

Office of the State Appellate Defender

Summary of Significant Criminal Issues Pending in the Illinois Supreme Court

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APPEAL

No. 131926

(New) People v. Jones, Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 230926-U.

Whether the appellate court erred when it held that the Illinois Supreme Court's decision in **People v. Mata**, 217 Ill. 2d 535 (2005), that “‘sentencing issues’ or ‘sentencing-phase issues’ are rendered moot by the governor’s commutation,” meant defendant’s proportionate penalties attack on his sentence, which had been commuted by the governor from death to natural life, is moot.

Defense counsel: Joseph Benak, Chicago OSAD

BAIL – PRETRIAL RELEASE & DETENTION

No. 132129

(New) People v. Marshall, Defense leave to appeal granted 9/29/25 from 2025 IL App (4th) 250426-U.

Whether a defendant may be considered to have intentionally relinquished a right he was never told he possessed. More specifically, whether a defendant can be found to have waived review of issues related to his pretrial detention not included in his motion for relief in accordance with Rule 604(h)(2) where the required admonishments under Rule 605(d)(1) fail to inform defendant that any issue not raised in the motion will be considered waived.

Whether a claim of ineffective assistance of counsel can ever be raised in a pretrial detention appeal under Rule 604(h).

Whether the State failed to prove that defendant committed a detainable offense where courts have determined that only aggravated battery causing great bodily harm is detainable and the State presented insufficient evidence of great bodily harm at defendant’s detention hearing.

Defense counsel: Deborah Pugh, Chicago OSAD

No. 131279

People v. Grayson, State leave to appeal granted 1/28/25 from 2024 IL App (4th) 241100-U; oral argument held 5/14/2025.

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. 131300

People v. Seymore, State leave to appeal granted 3/26/25 from 2025 IL App (2d) 240616; oral argument held 9/9/2025.

Whether the appellate court has jurisdiction under Rule 604(h) when defendant appeals a jail term imposed as a sanction under 725 ILCS 5/110-6(f), because the sanctions order is either "an order revoking pretrial release" (albeit temporarily) under Rule 604(h)(1)(ii), or "an order imposing conditions of release" under Rule 604(h)(1)(i).

Whether 730 ILCS 130/3, which requires day-for-day good conduct credit for time served in county jail, applies to defendants serving time in county jail as a sanction for violating pre-trial release conditions under 725 ILCS 5/110-6(f).

Defense counsel: Samuel Steinberg, Chicago OSAD

No. 131565

People v. McCoy, Defense leave to appeal granted 5/28/25 from 2025 IL App (1st) 240198-U.

Whether Illinois courts should recognize and address the concept of “memory contamination” in eyewitness identifications.

Whether, when considering the conclusiveness of newly discovered evidence of actual innocence, courts should apply an objective standard, specifically whether the new evidence places the trial evidence in a different light and undermines the court’s confidence in the judgment of guilt, or a subjective standard, requiring that the new evidence be compelling enough to satisfy the post-conviction judge of the petitioner’s innocence.

Whether affirmative proof of innocence is required to satisfy the actual innocence standard or whether it is sufficient that the newly discovered evidence disprove the entirety of the State’s case.

Defense counsel: Debra Loevy, The Exoneration Project, Chicago

BATTERY, ASSAULT & STALKING

No. 131340

People v. Heintz, State leave to appeal granted 3/26/25 from 2024 IL App (3d) 230161.

Whether Illinois Rule of Evidence 405(b)(2), which allows a defendant raising a self-defense theory to introduce “specific instances of the alleged victim’s prior violent conduct” if certain requirements are met, allows a defendant to introduce evidence of such conduct where that conduct occurred after the charged offense.

Defense counsel: Mathew J. Mueller, Morris, IL

COLLATERAL REMEDIES

No. 132067

(New) People v. Hammond, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 230583-U.

Whether a post-conviction attorney's Rule 651(c) certificate allows a presumption that they attempted but failed to find necessary supporting evidence, when the record otherwise objectively shows that counsel did not attach required evidence in support of the defendant's claims

Defense counsel: Caroline Bourland, Chicago OSAD

No. 130595

People v. Reed, Defense leave to appeal granted 5/29/24 from 2024 IL App (1st) 230669; oral argument held 3/13/2025.

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

People v. Dobbins, Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 230566; oral argument held 9/16/2025.

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

No. 131360

People v. Carroll, Defense leave to appeal granted 5/28/25 from 2024 IL App (4th) 231207.

Whether a post-conviction petitioner must demonstrate prejudice when alleging that retained post-conviction counsel rendered unreasonable assistance for failing to present and shape claims into adequate legal form, or whether remand is automatically required as is the case when appointed counsel violates Rule 651(c).

Whether a post-conviction petitioner must demonstrate prejudice when alleging that retained post-conviction counsel labored under an actual conflict of interest.

Defense counsel: Law Office of Stephen L. Richards

CONSPIRACY & SOLICITATION

No. 131240

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

COUNSEL

No. 131527

(New) People v. Gizel, State leave to appeal granted 9/24/25 from 2025 IL App (1st) 231183-U.

Whether a trial court abuses its discretion and commits second prong plain error when it allows a defendant to proceed *pro se* where defendant is found fit to stand trial but where there also is evidence that defendant’s mental illness is severe enough to render him incapable of self-representation in accordance with **Indiana v. Edwards**, 544 U.S. 164 (2008).

Defense counsel: Maximillian Hughes-Zahner, Chicago OSAD

No. 132129

(New) People v. Marshall, Defense leave to appeal granted 9/29/25 from 2025 IL App (4th) 250426-U.

Whether a defendant may be considered to have intentionally relinquished a right he was never told he possessed. More specifically, whether a defendant can be found to have waived review of issues related to his pretrial detention not included in his motion for relief in accordance with Rule 604(h)(2) where the required admonishments under Rule 605(d)(1) fail to inform defendant that any issue not raised in the motion will be considered waived.

Whether a claim of ineffective assistance of counsel can ever be raised in a pretrial detention appeal under Rule 604(h).

Whether the State failed to prove that defendant committed a detainable offense where courts have determined that only aggravated battery causing great bodily harm is detainable and the State presented insufficient evidence of great bodily harm at defendant's detention hearing.

Defense counsel: Deborah Pugh, Chicago OSAD

DOUBLE JEOPARDY – COLLATERAL ESTOPPEL

No. 131300

People v. Collins, State leave to appeal granted 3/26/25 from 2024 IL App (2d) 240005.

Whether, pursuant to the issue-preclusion component of the double jeopardy clause, an acquittal on a severed charge of unlawful possession of a weapon by a felon barred the State from prosecuting defendant for aggravated unlawful use of a weapon, because it would have to prove the same element - knowing possession of a firearm - that State failed to prove at the earlier trial for UPWF, or whether issue-preclusion does not apply where defendant agreed to a severance and was acquitted on the charge that was tried first, pursuant to **Currier v. Virginia**, 585 U.S. 493 (2018).

Defense counsel: Zachary Wallace, Elgin OSAD

EVIDENCE

No. 130988

People v. Butler, Defense leave to appeal granted 11/27/24 from 2024 IL App (1st) 211175-U; oral argument held 9/9/2025.

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

No. 131340

People v. Heintz, State leave to appeal granted 3/26/25 from 2024 IL App (3d) 230161.

Whether the trial court acted within its discretion in allowing evidence of defendant’s prior battery charge but excluding evidence of defendant’s acquittal of that charge on hearsay and relevance grounds, and whether the Court should revisit **People v. Ward**, 2011 IL 108690, to clarify the proper framework for assessing the admissibility of acquittal evidence.

Defense counsel: Mathew J. Mueller, Morris, IL

FITNESS

No. 131527

(New) People v. Gizel, State leave to appeal granted 9/24/25 from 2025 IL App (1st) 231183-U.

Whether a trial court abuses its discretion and commits second prong plain error when it allows a defendant to proceed *pro se* where defendant is found fit to stand trial but where there also is evidence that defendant’s mental illness is severe enough to render him incapable of self-representation in accordance with **Indiana v. Edwards**, 544 U.S. 164 (2008).

Defense counsel: Maximillian Hughes-Zahner, Chicago OSAD

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

IDENTIFICATION

No. 131337

People v. Johnson, State leave to appeal granted 3/26/25 from 2024 IL App (1st) 220494.

Whether, when addressing challenges to the sufficiency of the evidence to convict, reviewing courts may apply the factors set forth in **Neil v. Biggers**, 409 U.S. 188, in evaluating eyewitness identification testimony or whether reviewing courts should defer to the trier of fact's credibility determinations on that question.

Defense counsel: Christina Solomon, Chicago OSAD

INSANITY – MENTALLY ILL – INTOXICATION

No. 131820

(New) People v. Luchins, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 221604-U.

Whether a defendant may raise a defense of involuntary intoxication after voluntarily consuming a cannabis edible that he was unaware was laced with a dangerous adulterant which caused him to enter a psychotic delusional state.

Defense counsel: Jessica Arizo, Chicago OSAD

JURY

No. 130779

People v. Williams, Defense leave to appeal granted 9/25/24 from 2024 IL App (2d) 230268-U; oral argument held 9/10/2025.

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; oral argument held 9/10/2025.

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. 132048

(New) People v. Thomas, Defense leave to appeal granted 9/24/25 from 2025 IL App (5th) 230304-U.

Whether it’s possible for an appellate court to correctly hold both that a proportionate penalties claim was forfeited because it wasn’t raised on direct appeal, and that appellate counsel was not ineffective for failing to raise the claim because the basis for the claim was not supported by precedent at the time of his direct appeal.

Defense counsel: Pamela Rubeo, Chicago OSAD

No. 132018

(New) People v. Smith, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 240121-U

Whether an adult petitioner, who establishes that his transfer to adult court for a crime committed as a juvenile was void, has an available remedy, as in **People v. Brown**, 225 Ill. 2d 188, 199 (2007) (“[t]he transfer is void just as the transfer statute is void,” and defendant is “entitled to a new transfer hearing”), or has no remedy in light of **People v. Hunter**, 2017 IL 121306 (remand for new juvenile transfer hearing “no longer feasible” because defendant was an adult and the juvenile court lacked jurisdiction over his case).

Defense counsel: Victoria Rose, Chicago OSAD

No. 131926

(New) People v. Jones, Defense leave to appeal granted 9/24/25 from People v. Jones, 2025 IL App (4th) 230926-U.

Whether the appellate court erred when it held that the Illinois Supreme Court’s decision in **People v. Mata**, 217 Ill. 2d 535 (2005), that “‘sentencing issues’ or ‘sentencing-phase issues’ are rendered moot by the governor’s commutation,” meant defendant’s proportionate penalties attack on his sentence, which had been commuted by the governor from death to natural life, is moot.

Defense counsel: Joseph Benak, Chicago OSAD

No. 131880

(New) People v. McGee, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231591-U.

Whether the supreme court’s holding in **People v. Moore**, 2023 IL 126461, that “**Miller** does not present new proportionate penalties clause principles with respect to *discretionary* sentencing of young adult defendants,” (emphasis added), applies to proportionate penalties challenges by emerging adults serving mandatory life sentences, so that those serving mandatory life sentences cannot cite **Miller** and emerging brain science as “cause” in their motion for leave to file a successive post-conviction petition.

Defense counsel: Carrie Darden, Chicago OSAD

No. 131560

(New) People v. Green-Hosey, State leave to appeal granted 9/24/25 from 2025 IL App (2d) 240284.

Whether an emerging adult defendant can establish a proportionate penalties violation by showing that he was subject to a mandatory sentence of *de facto* life without parole and was developmentally equivalent to a juvenile or whether defendant must affirmatively demonstrate that his *de facto* life sentence “shocked the moral sense of the community.”

Whether an emerging adult defendant must offer affirmative evidence that he has the specific characteristics of a juvenile in order to satisfy his burden of showing that he is developmentally equivalent to a juvenile

Defense counsel: Toni Heniff, Elgin OSAD

KIDNAPPING, UNLAWFUL RESTRAINT AND RELATED OFFENSES

No. 131745

(New) People v. Wade, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231936-U.

Whether a defendant can be convicted of two counts of aggravated kidnaping, predicated on separate felonies, for a single underlying act of kidnaping.

Defense counsel: Emily Filpi, Chicago OSAD

PRELIMINARY HEARING

No. 130585

People v. Chambliss, State leave to appeal granted 5/29/24 from 2024 IL App (5th) 220492; oral argument held 9/9/2025.

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

SENTENCING

No. 132060

(New) People v. Stuckey, Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 241021-U.

Whether a sentencing court errs when it considers a defendant's childhood misbehavior in school as aggravating evidence at sentencing, given that the evidence is often unreliable hearsay, the crime is unrelated to the misbehavior, the misbehavior occurs at a young age, and courts often neglect to consider the misbehavior in the context of **Miller**.

Defense counsel: Amy Kemp, Springfield OSAD

No. 132048

(New) People v. Thomas, Defense leave to appeal granted 9/24/25 from 2025 IL App (5th) 230304-U.

Whether it's possible for an appellate court to correctly hold both that a proportionate penalties claim was forfeited because it wasn't raised on direct appeal, and that appellate counsel was not ineffective for failing to raise the claim because the basis for the claim was not supported by precedent at the time of his direct appeal.

Defense counsel: Pamela Rubeo, Chicago OSAD

No. 131926

(New) People v. Jones, Defense leave to appeal granted 9/24/25 from *People v. Jones*, 2025 IL App (4th) 230926-U.

Whether the appellate court erred when it held that the Illinois Supreme Court's decision in **People v. Mata**, 217 Ill. 2d 535 (2005), that "sentencing issues' or 'sentencing-phase issues' are rendered moot by the governor's commutation," meant defendant's proportionate penalties attack on his sentence, which had been commuted by the governor from death to natural life, is moot.

Defense counsel: Joseph Benak, Chicago OSAD

No. 131880

(New) People v. McGee, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231591-U.

Whether the supreme court’s holding in **People v. Moore**, 2023 IL 126461, that “**Miller** does not present new proportionate penalties clause principles with respect to *discretionary* sentencing of young adult defendants,” (emphasis added), applies to proportionate penalties challenges by emerging adults serving mandatory life sentences, so that those serving mandatory life sentences cannot cite **Miller** and emerging brain science as “cause” in their motion for leave to file a successive post-conviction petition.

Defense counsel: Carrie Darden, Chicago OSAD

No. 131825

(New) People v. Nibbelin, Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 240446-U.

Whether a defendant may raise ineffective assistance of counsel on direct appeal when trial counsel fails to procure a fee waiver assessment as required by Rule 404, or whether defendant must raise that claim in a Rule 472 motion.

Defense counsel: Nancy Vincent, Springfield OSAD

No. 131560

(New) People v. Green-Hosey, State leave to appeal granted 9/24/25 from 2025 IL App (2d) 240284.

Whether an emerging adult defendant can establish a proportionate penalties violation by showing that he was subject to a mandatory sentence of *de facto* life without parole and was developmentally equivalent to a juvenile or whether defendant must affirmatively demonstrate that his *de facto* life sentence “shocked the moral sense of the community.”

Whether an emerging adult defendant must offer affirmative evidence that he has the specific characteristics of a juvenile in order to satisfy his burden of showing that he is developmentally equivalent to a juvenile

Defense counsel: Toni Heniff, 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

No. 131300

People v. Seymore, State leave to appeal granted 3/26/25 from 2025 IL App (2d) 240616; oral argument held 9/9/2025.

Whether the appellate court has jurisdiction under Rule 604(h) when defendant appeals a jail term imposed as a sanction under 725 ILCS 5/110-6(f), because the sanctions order is either “an order revoking pretrial release” (albeit temporarily) under Rule 604(h)(1)(ii), or “an order imposing conditions of release” under Rule 604(h)(1)(i).

Whether 730 ILCS 130/3, which requires day-for-day good conduct credit for time served in county jail, applies to defendants serving time in county jail as a sanction for violating pre-trial release conditions under 725 ILCS 5/110-6(f).

Defense counsel: Samuel Steinberg, Chicago OSAD

No. 131565

People v. McCoy, Defense leave to appeal granted 5/28/25 from 2025 IL App (1st) 240198-U.

Whether Illinois courts should recognize and address the concept of “memory contamination” in eyewitness identifications.

Whether, when considering the conclusiveness of newly discovered evidence of actual innocence, courts should apply an objective standard, specifically whether the new evidence places the trial evidence in a different light and undermines the court’s confidence in the judgment of guilt, or a subjective standard, requiring that the new evidence be compelling enough to satisfy the post-conviction judge of the petitioner’s innocence.

Whether affirmative proof of innocence is required to satisfy the actual innocence standard or whether it is sufficient that the newly discovered evidence disprove the entirety of the State's case.

Defense counsel: Debra Loevy, The Exoneration Project, Chicago

SPEEDY TRIAL

No. 131608

People v. Jackson, Defense leave to appeal granted 5/28/25 from 2025 IL App (5th) 230504-U.

Whether, following a period of agreed delay, the speedy trial clock restarts when a defendant demands trial or whether the clock does not restart until the case is again placed on the trial call.

Defense counsel: Madison Heckel, Chicago OSAD

STATUTES

No. 130447

People v. Johnson, Defense leave to appeal granted 5/29/24 from 2023 IL App (4th) 221021-U; oral argument held 5/20/2025.

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

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. 131382

People v. Cruz Aguilar, State leave to appeal granted 5/28/25 from 2024 IL App (5th) 220651.

Whether a person commits aggravated DUI under 625 ILCS 5/11-501(d)(1)(H) when he or she drives under the influence with a suspended license, where the statute requires a showing that the driver "did not possess a driver's license."

Defense counsel: Manuela Hernandez, Chicago OSAD

TRIAL PROCEDURES

No. 130716

People v. Hietschold, State leave to appeal granted 9/25/24 from 2024 IL App (2d) 230047; oral argument held 9/9/2025.

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

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; oral argument held 5/20/2025.

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

VERDICTS

No. 131745

(New) People v. Wade, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231936-U.

Whether a defendant can be convicted of two counts of aggravated kidnaping, predicated on separate felonies, for a single underlying act of kidnaping.

Defense counsel: Emily Filpi, Chicago OSAD

WEAPONS

No. 131191

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; oral argument held 5/20/2025.

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; oral argument held 9/10/2025.

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