5/24-1.1(a), 5/24-1.7(a)(1); 735 Ill. Comp. Stat. Ann. 5/2-702.

C). DUE PROCESS (Certificate of Innocence – Predicate Offenses): This defendant's action as charged in his information did not constitute a crime under the armed habitual criminal statute, and thus supported the grant of a certificate of innocence (COI) after his conviction for being an armed habitual criminal was reversed due to it being predicated on an unconstitutional statute. **WHY:** The armed habitual criminal statute required the defendant to possess a firearm after having been convicted of two qualifying offenses, but once his conviction for aggravated unlawful use of weapon was vacated and was no longer eligible to serve as a predicate offense supporting an armed habitual criminal conviction, the only action alleged in the information was that the defendant possessed a firearm after having been convicted of only one qualifying offense. 720 Ill. Comp. Stat. Ann. 5/24-1.1(a), 5/24-1.6(a)(1), (a)(3)(C), 5/24-1.7(a)(1); 735 Ill. Comp. Stat. Ann. 5/2-702.

D). DUE PROCESS (Certificate of Innocence – Guilty Plea): This defendant could not have brought about or caused his own conviction by pleading guilty to a charge of armed habitual criminal that was predicated on a crime that the state supreme court ruled did not exist, and thus supported the grant of a certificate of innocence (COI) for the defendant's wrongful conviction as an armed habitual criminal. **WHY:** The defendant's plea and conviction for being an armed habitual criminal was predicated on a void conviction under the aggravated unlawful use of weapon, the aggravated unlawful use of weapon offense was void for being unconstitutional, and the guilty plea did not categorically preclude a COI. 735 Ill. Comp. Stat. Ann. 5/2-702(a), 5/2-702(g)(4).

E). DUE PROCESS (Certificate of Innocence – Statutory Prerequisites): Defendant satisfied all four statutory prerequisites to obtain certificate of innocence (COI) after his conviction for being armed habitual criminal was reversed, and thus defendant was entitled to COI; **WHY:** defendant proved by preponderance of the evidence that he was convicted of felony and served part of prison sentence, that conviction was reversed when statute on which information was based was unconstitutional, that he was innocent of offenses charged in information, and that he did not by his conduct voluntarily cause or bring about his conviction. 720 Ill. Comp. Stat. Ann. 5/24-1.7(a)(1); 735 Ill. Comp. Stat. Ann. 5/2-702(g)(1)-(4).

RESULT: The appellate court reversed the judgment of the circuit court.

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Case # 17.

17). People v. Angel Class, 2025 IL 129695, August 28, 2025. Grant of Substitution of Judge (First-Degree Murder) - - Reversed and Remanded.

ISSUE: APPELLATE JURISDICTION (Substitution of Judge): Can an appellate court, sua sponte, order reassignment to a new circuit court judge on remand for reasons other than bias, potential bias, or prejudice on the part of the prior circuit court judge? **(No).**

FACTS: Following a bench trial, Class was convicted of first degree murder while armed with a firearm (720 ILCS 5/9-1(a)(1)), as well as one count of aggravated discharge of a firearm (id. § 5/24-1.2(a)(2)). The circuit court sentenced petitioner to 20 years' imprisonment on the charge of first degree murder, along with a 25-year sentencing enhancement because the murder was committed using a firearm. Petitioner was also sentenced to a concurrent term of five years' imprisonment on the charge of aggravated discharge of a firearm. The trial court dismissed Class's pro se postconviction petitions. On appeal, the appellate court reversed and remanded. The appellate court agreed with petitioner that he had made a substantial showing of actual innocence and therefore

remanded the case for a third-stage evidentiary hearing. The appellate court also concluded “that the interests of justice would be furthered by assigning this case to a different judge on remand.”

ARGUMENTS: The People then filed a petition for leave to appeal. The Supreme Court granted the People’s petition. At issue in this appeal was whether, in a postconviction proceeding, an appellate court can, sua sponte, order reassignment to a new circuit court judge on remand for reasons other than bias, potential bias, or prejudice on the part of the prior circuit court judge.

APPELLATE COURT FINDINGS: The Appellate Court held that:

1 Supreme Court would review de novo whether appellate court had authority to sua sponte order substitution of judge on remand

2 as matter of first impression, appellate court's authority to modify any or all of the proceedings subsequent to judgment or order from which appeal is taken includes the authority to modify subsequent proceedings by directing that a new judge be assigned on remand;

3 appellate court exceeded its authority in sua sponte ordering substitution of postconviction judge on remand in absence of judicial bias, overruling *People v. Serrano*, 404 Ill. Dec. 189, 55 N.E.3d 285; and

4 postconviction judge's disregard of defendant's testimony and search for evidentiary infirmities and potential credibility issues was insufficient to demonstrate judicial bias required to support appellate court's sua sponte order of substitution of circuit court judge on remand.

CONCLUSIONS AND REASONING:

A). APPELLATE JURISDICTION (Statutory Authority – Substitution of Judge): This appellate court exceeded its authority when it sua sponte ordered the substitution of a circuit court judge on remand of postconviction proceedings, in the absence of judicial bias by the circuit court judge. **WHY:** *The appellate court did not find that reassignment was required to protect the petitioner's due process right to a fair trial in a fair tribunal, nor was there any concern with protecting a pro se litigant's rights, as the defendant was represented by counsel;* overruling *People v. Serrano*, 404 Ill. Dec. 189, 55 N.E.3d 285. U.S. Const. Amend. 14; Ill. Const. art. 1, § 2.

B). TRIAL PROCEDURE (Judicial Conduct – Proof of Bias): The postconviction judge's disregard of the defendant's testimony and a search for evidentiary infirmities and potential credibility issues was insufficient to demonstrate the judicial bias required to support the appellate court's sua sponte order of the substitution of the circuit court judge on remand. **WHY:** *The appellate court's description of the district court's purported bias did not reveal an opinion that derived from an extrajudicial source, nor did it reveal a high degree of favoritism or antagonism as to make a fair judgment impossible, but, rather, simply described the circuit court's order dismissing the defendant's successive postconviction petition.*

RESULT: The Supreme Court found that the appellate court could not do so.

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Case # 18.

18). **People v. Aaron Rice**, 2025 IL App (3d) 250262, August 28, 2025. Grant of Pre-Trial Release (Aggravated Cruelty to Animals) - - Affirmed.

ISSUE: A). PRE-TRIAL PROCEDURE (Denial of Pre-Trial Release): Did a second judge have the authority to revisit a prior judge’s order denying pre-trial release? (Yes). **B). PRE-TRIAL PROCEDURE (Pre-Trial Release):** Did the trial court err in granting this defendant pre-trial release after a prior judge and denied pre-trial release? (No).

FACTS: Rice was charged with aggravated cruelty to animals (Class 4 felony) (510 ILCS 70/3.02(a), (c)), cruelty to animals (Class A misdemeanor) (id. § 3.01(a), (d)), and 15 counts of violating owner's duties (Class B misdemeanor) (id. § 3(a), (d)). The People filed a verified petition to deny pretrial release, setting forth that aggravated animal cruelty was a detainable offense and arguing that defendant's release posed a real and present threat to the safety of any person, persons, or the community under section 110-6.1(a)(6.5)(A) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/110-6.1(a)(6.5)(A)). The circuit court granted the People's motion to deny pre-trial release. At a subsequent hearing before a different judge, Rice was granted pre-trial release. From this order, the People brought this appeal.

ARGUMENTS: On appeal, the People argued that the circuit court erred in (1) revisiting another judge's detention findings absent a motion for relief and (2) releasing the defendant.

APPELLATE COURT FINDINGS: The Appellate Court held that:

1 later hearing was not a full-blown new detention hearing, but was instead the statutorily required subsequent hearing to determine whether continued detention was still required, and

2 conditions for release were sufficient to avoid any threat that defendant posed, and thus continued detention was not necessary.

CONCLUSIONS AND REASONING:

A). PRE-TRIAL PROCEDURE (Statutory Construction – Detention Hearing – Required Findings):

Although the statutorily required determination that continued detention is necessary at each subsequent appearance of a defendant after the denial of pretrial release necessarily entails consideration of the threat or flight risk posed by the defendant and the potential mitigation of such threat or flight risk by conditions of release, the statute governing the denial of pretrial release does not require a court to again make specific findings that the People proved by clear and convincing evidence the three statutory propositions required at the initial hearing, namely that proof is evident or presumption great that defendant committed a detainable offense, that defendant poses a real and present threat to any person, persons, or the community or is a flight risk, and that no conditions could mitigate this threat or flight risk. 725 Ill. Comp. Stat. Ann. 5/110-6.1(e), 5/110-6.1(i-5).

B). PRE-TRIAL PROCEDURE (Statutory Construction – Subsequent Hearings – Continued Detention):

The hearing at which the trial court released the defendant on electronic monitoring on the condition that he have no contact with any animal of any kind, after the trial court had previously granted People's petition to deny pretrial release at an initial hearing before a different judge, was not a full-blown new detention hearing, but was instead the statutorily required subsequent hearing to determine whether continued detention was still required, even though defendant did not file a motion for relief, in proceeding on charges of aggravated cruelty to animals, cruelty to animals, and violating owner's duties. **WHY:** *A motion for relief would have been required to appeal the detention order, but not for the applicability of the statute requiring a determination of whether continued detention was necessary at each appearance following a decision to detain.* 510 Ill. Comp. Stat. Ann. 70/3(a, d), 70/3.01(a, d), 70/3.02(a, c); 725 Ill. Comp. Stat. Ann. 5/110-2(a), 5/110-6.1(i-5); Ill. Sup. Ct. R. 604(h)(2).

C). PRE-TRIAL PROCEDURE (Denial of Pretrial Release – Subsequent Hearings – Continued Detention):

The conditions for release, namely electronic monitoring and no contact with animals, that were placed on defendant, who had been charged with aggravated cruelty to animals, cruelty to animals, and violating owner's duties, at hearing subsequent to initial hearing at which state's petition for denial of pretrial release had been granted were sufficient to avoid any threat that defendant posed, and thus continued detention was not necessary; **WHY:** *The defendant was an honorably discharged veteran with no criminal record or history of noncompliance with court orders, and, while there was initially a concern about the defendant being around his girlfriend's dog, the girlfriend had "re-homed" the dog by the time of the subsequent hearing, and there was no*

indication that he had access to other animals or posed any additional threat. 510 Ill. Comp. Stat. Ann. 70/3(a, d), 70/3.01(a, d), 70/3.02(a, c); 725 Ill. Comp. Stat. Ann. 5/110-2(a), 5/110-6.1(i-5).

RESULT: The appellate court affirmed the pre-trial release of Rice.

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Case # 19.

19). People v. Jorge Velazquez, 2025 IL App (1st) 230449, August 29, 2025. Predatory Criminal Sexual Assault of a Child - - Reversed and Remanded.

ISSUE: A). **REASONABLE DOUBT** (Predatory Criminal Sexual Assault of a Child): Did the People present sufficient evidence to support this defendant's conviction? (Yes). B). **DUE PROCESS** (Judicial Conduct): Did the conduct of this trial judge during the defendant's bench trial deny this defendant a fair trial? (Yes).

FACTS: The People accused Velazquez of committing predatory criminal sexual assault of a child (720 ILCS 5/11-1.40(a)(1)). The People presented the complaining witness and a propensity witness, both of whom were his now-adult nieces. The defense presented Velazquez and six others, including family members and a friend. Following a bench trial, Velazquez was convicted and sentenced to six years in prison.

ARGUMENTS: Velazquez first contended that the People failed to prove beyond a reasonable doubt that he committed predatory criminal sexual assault of a child. Alternatively, Velazquez asserted that the trial judge engaged in judicial misconduct.

APPELLATE COURT FINDINGS: The Appellate Court held that:

- 1 evidence was sufficient for rational trier of fact to conclude that defendant sexually assaulted victim when she was seven years old;
- 2 trial judge abused his discretion by conducting entire bench trial from the jury box, alongside the parties;
- 3 trial judge improperly blurred the line between neutral arbiter and engaged participant when he posed hundreds of questions to witnesses during lawyers' examinations from the jury box;
- 4 trial judge arbitrarily disregarded the impact of his own actions during bench trial when he based his credibility determinations on witness demeanor; and
- 5 trial judge's conduct rendered defendant's trial fundamentally unfair in violation of constitutional guarantees of due process and equal justice under the law, resulting in reversible error.

CONCLUSIONS AND REASONING:

A). REASONABLE DOUBT (Sexual Assault – Evidence): The evidence in this case was sufficient for a rational trier of fact to conclude that the defendant sexually assaulted the victim when the victim was seven years old, as required to support a conviction for predatory criminal sexual assault of a child. **WHY:** *The victim described how, on two days, the defendant inserted his finger into her vagina when she was around seven years old after leaving the garage where the defendant was working with her father and finding her alone in her room; the victim consistently described at least three acts of sexual penetration; and the victim testified that during the first and second assaults she did not understand what the defendant was doing.* 720 Ill. Comp. Stat. Ann. 5/11-1.40(a)(1).

B). DUE PROCESS (Judicial Conduct - Failure to Object – Forfeiture): This defendant's failure to object to instances of judicial misconduct, at a bench trial for predatory criminal sexual assault of a child, did not result in the forfeiture of the issue on appeal. **WHY:** *By presiding from the jury box, physically approaching witnesses*

as they answered questions, and commandeering the questioning, the trial judge created “extraordinary circumstances” calling for relaxation of the ordinary rules of forfeiture. U.S. Const. Amend. 14; Ill. Const. art. 1, § 2; 720 Ill. Comp. Stat. Ann. 5/11-1.40(a)(1).

C). DUE PROCESS (Judicial Conduct - Failure to Object – Forfeiture): Judicial misconduct is a proper basis for relaxing the appellate rule that, to avoid forfeiting an issue on appeal, a defendant must both object at trial and include his objections in a posttrial motion. **WHY:** *No duty to object exists if the objection would have “fallen on deaf ears.”*

D). DUE PROCESS (Judicial Conduct – Abuse of Discretion): This trial judge abused his discretion by conducting an entire bench trial from the jury box, alongside the parties, in this prosecution for predatory criminal sexual assault of a child, even though such conduct was not barred by a court rule. **WHY:** *The layout of the courtroom was intentional, separating the decision-maker from the advocates, reinforcing the divide between the adversarial process and the judge's role as adjudicator, and ensuring balance in which the prosecution and the defense were equally positioned from the bench.* 720 Ill. Comp. Stat. Ann. 5/11-1.40(a)(1).

E). DUE PROCESS (Judicial Conduct – Neutral Arbiter): The trial judge improperly blurred the line between neutral arbiter and engaged participant when he posed hundreds of questions to witnesses during the lawyers' examinations from the jury box despite the People's arguments that trial judge probed for the truth, clarified disputed issues, and reached a verdict after a full and fair consideration of the evidence. **WHY:** *72% of the trial judge's questions occurred during the defense counsel's examination of witnesses, the trial judge repeatedly disparaged the defense witnesses amid the trial, and the trial judge focused on specific witnesses and made statements expressing derogatory opinions about the witness testimony.* 720 Ill. Comp. Stat. Ann. 5/11-1.40(a)(1).

F). DUE PROCESS (Judicial Conduct – Disregard of Impact): The trial judge arbitrarily disregarded the impact of his own actions during bench trial, i.e., asking hundreds of questions of the witnesses from the jury box, when he based his credibility determinations on witness demeanor. **WHY:** *The trial judge admitted that witness demeanor played a deciding role in reaching his verdict, yet he arbitrarily excluded demeanor as irrelevant when denying the motion for a new trial, and, by treating demeanor in two different ways, the trial judge upset the “nice, clear and true” balance between the People and the defendant.* 720 Ill. Comp. Stat. Ann. 5/11-1.40(a)(1).

G). DUE PROCESS (Judicial Conduct – Fair Trial): The trial judge's conduct during a bench trial, which included eliciting inadmissible evidence, tilting his questioning in the prosecution's favor, deriding the defense and its witnesses, and excluding the effect of his actions on the credibility determinations he made, rendered the defendant's trial fundamentally unfair in violation of constitutional guarantees of due process and equal justice under the law, resulting in reversible error. U.S. Const. Amend. 14; Ill. Const. art. 1, § 2; 720 Ill. Comp. Stat. Ann. 5/11-1.40(a)(1).

RESULT: The appellate court rejected Velazquez's first argument and found that a rational jury could reasonably have found him guilty based on the evidence produced by the People. However, the appellate court agreed with Velazquez's second argument and concluded that the conduct of the trial judge during this bench trial denied Velazquez a fair trial.