

Office of the State Appellate Defender

# Summary of Significant Criminal Issues Pending in the Illinois Supreme Court

*January 29, 2025*

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## APPEAL

No. 129695

**People v. Class**, State leave to appeal granted 11/29/23 from 2023 IL App (1st) 200903 (modified 10/13/23); oral argument held 11/12/24

Whether the appellate court has the authority under Illinois Supreme Court Rules 366(a)(5) or 615(b)(2) to order the substitution of a new circuit court judge when remanding a criminal case, and, if so, whether the appellate court must first make a specific finding of bias or actual prejudice before so ordering. (§2-6(a))

Defense counsel: Michael Orenstein, Chicago OSAD

No. 130286

**People v. Hagededt**, Defense leave to appeal granted 3/27/24 from 2023 IL App (2d) 210715-U; oral argument held 11/13/24

Whether defendant was denied due process where the appellate court majority's opinion was based on an alleged concession by appellate counsel at oral argument but that concession never occurred. (§2-6(a))

Defense counsel: Andrew Thomas Moore, Elgin OSAD

No. 130351

**People v. Harris**, State leave to appeal granted 3/27/24 from 2023 IL App (1st) 221033; oral argument held 1/15/2025

Whether the State's appeal was an unauthorized interlocutory appeal from an order granting post-conviction relief, where the appellate court in a prior appeal reversed the denial of defendant's post-conviction petition following a third-stage evidentiary hearing and remanded the matter for a new suppression hearing, and where the circuit court on remand denied defendant's motion to suppress but ordered a new trial. (§§2-4(a), 2-6(e)(2))

Defense counsel: Leonid Feller, Quinn Emanuel Urquhart & Sullivan, LLP, Chicago

## ATTEMPT

No. 129967

**People v. Guy**, State leave to appeal granted 11/29/23 from 2023 IL App (3d) 210423; oral argument held 11/13/24

Whether the jury's finding that defendant acted with unreasonable belief in the need for self-defense, resulting in a verdict of second degree murder as to one victim, is legally inconsistent with the intent required to convict defendant of attempt first degree murder against a separate victim during the same incident. (§5)

Defense counsel: Dimitri Golfis, Ottawa OSAD

## BAIL

No. 130626

**People v. Morgan**, Defense leave to appeal granted 6/11/24 from 2024 IL App (4th) 240103; oral argument held 9/12/2024

Which standard of review applies on appeal from a pretrial detention order that was based on a proffer of evidence: abuse of discretion, manifest weight of the evidence, *de novo*, or some combination thereof? (§6-5(b))

Defense counsel: Ross Allen, Chicago OSAD

No. 130866

**People v. Cousins**, Defense leave to appeal granted 8/9/24 from 2024 IL App (4th) 240388-U

Whether, where the reviewing court concludes that the State failed to meet its burden to detain a defendant pretrial, a remand for a second detention hearing is appropriate, or whether the proper remedy is to remand for pretrial release, including a hearing on conditions of release. (§6-5(a))

Defense counsel: Lauren Bauser, Chicago OSAD

No. 130946

**People v. Cooper**, State leave to appeal granted 9/16/24 from 2024 IL App (4th) 240589-U

Whether the requirement that a detention hearing be held within 48 hours of the defendant's initial appearance is mandatory or directory and, if mandatory, whether the appropriate remedy for an untimely hearing is conditional release. (§6-5(i))

Defense counsel: Jonathan Krieger, Chicago OSAD

No. 131279

**(New) People v. Grayson**, State leave to appeal granted 1/28/25 from 2024 IL App (4th) 241100-U.

Whether the appellate court erred when it reversed the circuit court's decision to order pretrial detention of a police officer charged with first-degree murder, by failing to give required deference to the circuit court's findings, ignoring evidence in the State's proffer, and mischaracterizing the circuit court's reasoning as overly dependent on defendant's failings as a police officer rather than his actual threat to the safety of the community.

Defense counsel: Deborah Pugh, Chicago OSAD

No. 131283

**People v. Moore**, Defense leave to appeal granted 1/9/25 from 2025 IL App (4th) 241079 (summary order).

Whether under Supreme Court Rule 604(h)(2) an issue not included in a motion for relief is waived for purposes of appeal, or whether such an issue is merely forfeited thereby allowing for plain-error review. (§6-5(a))

Defense counsel: Michael Orenstein, Chicago OSAD

## COLLATERAL REMEDIES

No. 129718

**People v. Williams**, State leave to appeal granted 9/27/23 from 2023 IL App (5th) 220185; oral argument held 11/12/24

Whether a defendant must demonstrate prejudice to establish unreasonable assistance of post-conviction counsel, specifically that he had a claim that would have been successful but for counsel's alleged deficient performance. (§§9-1(j)(1), 9-1(j)(2))

Whether, where defendant had been represented by privately-retained counsel on his post-conviction petition, the appellate court erred in ordering that defendant proceed with new counsel on remand because such an order either compels defendant to retain new counsel, potentially interfering with his right to counsel of choice, or improperly requires the appointment of new counsel for a defendant who may not be indigent. (§§9-1(j)(1), 9-1(j)(2))

Defense counsel: Jennifer Lassy, Mt. Vernon OSAD

No. 130595

**People v. Reed**, Defense leave to appeal granted 5/29/24 from 2024 IL App (1st) 230669.

Whether the certificate of innocence statute, 735 ILCS 5/2-702, requires a petitioner to prove innocence only of the offenses for which he or she was incarcerated or whether the petitioner must prove innocence of every offense charged, including those dismissed by the State by *nolle prosequi* and for which the petitioner was neither convicted nor incarcerated. (§9-6)

Defense counsel: Joel A. Flaxman and Kenneth N. Flaxman, Chicago

No. 131187

**(New) People v. Dobbins**, Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 230566

Whether a previously-filed action for a certificate of innocence can be maintained under the Illinois Survival Act [755 ILCS 5/27-6] after a petitioner's death.

Defense counsel: Debra Loevy & Joshua Tepfer, The Exoneration Project, Chicago



## CONFESSIONS

No. 130110

**People v. Keys**, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630

Whether defendant's statement to the police during a custodial interrogation that there "aint' nothin' further for us to talk about" was a clear and unequivocal invocation of the right to silence, given that the supreme court has held that questioning must cease when a suspect "indicates in any manner" a desire to remain silent. (§10-4(d))

Defense counsel: Caroline Bourland, Chicago OSAD

No. 130470

**People v. Muhammad**, State leave to appeal granted 5/29/24 from 2023 IL App (1st) 220372.

Whether the Special State's Attorney representing the State in a hearing before the Torture Inquiry and Relief Commission should have been disqualified for an actual conflict of interest under 55 ILCS 5/3-9008(a-10), based on his prior service as a high level supervisor in the Cook County State's Attorney's Office. (§10-5(a))

Whether the defendant's claim before the Torture Inquiry and Relief Commission should have been dismissed because the coerced statement was not a "confession" but rather a false alibi. (§10-5(a))

Defense counsel: H. Candace Gorman, Chicago

## CONSPIRACY & SOLICITATION

No. 131240

**(New) People v. Shepherd**, Defense leave to appeal granted 1/29/25 from 2024 IL App (3d) 230283-U.

Whether a person commits solicitation of murder for hire under 720 ILCS 5/8-1.2(a) only by actually “procuring” another person to commit first-degree murder or whether it is enough to merely “solicit” another person to commit murder.

Defense counsel: Dimitri Golfis, Ottawa OSAD

## CONTROLLED SUBSTANCES

No. 130344

**People v. Hoffman**, State leave to appeal granted 5/29/24 from 2023 IL App (2d) 230067.

Whether section 5–4–1(c-1.5) of the Code of Corrections, 730 ILCS 5/5–4–1(c-1.5), which permits sentencing courts to impose a sentence below the mandatory minimum for certain offenses, including offenses that “involve the use or possession of drugs,” applies to the offense of drug-induced homicide. (§13-7)

Defense counsel: Ann Fick, Elgin OSAD

## EVIDENCE

No. 130110

**People v. Keys**, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630

Whether police statements made during recorded interrogations are admissible only if necessary to demonstrate the effect of the statement on the defendant and the probative value is not outweighed by its prejudice, or whether, as the appellate court held here, such police statements are admissible if “helpful” or “useful” to the trier-of-fact’s assessment of the defendant’s statements. (§§19-3, 19-10(f))

Defense counsel: Caroline Bourland, Chicago OSAD

No. 130127

**People v. Smart**, State leave to appeal granted 3/27/24 from 2023 IL App (1st) 220427; oral argument held 1/14/2025

Whether the State may present other-crimes evidence in order to prove intent, where the defense did not dispute intent but instead denied committing the offense altogether. (§19-23(b)(3))

Defense counsel: Kara Kurland, Chicago OSAD

No. 130988

**People v. Butler**, Defense leave to appeal granted 11/27/24 from 2024 IL App (1st) 211175-U.

Whether out-of-court statements of a child witness are inadmissible under 725 ILCS 5/115-10, and the Confrontation Clause, if the child takes the stand but does not accuse the defendant of wrongdoing, because a witness is “available for cross-examination” only if they’re able to “explain and defend” the out-of-court statements, particularly in light of **Smith v. Arizona**, 144 S. Ct. 1785, 1797 (2024).

Defense counsel: Maria Harrigan, Springfield OSAD

## FITNESS

No. 130932

**People v. Johnson**, Defense leave to appeal granted 9/25/24 from 2024 IL App (5th) 220608

Whether the appellate court violated due process when it: (1) vacated the trial court’s order finding defendant restored to fitness without also vacating the guilty plea that was entered after the erroneous fitness finding; and (2) ordered a retrospective restoration proceeding. (§§21-2, 21-3(f), 21-4)

Defense counsel: Bradley Jarka, Chicago OSAD

## GUILTY PLEAS

No. 130082

**People v. Dyas**, State leave to appeal granted 3/27/24 from 2023 IL App (3d) 220112

Whether defendant's motion to reconsider the denial of his motion to withdraw his guilty plea tolled the 30-day deadline for the filing of a notice of appeal. (§24-8(b)(1))

Whether the sentencing court should re-admonish a *pro se* defendant pursuant to Rule 401(a) after accepting a guilty plea and imposing a sentence, before post-plea proceedings under Rule 604(d). (§24-8(b)(1))

Defense counsel: Stephen Gentry, Chicago OSAD

## HOMICIDE

No. 130110

**People v. Keys**, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630

Whether a defendant may be convicted of multiple counts of concealment of a homicidal death based on a series of actions taken to conceal one homicidal death, and whether a defendant may be convicted of multiple counts of dismemberment based on actions taken to dismember one human body. (26-6)

Defense counsel: Caroline Bourland, Chicago OSAD

## JUDGE

No. 129695

**People v. Class**, State leave to appeal granted 11/29/23 from 2023 IL App (1st) 200903 (modified 10/13/23); oral argument held 11/12/24

Whether the appellate court has the authority under Illinois Supreme Court Rules 366(a)(5) or 615(b)(2) to order the substitution of a new circuit court judge when remanding a criminal case, and, if so, whether the appellate court must first make a specific finding of bias or actual prejudice before so ordering. (§31-3(d))

Defense counsel: Michael Orenstein, Chicago OSAD

## JURY

No. 130779

**People v. Williams**, Defense leave to appeal granted 9/25/24 from 2024 IL App (2d) 230268-U

Whether IPI Criminal Nos. 11.49 and 11.50 are in conflict, because when a defendant is accused of threatening a sworn law enforcement officer, the State must prove that the threat must “contain specific facts indicative of a unique threat to the person, family or property of the officer and not a generalized threat of harm,” and No. 11.50 includes this element while 11.49 does not. (§32-8(c))

Defense counsel: Drew Wallenstein, Elgin OSAD

No. 130919

**People v. Vesey**, Defense leave to appeal granted 9/25/24 from 2024 IL App (4th) 230401.

Whether the appellate court majority incorrectly affirmed the trial court’s decision to deny a defense request for a self-defense instruction at defendant’s trial for aggravated battery of a peace officer, where the appellate court deferred to the trial court’s decision, finding it “within the bounds of reason,” rather than applying the “some evidence” standard, and where the dissent found clear evidence that the defendant was acting in response to excessive force which, in its view, is alone sufficient to warrant a self-defense instruction. (§32-8(a))

Defense counsel: Elliott Borchardt, Elgin OSAD

## JUVENILE PROCEEDINGS

No. 130015

**People v. Spencer**, Defense leave to appeal granted 11/29/23 from 2023 IL App (1st) 200646-U

Whether emerging adults under the age of 21 sentenced to *de facto* life in prison can challenge the constitutionality of the sentence under the Illinois Constitution’s proportionate penalties clause, despite being eligible for parole after serving 20 years. (§§33-6(g)(4), 33-6(g)(5))

Defense counsel: Chan Yoon, Chicago OSAD

## PRELIMINARY HEARING

No. 130585

**People v. Chambliss**, State leave to appeal granted 5/29/24 from 2024 IL App (5th) 220492.

Whether the failure to hold a prompt preliminary hearing constitutes second prong plain error, requiring reversal of a conviction without retrial, where defendant does not object until after conviction following an otherwise fair trial. (§38-1)

Defense counsel: Julie Thompson, Mt. Vernon OSAD

## PROSECUTOR

No. 130470

**People v. Muhammad**, State leave to appeal granted 5/29/24 from 2023 IL App (1st) 220372.

Whether the Special State's Attorney representing the State in a hearing before the Torture Inquiry and Relief Commission should have been disqualified for an actual conflict of interest under 55 ILCS 5/3-9008(a-10), based on his prior service as a high level supervisor in the Cook County State's Attorney's Office. (§40-16)

Whether the defendant's claim before the Torture Inquiry and Relief Commission should have been dismissed because the coerced statement was not a "confession" but rather a false alibi. (§40-16)

Defense counsel: H. Candace Gorman, Chicago

No. 130775

**Village of Lincolnshire v. Olvera**, Defense leave to appeal granted 9/25/24 from 2024 IL App (2d) 230255

Whether the second prong of the plain error rule overcomes forfeiture when a municipal attorney acts as prosecutor without written permission from the State's Attorney, as required by 625 ILCS 5/16-102(c). (§40-16)

Defense counsel: Ann Fick, Elgin OSAD

## SEARCH AND SEIZURE

No. 130286

**People v. Hagestedt**, Defense leave to appeal granted 3/27/24 from 2023 IL App (2d) 210715-U; oral argument held 11/13/24

Whether a police officer who entered a private home as part of his “community caretaking” function violated the fourth amendment when he used a flashlight to peer into a one-inch gap in a closed and locked kitchen cabinet in that home, allowing him to view contraband contained therein. (§§43-2(b), 43-2(d)(5)(a), 43-7(a))

Whether the contents of a clearly locked cabinet within defendant’s home were not in plain view, despite a one-inch gap in the closure of the cabinet, because defendant’s use of a chain and lock to secure the cabinet were a clear communication of his expressed privacy interest in the contents of that cabinet. (§§43-2(b), 43-2(d)(5)(a), 43-7(a))

Defense counsel: Andrew Thomas Moore, Elgin OSAD

## SENTENCING

No. 130015

**People v. Spencer**, Defense leave to appeal granted 11/29/23 from 2023 IL App (1st) 200646-U

Whether emerging adults under the age of 21 sentenced to *de facto* life in prison can challenge the constitutionality of the sentence under the Illinois Constitution’s proportionate penalties clause, despite being eligible for parole after serving 20 years. (§§44-1(c)(4), 44-1(c)(5))

Defense counsel: Chan Yoon, Chicago OSAD

No. 130344

**People v. Hoffman**, State leave to appeal granted 5/29/24 from 2023 IL App (2d) 230067.

Whether section 5–4–1(c-1.5) of the Code of Corrections, 730 ILCS 5/5–4–1(c-1.5), which permits sentencing courts to impose a sentence below the mandatory minimum for certain offenses, including offenses that “involve the use or possession of drugs,” applies to the offense of drug-induced homicide. (§44-1(a))

Defense counsel: Ann Fick, Elgin OSAD

No. 130930

**People v. Brown**, State leave to appeal granted 11/27/24 from 2024 IL App (1st) 221859-U

Whether the 2021 amendment to 730 ILCS 5/5-4.5-95(a), which provides that a defendant must have been at least 21 years of age at the time of his first qualifying offense in order to qualify for sentencing as a habitual criminal, applies retroactively.

Defense counsel: Arianne Stein, Chicago OSAD

### **SPEEDY TRIAL**

No. 130207

**People v. Yankaway**, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 220982-U; oral argument held 9/11/2024

Whether the appellate court erred when it held that, while counsel performed deficiently by failing to properly demand trial in order to trigger the speedy trial term, defendant could not show prejudice even though the trial began after 160 days, as the court presumed the State would have tried him earlier if counsel made the demand. (§46-1(b)(2))

Defense counsel: Anthony Santella, Elgin OSAD

### **STATUTES**

No. 129965

**People v. Thompson**, Defense leave to appeal granted 11/29/23 from 2023 IL App (1st) 220429-U; oral argument held 1/14/2025

Whether section (3)(A-5) of the aggravated unlawful use of a weapon statute, which criminalizes possession of a firearm in a vehicle without having a Concealed Carry License, even if the defendant owns a valid Firearm Owner's Identification Card, is unconstitutional under **Bruen**, where there is no historical tradition of requiring two licenses for open carry. (§47-3(b)(2)(b))

Whether a defendant who is convicted under section (3)(A-5) has standing to attack the constitutionality of the Concealed Carry License Act, or whether standing extends only to those who applied for and were denied a license. (§47-3(b)(2)(b))

Defense counsel: Eric Castañeda, Chicago OSAD



No. 130447

**People v. Johnson**, Defense leave to appeal granted 5/29/24 from 2023 IL App (4th) 221021-U.

Whether 725 ILCS 5/115-4(k) requires the trial court to rule on a motion for directed verdict at the close of the State's evidence, before the defense presents its case, ensuring the defendant's decision as to whether to exercise his right to testify is fully informed. (§47-1(b))

Whether section 115-4(k) requires a defendant to do more than make a timely motion for directed verdict at the close of the State's evidence to trigger the court's duty to rule on that motion before proceeding further; or whether defendant forfeited the issue by failing to object when the court indicated it would reserve its ruling, even though the issue was raised in a post-trial motion; if so, whether "clear error" occurred given contradictory caselaw. (§47-1(b))

Defense counsel: Gilbert Lenz, Chicago OSAD

No. 130930

**People v. Brown**, State leave to appeal granted 11/27/24 from 2024 IL App (1st) 221859-U

Whether the 2021 amendment to 730 ILCS 5/5-4.5-95(a), which provides that a defendant must have been at least 21 years of age at the time of his first qualifying offense in order to qualify for sentencing as a habitual criminal, applies retroactively.

Defense counsel: Arianne Stein, Chicago OSAD

No. 131191

**(New) People v. Benson**, Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 221230-U.

Whether a defendant may raise a second amendment challenge to a conviction for unlawful use of a weapon by a felon, if he can establish that he is a non-violent person or not otherwise dangerous. If so, what standard and what process should a court use to determine non-dangerousness? Should the court consider only the predicate felony for the UUWF offense, or should it consider defendant's entire criminal history? Should the court look only to the nature of the predicate in the charged offense, or should it hold an evidentiary hearing as to the facts of the prior conviction? Or is the State entitled to present any evidence relevant to dangerousness, whether related to a prior conviction or not?

Defense counsel: Elizabeth Cook, Chicago OSAD

## TRAFFIC OFFENSES

No. 130775

**Village of Lincolnshire v. Olvera**, Defense leave to appeal granted 9/25/24 from 2024 IL App (2d) 230255

Whether defendant was proven guilty beyond a reasonable doubt of driving under the influence of a drug, where the driving instructor who was observing the 16 year-old defendant drive never suggested he was "incapable of driving safely" under 625 ILCS 5/11-601(a)(4), but instead felt that any deficiencies in his driving could have been caused by nervousness. (§49-2(b))

Defense counsel: Ann Fick, Elgin OSAD

## TRIAL PROCEDURES

No. 130067

**People v. Smith**, State leave to appeal granted 1/24/24 from 2023 IL App (1st) 181070

Whether the trial court's exclusion of defendant's mother from the courtroom, based on the State's representation that it might call her as an impeachment witness, infringed on defendant's right to a public trial. (§51-1)

Defense counsel: Steven Greenberg, Chicago

No. 130716

**People v. Hietschold**, State leave to appeal granted 9/25/24 from 2024 IL App (2d) 230047

Whether the appellate court correctly reversed and remanded a trial held *in absentia* on the grounds that the circuit court's admonishments failed to substantially comply with 725 ILCS 5/113-4(e), as they neglected to inform defendant that his failure to appear at trial would constitute a waiver of his right to confront witnesses. (§51-2(b))

Defense counsel: Elliott Borchardt, Elgin OSAD

### VENUE & JURISDICTION

No. 130082

**People v. Dyas**, State leave to appeal granted 3/27/24 from 2023 IL App (3d) 220112

Whether defendant's motion to reconsider the denial of his motion to withdraw his guilty plea tolled the 30-day deadline for the filing of a notice of appeal. (§52)

Whether the sentencing court should re-admonish a *pro se* defendant pursuant to Rule 401(a) after accepting a guilty plea and imposing a sentence, before post-plea proceedings under Rule 604(d). (§52)

Defense counsel: Stephen Gentry, Chicago OSAD

### VERDICTS

No. 129967

**People v. Guy**, State leave to appeal granted 11/29/23 from 2023 IL App (3d) 210423; oral argument held 11/13/24

Whether the jury's finding that defendant acted with unreasonable belief in the need for self-defense, resulting in a verdict of second degree murder as to one victim, is legally inconsistent with the intent required to convict defendant of attempt first degree murder against a separate victim during the same incident. (§53-2)

Defense counsel: Dimitri Golfis, Ottawa OSAD

No. 130110

**People v. Keys**, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630

Whether a defendant may be convicted of multiple counts of concealment of a homicidal death based on a series of actions taken to conceal one homicidal death, and whether a defendant may be convicted of multiple counts of dismemberment based on actions taken to dismember one human body. (§53-3(a))

Defense counsel: Caroline Bourland, Chicago OSAD

### WAIVER - PLAIN ERROR - HARMLESS ERROR

No. 130447

**People v. Johnson**, Defense leave to appeal granted 5/29/24 from 2023 IL App (4th) 221021-U.

Whether 725 ILCS 5/115-4(k) requires the trial court to rule on a motion for directed verdict at the close of the State's evidence, before the defense presents its case, ensuring the defendant's decision as to whether to exercise his right to testify is fully informed. (§§54-1(b)(1), 54-2(b))

Whether section 115-4(k) requires a defendant to do more than make a timely motion for directed verdict at the close of the State's evidence to trigger the court's duty to rule on that motion before proceeding further; or whether defendant forfeited the issue by failing to object when the court indicated it would reserve its ruling, even though the issue was raised in a post-trial motion; if so, whether "clear error" occurred given contradictory caselaw. (§§54-1(b)(1), 54-2(b))

Defense counsel: Gilbert Lenz, Chicago OSAD

No. 130775

**Village of Lincolnshire v. Olvera**, Defense leave to appeal granted 9/25/24 from 2024 IL App (2d) 230255

Whether the second prong of the plain error rule overcomes forfeiture when a municipal attorney acts as prosecutor without written permission from the State's Attorney, as required by 625 ILCS 5/16-102(c). (§54-2(d))

Defense counsel: Ann Fick, Elgin OSAD

No. 131283

**People v. Moore**, Defense leave to appeal granted 1/9/25 from 2025 IL App (4th) 241079 (summary order).

Whether under Supreme Court Rule 604(h)(2) an issue not included in a motion for relief is waived for purposes of appeal, or whether such an issue is merely forfeited thereby allowing for plain-error review. (§§54-1(a), 54-2(7)(a))

Defense counsel: Michael Orenstein, Chicago OSAD

## WEAPONS

No. 129965

**People v. Thompson**, Defense leave to appeal granted 11/29/23 from 2023 IL App (1st) 220429-U; oral argument held 1/14/2025

Whether section (3)(A-5) of the aggravated unlawful use of a weapon statute, which criminalizes possession of a firearm in a vehicle without having a Concealed Carry License, even if the defendant owns a valid Firearm Owner's Identification Card, is unconstitutional under **Bruen**, where there is no historical tradition of requiring two licenses for open carry. (§55-1(b))

Whether a defendant who is convicted under section (3)(A-5) has standing to attack the constitutionality of the Concealed Carry License Act, or whether standing extends only to those who applied for and were denied a license. (§55-1(b))

Defense counsel: Eric Castañeda, Chicago OSAD

No. 130173

**People v. Wallace**, Defense leave to appeal granted 5/29/24 from 2023 IL App (1st) 200917.

Whether the State failed to prove Armed Habitual Criminal beyond a reasonable doubt where defendant was 17 years old at the time he committed one of the alleged predicate felonies, and under the amended version of the Juvenile Court Act in place at the time of the alleged AHC, this predicate felony is no longer automatically tried in adult court. (§55-3)

Defense counsel: Stephanie Puente, Chicago OSAD

No. 131191

**(New) People v. Benson**, Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 221230-U.

Whether a defendant may raise a second amendment challenge to a conviction for unlawful use of a weapon by a felon, if he can establish that he is a non-violent person or not otherwise dangerous. If so, what standard and what process should a court use to determine non-dangerousness? Should the court consider only the predicate felony for the UUWF offense, or should it consider defendant's entire criminal history? Should the court look only to the nature of the predicate in the charged offense, or should it hold an evidentiary hearing as to the facts of the prior conviction? Or is the State entitled to present any evidence relevant to dangerousness, whether related to a prior conviction or not?

Defense counsel: Elizabeth Cook, Chicago OSAD

#### WITNESSES

No. 130447

**People v. Johnson**, Defense leave to appeal granted 5/29/24 from 2023 IL App (4th) 221021-U.

Whether 725 ILCS 5/115-4(k) requires the trial court to rule on a motion for directed verdict at the close of the State's evidence, before the defense presents its case, ensuring the defendant's decision as to whether to exercise his right to testify is fully informed. (§56-5)

Whether section 115-4(k) requires a defendant to do more than make a timely motion for directed verdict at the close of the State's evidence to trigger the court's duty to rule on that motion before proceeding further; or whether defendant forfeited the issue by failing to object when the court indicated it would reserve its ruling, even though the issue was raised in a post-trial motion; if so, whether "clear error" occurred given contradictory caselaw. (§56-5)

Defense counsel: Gilbert Lenz, Chicago OSAD

No. 130988

**People v. Butler**, Defense leave to appeal granted 11/27/24 from 2024 IL App (1st) 211175-U.

Whether out-of-court statements of a child witness are inadmissible under 725 ILCS 5/115-10, and the Confrontation Clause, if the child takes the stand but does not accuse the defendant of wrongdoing, because a witness is “available for cross-examination” only if they’re able to “explain and defend” the out-of-court statements, particularly in light of **Smith v. Arizona**, 144 S. Ct. 1785, 1797 (2024).

Defense counsel: Maria Harrigan, Springfield OSAD