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APPEAL

§2-6(b)

People v. Brownlee, 2025 IL App (2d) 250198 (8/13/25)

When a defendant is denied pretrial release, 720 ILCS 5/110-6.1(I) requires that he be tried within 90 days of the entry of the detention order on that offense, excluding any delay attributable to him or any continuance granted to the State for good cause shown pursuant to 725 ILCS 5/103-5 of the Speedy Trial Act. If a defendant is not brought to trial within that time, he must be released.

Here, defendant was facing charges in multiple separate cases, and the State elected to proceed on a different case first, resulting in defendant not being tried in the instant case within 90 days of his being detained. The State argued that the court should incorporate section 103-5(e) of the Speedy Trial Act, which allows an extended speedy trial period for subsequent prosecutions where a defendant has multiple cases pending, and should thus allow additional time under 110-6.1(I) to resolve separate cases without requiring defendant's conditional release.

The appellate court rejected the State's argument. The plain language of Section 110-6.1(I) is mandatory, and it does not contain any exception for a defendant who has multiple pending cases. And, the court declined to read such an exception into the statute here. "No rule of construction authorizes [a reviewing] court to declare that the legislature did not mean what the plain language of the statute imports, nor may we rewrite a statute to add provisions or limitations the legislature did not include." Thus, the trial court erred in concluding that defendant was not entitled to release after expiration of 90 days.

While defendant was released during the pendency of this appeal, the court elected to review the issue under the public-interest exception to the mootness doctrine. The matter was of a public nature where all individuals charged with a detainable offense are subject to the provisions of the Code of Criminal Procedure. The circumstances were likely to recur given that defendants are often involved in more than one case at a time. And, the parties below demonstrated confusion about how the provisions of the Code applied, necessitating guidance from the appellate court.

§2-6(a)

People v. Class, 2025 IL 129695 (8/28/25)

Defendant filed a successive post-conviction petition raising a claim of actual innocence, supported by the affidavits of several witnesses. The circuit court granted the State's motion to dismiss the petition, and Class appealed. The appellate court reversed the dismissal and remanded the matter for a third-stage evidentiary hearing, specifically ordering that the case be assigned to a different judge on remand, citing Supreme Court Rule 366(a)(5)

In the Supreme Court, the State challenged only that portion of the order remanding to a different judge. The State argued that Rule 366 governs civil appeals while Rule 615 governs the authority of the appellate court in criminal appeals. The Supreme Court initially entered an order remanding to the appellate court for the limited purpose of explaining its reasoning for the decision to order reassignment.

On remand, the appellate court issued a modified opinion, finding reassignment proper under both Rule 366(a)(5) and Rule 615(b)(2). The appellate court stated that reassignment was necessary because the trial judge had committed multiple errors below, undermining confidence she would be able to put those findings "out of her mind" on remand. The Supreme Court then granted leave to appeal and ultimately reversed the reassignment portion of the appellate court's decision.

First, Rule 366 does not apply here. The authority for reassignment comes from Rule 615(b)(2), which provides that the reviewing court may "modify any or all of the proceedings subsequent to...the judgment or order from which the appeal is taken." But, the authority to reassign a case on remand is not without limits.

The appellate court may *sua sponte* order judicial reassignment only in rare circumstances, specifically where the record clearly reveals bias, the probability of bias, or actual prejudice on the part of the trial judge. Prior adverse judicial rulings, alone, will almost never provide a basis for reassignment. Similarly, a court's critical, and even hostile, remarks will not require reassignment unless they reveal that the court's opinion was derived from an extrajudicial source or show a degree of antagonism making fair judgment impossible.

The facts here did not warrant reassignment. The trial judge ruled against defendant in dismissing his successive post-conviction petition, but that fact alone did not disqualify her from presiding over proceedings on remand. The judge's adverse ruling was not based on extrajudicial information and did not show a high degree of antagonism to defendant's claim. Rather, the judge merely committed legal error, and a court's prior legal error does not rise to the level of judicial bias. There was nothing in the record to suggest the judge would not follow the law on remand, and thus the reassignment portion of the court's order was vacated.

The dissent would have found bias and would have affirmed the direction that the matter proceed before a different judge on remand. Specifically, the dissent concluded that the record showed that the court had prematurely judged the credibility of defendant's evidence of actual innocence, resulting in a lack of confidence as to her ability to be objective at an evidentiary hearing on the same claim.

(Defendant was represented by Assistant Defender Michael Orenstein, Chicago.)

§2-6(b)

People v. Vargas, 2025 IL App (2d) 240609 (8/8/25)

Defendant's challenge to her probation revocation was moot because she completed her sentence. While she argued that the case was still relevant because "the revocation may affect any future sentencing hearings," the appellate court rejected this justification. Defendant's argument was premised entirely on what might happen in a future criminal case that might never arise. Pursuant to **Spencer v. Kemna**, 523 U.S. 1, 7 (1998), a collateral consequence justifying continuation of the appeal beyond the sentence must be some "concrete and continuing" injury. Defendant also forfeited an argument that she suffered immigration consequences from the probation revocation by failing to raise the argument in her opening brief. Regardless, those consequences were too speculative to meet the **Spencer** standard.

(Defendant was represented by Assistant Defender Dominique Estes, Elgin.)

BAIL

§6-5(a)

People v. Brownlee, 2025 IL App (2d) 250198 (8/13/25)

When a defendant is denied pretrial release, 720 ILCS 5/110-6.1(I) requires that he be tried within 90 days of the entry of the detention order on that offense, excluding any delay attributable to him or any continuance granted to the State for good cause shown pursuant to 725 ILCS 5/103-5 of the Speedy Trial Act. If a defendant is not brought to trial within that time, he must be released.

Here, defendant was facing charges in multiple separate cases, and the State elected to proceed on a different case first, resulting in defendant not being tried in the instant case within 90 days of his being detained. The State argued that the court should incorporate section 103-5(e) of the Speedy Trial Act, which allows an extended speedy trial period for subsequent prosecutions where a defendant has multiple cases pending, and should thus allow additional time under 110-6.1(I) to resolve separate cases without requiring defendant's conditional release.

The appellate court rejected the State's argument. The plain language of Section 110-6.1(I) is mandatory, and it does not contain any exception for a defendant who has multiple pending cases. And, the court declined to read such an exception into the statute here. "No rule of construction authorizes [a reviewing] court to declare that the legislature did not mean what the plain language of the statute imports, nor may we rewrite a statute to add provisions or limitations the legislature did not include." Thus, the trial court erred in concluding that defendant was not entitled to release after expiration of 90 days.

While defendant was released during the pendency of this appeal, the court elected to review the issue under the public-interest exception to the mootness doctrine. The matter was of a public nature where all individuals charged with a detainable offense are subject to the provisions of the Code of Criminal Procedure. The circumstances were likely to recur given that defendants are often involved in more than one case at a time. And, the parties below demonstrated confusion about how the provisions of the Code applied, necessitating guidance from the appellate court.

§6-5(h)(3)

People v. Rice, 2025 IL App (3d) 250262 (8/28/25)

Defendant was charged with animal cruelty after police discovered 14 malnourished and filthy dogs caged in his home. At the initial detention hearing, a judge granted the State's petition for pretrial detention. At the next hearing, a new judge found defendant did not pose a threat to the community or others, as the statute did not apply to non-humans. The State appealed and the appellate court affirmed.

The court rejected the State’s argument that the circuit court committed a procedural error by holding a second detention hearing. The court did not conduct a second hearing but rather followed section 110-6.1(I-5), which states that at subsequent hearings, courts should determine whether “continued detention is necessary to avoid a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case, or to prevent the defendant’s willful flight from prosecution.” Here, the appellate court conducted a *de novo* review of the circuit court’s release order and found no error, noting that defendant was a veteran with no prior criminal history, the dogs had all been removed from his home, the State offered no evidence that defendant would have access to any other animals, and the court imposed appropriate conditions, including electronic home monitoring, so as to mitigate any threat.

(Defendant was represented by Assistant Defender Abigail Elmer, Chicago.)

COLLATERAL REMEDIES

§9-6

[People v. Shoulder, 2025 IL App \(5th\) 240016 \(8/27/25\)](#)

One of the statutory requirements for obtaining a certificate of innocence is that the petitioner establish by a preponderance of the evidence that he or she “is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State.” The appellate court rejected the State’s argument that this meant defendant must establish his innocence of all offenses charged, as well as any lesser-included offenses, noting that the plain language of the statute refers only to the charged offenses.

Here, defendant was charged with a single count of being an armed habitual criminal, based on his possession of a firearm after having been convicted of two qualifying offenses. That conviction was vacated because it was predicated on a void prior conviction. The remaining allegation in the indictment, that defendant possessed a firearm after having been convicted of one qualifying offense, did not constitute the offense of armed habitual criminal. As the court noted, the State could have charged defendant with unlawful use of a weapon on these facts, but chose not to do so.

Finally, the court rejected the State's argument that defendant's original guilty plea to armed habitual criminal meant he could not establish that he did not bring about or cause his conviction, another requirement for obtaining a certificate of innocence. Where a statute is found facially unconstitutional, it is void *ab initio*. A conviction predicated on a facially unconstitutional statute must be treated as if it never existed. Accordingly, defendant could not have brought about or caused his conviction by pleading guilty because the charge to which he pled was predicated on an underlying offense which was void *ab initio*.

The denial of defendant's petition for a certificate of innocence was reversed, and the matter was remanded with directions to grant the petition.

CONFESSIONS

§§10-3(c), 10-3(d)

[People v. Rainey, 2025 IL App \(1st\) 230639 \(8/27/25\)](#)

The trial court erred when it denied defendant's motion to suppress his statements to police. Police executed a search warrant in defendant's apartment. Before searching his bedroom, an officer asked defendant whether he would find anything in the room. Defendant informed the officer he'd find a gun under his bed. The officer found a gun, which formed the basis for an armed habitual criminal charge. The trial court rejected defendant's argument that he was interrogated without **Miranda** warnings, because defendant was not "in custody."

The appellate court reversed. Before police conduct a custodial interrogation, they must provide **Miranda** warnings. To determine whether a person was in custody, courts ask whether a reasonable person would have felt he or she was free to terminate the interrogation and leave. Under the facts presented here, a reasonable person would not have felt at liberty to terminate the questioning and leave. Police controlled the environment. Numerous officers were present, and the entrances were guarded. All occupants were placed in handcuffs and held in a living area. Defendant's movement to and from the bedroom occurred at the direction and with the escort of the police. The police also told defendant that he was the target of a search warrant in a narcotics investigation. The officers testified that defendant was not free to leave.

Defendant was also subject to interrogation, which, for purposes of **Miranda**, “refers both to express questioning and to any words or actions on the part of the police, other than those normally accompanying arrest and custody, that the police should know are reasonably likely to elicit an incriminating response from the suspect.” Here, the officer testified that he asked the question to give defendant a chance to avoid having his home ransacked. The officer knew this would likely elicit an incriminating response. See [People v. Fort, 2014 IL App \(1st\) 120037](#).

The public safety exception did not apply. The officer’s question, “What am I going to find that should not be here?” did not relate to an objectively reasonable need to protect anyone from an immediate danger. Unlike other cases applying this exception, the officers here did not have reason to believe defendant was armed, or that unsecured weapons posed any danger. The search warrant pertained to drugs, and everyone in the home was in custody.

Finally, the error was not harmless beyond a reasonable doubt. The State had to prove constructive possession of the gun, and defendant was not the only occupant of the apartment or bedroom. Defendant’s statement was the most significant evidence of possession, such that the State highlighted defendant’s statement in closing argument.

(Defendant was represented by Assistant Defender Rachel Sansonetti, Chicago.)

COUNSEL

§14-4(b)(2)

[People v. Williams, 2025 IL App \(4th\) 240738 \(8/26/25\)](#)

The court rejected defendant’s argument that the State’s mistaken belief that it could seek an extended term of imprisonment converted defendant’s negotiated plea to an open plea because the State did not actually make a valid sentencing concession when it agreed as part of the plea not to seek an extended-term sentence. While the court agreed that the parties’ mutual mistake of both law and fact meant that the State in effect gave up nothing in terms of sentencing concessions, it declined to find that the mistake transformed the plea to an open plea. To do so would allow defendant to challenge his sentence without withdrawing the plea while keeping intact other parts of the plea, such as the dismissal of other charges. Such unilateral modification of a negotiated plea is impermissible.

The court went on to hold that defendant's post-plea counsel failed to comply with Rule 604(d) when counsel filed a motion to reconsider sentence instead of the required motion to withdraw guilty plea. While counsel filed a facially compliant Rule 604(d) certificate, the erroneous filing of a motion to reconsider sentence where a motion to withdraw plea is necessary rebuts a facially complaint certificate.

(Defendant was represented by Assistant Defender Edward Wittrig, Springfield.)

GUILTY PLEAS

§24-8(b)(2)

People v. Williams, 2025 IL App (4th) 240738 (8/26/25)

The court rejected defendant's argument that the State's mistaken belief that it could seek an extended term of imprisonment converted defendant's negotiated plea to an open plea because the State did not actually make a valid sentencing concession when it agreed as part of the plea not to seek an extended-term sentence. While the court agreed that the parties' mutual mistake of both law and fact meant that the State in effect gave up nothing in terms of sentencing concessions, it declined to find that the mistake transformed the plea to an open plea. To do so would allow defendant to challenge his sentence without withdrawing the plea while keeping intact other parts of the plea, such as the dismissal of other charges. Such unilateral modification of a negotiated plea is impermissible.

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(Defendant was represented by Assistant Defender Edward Wittrig, Springfield.)

JUDGE

§31-3(d)

People v. Bell, 2025 IL App (4th) 240929 (8/16/25)

The 16 year-old defendant drove a vehicle occupied by four other minors 80 mph in a 30 mph zone and crashed the car. A 16 year-old girl died in the crash. Defendant had a BAL of .141. He entered into an open guilty plea to aggravated DUI and reckless homicide and received the maximum 14-year prison sentence. However, while defense counsel raised several arguments in mitigation, counsel did not argue the youth-based sentencing factors required by 730 ILCS 5/5-4.5-105(a). Defendant argued counsel was ineffective in a motion to reconsider sentence, but the sentencing court denied the motion. The appellate court reversed and remanded.

The failure to raise youth-based sentencing factors during the sentencing hearing rendered counsel's performance ineffective. One youth-based factor is the existence of peer pressure. Here, the State had introduced a video of the event, during which defendant's passengers could be heard yelling "I don't want to die" and "value your life" in the seconds before the crash. The sentencing court placed heavy emphasis on this fact. But, in an affidavit introduced along with the motion to reconsider, one of the occupants of the vehicle averred that this video was taken out of context and that in fact the witness and the victim were encouraging defendant to speed up so as to "catch air."

Defense counsel's explanation of his strategy – he didn't want to shift blame to the victim – did not persuade the appellate court. Omitting to mention peer pressure and other factors of youth rendered counsel ineffective. Notably, defense counsel never mentioned any of the youth-based factors, and at one point stated that all drivers, "whether 16 or 61" have the same level of responsibility, which directly undermines the statute's intent to ensure courts recognize the diminished culpability of youthful offenders. Defense counsel's strategy also prevented him from objecting to several of the victim impact statements from non-representatives, unauthorized by law, further demonstrating its unreasonableness.

The appellate court remanded the matter for a sentencing hearing before a new judge. The judge below denied the motion despite the fact that the new context completely changed the import of the video, which was a major factor in the maximum sentence (the judge stated the video "chilled [him] to the bone" and "bothered the heck out [him]."). The judge also claimed on the order denying the motion that it had in fact considered the youth-based sentencing factors, yet during the hearing, the judge explicitly stated that it was finding only one factor in mitigation – defendant's lack of a prior record. This cast doubt on the judge's ability to fairly sentence defendant on remand.

§31-3(d)

People v. Class, 2025 IL 129695 (8/28/25)

Defendant filed a successive post-conviction petition raising a claim of actual innocence, supported by the affidavits of several witnesses. The circuit court granted the State's motion to dismiss the petition, and Class appealed. The appellate court reversed the dismissal and remanded the matter for a third-stage evidentiary hearing, specifically ordering that the case be assigned to a different judge on remand, citing Supreme Court Rule 366(a)(5)

In the Supreme Court, the State challenged only that portion of the order remanding to a different judge. The State argued that Rule 366 governs civil appeals while Rule 615 governs the authority of the appellate court in criminal appeals. The Supreme Court initially entered an order remanding to the appellate court for the limited purpose of explaining its reasoning for the decision to order reassignment.

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The dissent would have found bias and would have affirmed the direction that the matter proceed before a different judge on remand. Specifically, the dissent concluded that the record showed that the court had prematurely judged the credibility of defendant's evidence of actual innocence, resulting in a lack of confidence as to her ability to be objective at an evidentiary hearing on the same claim.

(Defendant was represented by Assistant Defender Michael Orenstein, Chicago.)

§§31-1(a), 31-1(b)

People v. Valazquez, 2025 IL App (1st) 230449 (8/29/25)

The trial judge acted arbitrarily and capriciously during defendant's bench trial for predatory criminal sexual assault, resulting in a fundamentally unfair verdict. The State alleged defendant assaulted his young niece on three separate occasions. A propensity witness testified to similar assaults. Several other outcry and defense witnesses testified, including defendant. Throughout the trial, the judge stood in the jury box, approached the witnesses and stood in front of them, asked hundreds of questions, and noted for the record when witnesses – particularly defense witnesses – were “pausing” during their answers. In explaining his verdict, he testified that he found the complainant credible, and noted his ability to observe all of the witnesses' demeanor by standing in front of them.

In a post-trial motion, three defense witnesses testified that the judge intimidated them by standing close to them during their testimony. The judge interjected during this testimony, explaining that he did so to see their faces. The witnesses testified that the judge made them nervous. The court denied the motion, stating that he typically hears cases from the jury box so as to better see the witnesses, and that he approaches them when he can't hear. The judge noted that none of the witnesses testified that his actions changed the substance of their testimony, and the explanation for their nervousness was not grounds for a new trial.

The appellate court agreed with the defendant's argument that the judge's behavior violated his right to a fair trial. Although no caselaw or rule speaks to the specific conduct in this case, the totality of the judge's behavior led to an unfair trial in violation of the right to due process. The judge approached witnesses, commandeered questioning (the judge asked 277 questions of witnesses, 200 of which came during defense examination), commented about pauses during defense witness testimony, and suggested the defense was coaching the witnesses. The judge also failed to conduct a section 5/115-10.1 hearing for an outcry witness. Finally, he provided shifting explanations about witness demeanor, stating it was an important consideration in reaching a guilty verdict, but made no difference when the posttrial witnesses explained why they were nervous.

The error was not forfeited for lack of an objection, because no duty to object exists if that objection would have fallen on deaf ears. This judge gave no hint that he would have behaved differently in response to an objection, describing his actions as his "practice." The court noted that this judge has since retired, but encouraged trial courts to oversee trial from the bench.

(Defendant was represented by Assistant Defender Liam Kelly, Chicago.)

JUVENILE PROCEEDINGS

§33-6(g)(1)

People v. Bell, 2025 IL App (4th) 240929 (8/16/25)

The 16 year-old defendant drove a vehicle occupied by four other minors 80 mph in a 30 mph zone and crashed the car. A 16 year-old girl died in the crash. Defendant had a BAL of .141. He entered into an open guilty plea to aggravated DUI and reckless homicide and received the maximum 14-year prison sentence. However, while defense counsel raised several arguments in mitigation, counsel did not argue the youth-based sentencing factors required by 730 ILCS 5/5-4.5-105(a). Defendant argued counsel was ineffective in a motion to reconsider sentence, but the sentencing court denied the motion. The appellate court reversed and remanded.

The failure to raise youth-based sentencing factors during the sentencing hearing rendered counsel's performance ineffective. One youth-based factor is the existence of peer pressure. Here, the State had introduced a video of the event, during which defendant's passengers could be heard yelling "I don't want to die" and "value your life" in the seconds before the crash. The sentencing court placed heavy emphasis on this fact. But, in an affidavit introduced along with the motion to reconsider, one of the occupants of the vehicle averred that this video was taken out of context and that in fact the witness and the victim were encouraging defendant to speed up so as to "catch air."

Defense counsel's explanation of his strategy – he didn't want to shift blame to the victim – did not persuade the appellate court. Omitting to mention peer pressure and other factors of youth rendered counsel ineffective. Notably, defense counsel never mentioned any of the youth-based factors, and at one point stated that all drivers, "whether 16 or 61" have the same level of responsibility, which directly undermines the statute's intent to ensure courts recognize the diminished culpability of youthful offenders. Defense counsel's strategy also prevented him from objecting to several of the victim impact statements from non-representatives, unauthorized by law, further demonstrating its unreasonableness.

The appellate court remanded the matter for a sentencing hearing before a new judge. The judge below denied the motion despite the fact that the new context completely changed the import of the video, which was a major factor in the maximum sentence (the judge stated the video "chilled [him] to the bone" and "bothered the heck out [him]."). The judge also claimed on the order denying the motion that it had in fact considered the youth-based sentencing factors, yet during the hearing, the judge explicitly stated that it was finding only one factor in mitigation – defendant's lack of a prior record. This cast doubt on the judge's ability to fairly sentence defendant on remand.

PROBATION, PERIODIC IMPRISONMENT, CONDITIONAL DISCHARGE & SUPERVISION

§39-5(a)

People v. Vargas, 2025 IL App (2d) 240609 (8/8/25)

Defendant's challenge to her probation revocation was moot because she completed her sentence. While she argued that the case was still relevant because "the revocation may affect any future sentencing hearings," the appellate court rejected this justification. Defendant's argument was premised entirely on what might happen in a future criminal case that might never arise. Pursuant to **Spencer v. Kemna**, 523 U.S. 1, 7 (1998), a collateral consequence justifying continuation of the appeal beyond the sentence must be some "concrete and continuing" injury. Defendant also forfeited an argument that she suffered immigration consequences from the probation revocation by failing to raise the argument in her opening brief. Regardless, those consequences were too speculative to meet the **Spencer** standard.

(Defendant was represented by Assistant Defender Dominique Estes, Elgin.)

SEARCH & SEIZURE

§43-2(c)(1)

People v. Francik, 2025 IL App (2d) 240585 (8/19/25)

To sustain a verdict of guilty of eavesdropping, a recording need not be intelligible. The eavesdropping statute [720 ILCS 5/14-2(a)(1)] requires only the knowing and intentional use of an eavesdropping device in a surreptitious manner “for the purpose of overhearing, transmitting, or recording all or any part of a private conversation.” It is defendant’s conduct, not the ultimate result produced, which satisfies the statute. Thus, while most of the recording in question was muffled and difficult to understand, defendant was proved guilty of eavesdropping based upon his use of a recording device to attempt to capture his ex-wife’s private conversations.

The court also rejected defendant’s argument that the State failed to prove that he knowingly and intelligently used the device to eavesdrop. Here, a recording device was discovered by defendant’s ex-wife in her one-year-old daughter’s coat pocket within hours of having picked up the child from defendant’s home. While defendant said that the child must have taken the device off of his kitchen counter, there was evidence that the child could not have accessed it at that height. Further, because the device recorded sounds in the ex-wife’s vehicle and home, someone had to have activated it before it ended up in the daughter’s pocket. Given the contentious relationship between defendant and his ex-wife, the court could properly infer that defendant deliberately placed the recording device in the daughter’s pocket for the purpose of recording his ex-wife’s private conversations.

§§43-1(c), 43-2(b), 43-2(c)(6)

People v. Long, 2025 IL App (2d) 240237 (8/11/25)

Defendant attempted to enter Six Flags Great America theme park but was prevented from doing so when an X-ray scanner detected a gun in his bag. Firearms are not permitted in Six Flags, and signage throughout the grounds alerts guests to the firearm ban. Upon observing an outline of a gun on the X-ray scanner, a Six Flags security officer asked defendant if he had a concealed carry license (CCL). Defendant stated he did not, and the security officer alerted on-site police officers to the presence of the weapon. The police confirmed that defendant did not have a CCL or a FOID card. Ultimately, the police removed the gun from defendant’s bag. On these facts, the trial court granted defendant’s motion to suppress, finding that no exception to the warrant requirement applied.

The State appealed, and the appellate court reversed. Where an individual has notice that all members of the public entering an area are subject to routine search and then chooses to enter that area, he relinquishes any reasonable expectation of privacy and impliedly consents to the search. Here, signs at Six Flags state that firearms are not permitted in the park and it is obvious that all guests must submit to screening at the security checkpoint immediately in front of the park entrance. Accordingly, defendant impliedly consented to being searched.

The court rejected defendant's argument that he had the right to limit the type of search conducted, specifically that he could prevent the physical inspection and removal of items from his bag. While only metal detectors and X-ray machines were located at the security screening point, that did not mean defendant consented to only those types of searches. Security personnel, and by extension the police, did not exceed the scope of defendant's implied consent by physically searching his bag and removing the handgun located therein.

The dissenting justice would have affirmed on the basis that the physical search of defendant's bag by the police exceeded the scope of the private X-ray search conducted by Six Flags security employees. The dissent noted that the police had ample time to obtain a search warrant or to request defendant's express consent before physically searching his bag. Having failed to do so, they violated defendant's fourth amendment rights.

§43-3(b)(2)

People v. Rich, 2025 IL App (1st) 230818 (8/12/25)

Defendant was convicted of armed habitual criminal after fleeing from police and dropping a firearm. On appeal, he argued his attorney was ineffective for failing to file a motion to quash arrest and suppress inculpatory statements. The appellate court rejected the argument.

The court first noted at the Illinois Code of Criminal Procedure authorizes the filing of motions to suppress evidence, but not motions to quash arrest. It therefore assumed for purposes of defendant's argument that he wanted counsel to file a motion to suppress.

A motion to suppress would fail, however, because the police had adequate grounds for a stop. The officers testified that they saw defendant and his companions walking in the middle of 67th Street, prompting them to make a **Terry** stop. The Illinois Vehicle Code states: “where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.” Chicago’s Municipal Code likewise prohibits walking in the street when a sidewalk is available. The appellate court took judicial notice of the fact that 67th Street has sidewalks, using Google Maps. Thus, the officers had grounds to not only stop defendant, but to arrest him. The court also noted that the officers could have arrested defendant for “obstructing a peace officer” for fleeing a lawful **Terry** stop, citing [People v. Shipp, 2015 IL App \(2d\) 130587, ¶ 50](#)

(Defendant was represented by Assistant Defender Ann McClennan, Chicago.)

§§43-5(a)(1), 43-5(a)(2)

[People v. Terrell, 2025 IL App \(3d\) 240567 \(8/22/25\)](#)

Generally, a trial court’s ruling on a motion to suppress evidence presents questions of both law and fact. A reviewing court will not reverse a trial court’s factual findings unless they are against the manifest weight of the evidence, but the ultimate question of whether the trial court properly granted a motion to quash a search warrant and suppress evidence is a legal question, reviewed *de novo*. Here, where there was no evidentiary hearing on the motion to suppress, the reviewing court was in essentially the same position as the trial judge, and thus *de novo* review of the suppression order was appropriate.

Defendant was charged with various felony offenses arising out of shooting which resulted in injury to two persons in a vehicle. Days after the shooting, the police sought and obtained a search warrant for defendant’s cell phone records, including, among other things, location information, text message content, and cloud data. The officer’s affidavit indicated that the records were relevant not only to the shooting in question but also to a series of other shootings which occurred at a different location and on different dates. The suspect in those other shootings was a man named Barfield, who a witness identified as being in the car with defendant at the time of the charged shooting.

Defendant challenged the entirety of the warrant, and the trial court granted his motion to suppress, finding a lack of probable cause. The appellate court reversed in part, upholding the portion of the warrant related to the charged shooting. The complaint for search warrant and supporting affidavit included evidence that defendant's vehicle and the offending vehicle shared "distinctive similarities." While defendant shared ownership of the vehicle with a woman, one of the victims indicated that it was being driven by a male at the time of the shooting and that the only other occupant was also a male. And, the officer's affidavit indicated that, in his experience, a subject's cell phone and call detail records may assist in determining the location of the phone, and by extension of its owner, at a given time.

But, because the complaint and affidavit failed to establish a connection between defendant and the other shootings, there was no probable cause for the warrant as it related to those shootings. Further, the police could not rely on the good-faith exception to the exclusionary rule to uphold that portion of the search because the affidavit was "bare bones" as to the other shootings. Specifically, the complaint did not include any facts from which it could be concluded that evidence related to those shootings would be found in defendant's phone. At most, it established a connection between defendant's acquaintance, Barfield, and the other shootings. Accordingly, the trial court was correct to suppress the evidence obtained under the portion of the warrant concerning the other shootings.

Because the warrant led to both the proper seizure of evidence and an improper search and seizure, the appellate court remanded for the trial court to determine what evidence was properly obtained and to suppress any evidence related to the other shootings for which there was no probable cause.

(Defendant was represented by Assistant Defender Andrew Boyd, Ottawa.)

SENTENCING

§44-1(c)(1)

People v. Bell, 2025 IL App (4th) 240929 (8/16/25)

The 16 year-old defendant drove a vehicle occupied by four other minors 80 mph in a 30 mph zone and crashed the car. A 16 year-old girl died in the crash. Defendant had a BAL of .141. He entered into an open guilty plea to aggravated DUI and reckless homicide and received the maximum 14-year prison sentence. However, while defense counsel raised several arguments in mitigation, counsel did not argue the youth-based sentencing factors required by 730 ILCS 5/5-4.5-105(a). Defendant argued counsel was ineffective in a motion to reconsider sentence, but the sentencing court denied the motion. The appellate court reversed and remanded.

The failure to raise youth-based sentencing factors during the sentencing hearing rendered counsel's performance ineffective. One youth-based factor is the existence of peer pressure. Here, the State had introduced a video of the event, during which defendant's passengers could be heard yelling "I don't want to die" and "value your life" in the seconds before the crash. The sentencing court placed heavy emphasis on this fact. But, in an affidavit introduced along with the motion to reconsider, one of the occupants of the vehicle averred that this video was taken out of context and that in fact the witness and the victim were encouraging defendant to speed up so as to "catch air."

Defense counsel's explanation of his strategy – he didn't want to shift blame to the victim – did not persuade the appellate court. Omitting to mention peer pressure and other factors of youth rendered counsel ineffective. Notably, defense counsel never mentioned any of the youth-based factors, and at one point stated that all drivers, "whether 16 or 61" have the same level of responsibility, which directly undermines the statute's intent to ensure courts recognize the diminished culpability of youthful offenders. Defense counsel's strategy also prevented him from objecting to several of the victim impact statements from non-representatives, unauthorized by law, further demonstrating its unreasonableness.

The appellate court remanded the matter for a sentencing hearing before a new judge. The judge below denied the motion despite the fact that the new context completely changed the import of the video, which was a major factor in the maximum sentence (the judge stated the video "chilled [him] to the bone" and "bothered the heck out [him]."). The judge also claimed on the order denying the motion that it had in fact considered the youth-based sentencing factors, yet during the hearing, the judge explicitly stated that it was finding only one factor in mitigation – defendant's lack of a prior record. This cast doubt on the judge's ability to fairly sentence defendant on remand.

§44-16(b)

People v. Stafford, 2025 IL App (2d) 240250 (8/14/25)

The trial court properly denied defendant sentencing credit for the time he spent on electronic home monitoring while out on bond before trial. Defendant argued that he was entitled to credit for that period because he was in "home detention" per section 5-4.5-100(b) of the Code of Corrections.

Section 5-4.5-100(b) authorizes credit for time spend on “home detention,” but does not define the term. The court therefore turned to section 5-8A-2 of the Home Detention Law, which defines “home detention” as: “the confinement of a person convicted [of] or charged with an offense to his or her place of residence under the terms and conditions established by the supervising authority.” In turn, the Home Detention Law defines “supervising authority” as: “the Department of Corrections, the Department of Juvenile Justice, probation department, a Chief Judge’s office, pretrial services division or department, sheriff, superintendent of municipal house of corrections or any other officer or agency charged with authorizing or supervising electronic monitoring and home detention.” [730 ILCS 5/5-8A-2\(C\)](#). Because a defendant on bond with EHM serves under the terms and conditions of the trial court, and not under control of a listed supervising authority, the credit does not apply.

(Defendant was represented by Supervisor Jaime Montgomery, Elgin.)

SPEEDY TRIAL

§46-3

[People v. Brownlee, 2025 IL App \(2d\) 250198 \(8/13/25\)](#)

When a defendant is denied pretrial release, 720 ILCS 5/110-6.1(I) requires that he be tried within 90 days of the entry of the detention order on that offense, excluding any delay attributable to him or any continuance granted to the State for good cause shown pursuant to [725 ILCS 5/103-5](#) of the Speedy Trial Act. If a defendant is not brought to trial within that time, he must be released.

Here, defendant was facing charges in multiple separate cases, and the State elected to proceed on a different case first, resulting in defendant not being tried in the instant case within 90 days of his being detained. The State argued that the court should incorporate section 103-5(e) of the Speedy Trial Act, which allows an extended speedy trial period for subsequent prosecutions where a defendant has multiple cases pending, and should thus allow additional time under 110-6.1(I) to resolve separate cases without requiring defendant’s conditional release.

The appellate court rejected the State’s argument. The plain language of Section 110-6.1(I) is mandatory, and it does not contain any exception for a defendant who has multiple pending cases. And, the court declined to read such an exception into the statute here. “No rule of construction authorizes [a reviewing] court to declare that the legislature did not mean what the plain language of the statute imports, nor may we rewrite a statute to add provisions or limitations the legislature did not include.” Thus, the trial court erred in concluding that defendant was not entitled to release after expiration of 90 days.

While defendant was released during the pendency of this appeal, the court elected to review the issue under the public-interest exception to the mootness doctrine. The matter was of a public nature where all individuals charged with a detainable offense are subject to the provisions of the Code of Criminal Procedure. The circumstances were likely to recur given that defendants are often involved in more than one case at a time. And, the parties below demonstrated confusion about how the provisions of the Code applied, necessitating guidance from the appellate court.

STATUTES

§47-3(b)(2)(b)

People v. Temple, 2025 IL App (1st) 240917 (8/8/25)

The court rejected defendant’s challenge, brought via a petition for relief from judgment, to the constitutionality of the unlawful use of a weapon statute where the offense is predicated on possessing a loaded and immediately accessible firearm in a public park [720 ILCS 5/24-1(a)(10)].

New York State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1 (2022), set forth a two-step framework for determining the constitutionality of firearms regulations. A court must first determine whether the conduct is covered by the plain text of the Second Amendment and, if so, whether the regulation “is consistent with the Nation’s historical tradition of firearm regulation.” Here, the parties agreed that the plain text of the second amendment covers the conduct at issue here – gun possession in a public park.

But, the court rejected defendant’s argument that public green spaces that existed in 1791 were akin to modern parks and the State had not demonstrated a historical tradition of regulating firearms in those spaces. The court concluded that founding-era green spaces were not similar to modern parks, and that the latter only came into existence in the late-19th century. Central Park, which opened in 1858, is commonly considered the nation’s first modern public park, and it was subject to a firearm ban from the start. As more parks emerged, governments enacted similar regulations without challenge. Accordingly, the court concluded that the regulation of firearms in public parks is consistent with historical tradition.

The fact that a greater penalty is imposed under the statute than may have been imposed historically was not dispositive, either. Whether punishable by prison time, misdemeanor charges, or a fine, the regulations all serve the same purpose – deterring the public from carrying firearms in public parks – rendering them sufficiently analogous.

(Defendant was represented by Assistant Defender Erica Mail, Chicago.

WAIVER – PLAIN ERROR – HARMLESS ERROR

§54-1(b)(8)

People v. Valazquez, 2025 IL App (1st) 230449 (8/29/25)

The trial judge acted arbitrarily and capriciously during defendant’s bench trial for predatory criminal sexual assault, resulting in a fundamentally unfair verdict. The State alleged defendant assaulted his young niece on three separate occasions. A propensity witness testified to similar assaults. Several other outcry and defense witnesses testified, including defendant. Throughout the trial, the judge stood in the jury box, approached the witnesses and stood in front of them, asked hundreds of questions, and noted for the record when witnesses – particularly defense witnesses – were “pausing” during their answers. In explaining his verdict, he testified that he found the complainant credible, and noted his ability to observe all of the witnesses’ demeanor by standing in front of them.

In a post-trial motion, three defense witnesses testified that the judge intimidated them by standing close to them during their testimony. The judge interjected during this testimony, explaining that he did so to see their faces. The witnesses testified that the judge made them nervous. The court denied the motion, stating that he typically hears cases from the jury box so as to better see the witnesses, and that he approaches them when he can’t hear. The judge noted that none of the witnesses testified that his actions changed the substance of their testimony, and the explanation for their nervousness was not grounds for a new trial.

The appellate court agreed with the defendant's argument that the judge's behavior violated his right to a fair trial. Although no caselaw or rule speaks to the specific conduct in this case, the totality of the judge's behavior led to an unfair trial in violation of the right to due process. The judge approached witnesses, commandeered questioning (the judge asked 277 questions of witnesses, 200 of which came during defense examination), commented about pauses during defense witness testimony, and suggested the defense was coaching the witnesses. The judge also failed to conduct a section 5/115-10.1 hearing for an outcry witness. Finally, he provided shifting explanations about witness demeanor, stating it was an important consideration in reaching a guilty verdict, but made no difference when the posttrial witnesses explained why they were nervous.

The error was not forfeited for lack of an objection, because no duty to object exists if that objection would have fallen on deaf ears. This judge gave no hint that he would have behaved differently in response to an objection, describing his actions as his "practice." The court noted that this judge has since retired, but encouraged trial courts to oversee trial from the bench.

(Defendant was represented by Assistant Defender Liam Kelly, Chicago.)

WEAPONS

§55-1(e)

People v. Temple, 2025 IL App (1st) 240917 (8/8/25)

The court rejected defendant's challenge, brought via a petition for relief from judgment, to the constitutionality of the unlawful use of a weapon statute where the offense is predicated on possessing a loaded and immediately accessible firearm in a public park [720 ILCS 5/24-1(a)(10)].

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(Defendant was represented by Assistant Defender Erica Mail, Chicago.