

Office of the State Appellate Defender

Summary of Significant Criminal Issues Pending in the Illinois Supreme Court

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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. 131337

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

Whether reviewing courts may rely on scientific studies or academic journals referenced for the first time on appeal.

Defense counsel: Christina Solomon, Chicago OSAD

BAIL

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,

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

(New) 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. 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

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

(New) 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: Erin Conner of Kuehn, Beasely & Young, P.C.

CONFESSIONS

No. 130110

People v. Keys, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630; oral argument held 5/13/2025

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; oral argument held 3/13/2025

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

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; oral argument held 3/18/2025

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

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. 130110

People v. Keys, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630; oral argument held 5/13/2025

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

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. 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

HOMICIDE

No. 130110

People v. Keys, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630; oral argument held 5/13/2025

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

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

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; oral argument held 3/11/2025

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; oral argument held 3/13/2025

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

SENTENCING

No. 130015

People v. Spencer, Defense leave to appeal granted 11/29/23 from 2023 IL App (1st) 200646-U; oral argument held 3/11/2025

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; oral argument held 3/18/2025

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

No. 131300

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

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

(New) 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

(New) 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. 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; 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

(New) 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. 130067

People v. Smith, State leave to appeal granted 1/24/24 from 2023 IL App (1st) 181070; oral argument held 5/13/2025

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

VERDICTS

No. 130110

People v. Keys, Defense leave to appeal granted 1/24/24 from 2023 IL App (4th) 210630; oral argument held 5/13/2025

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; 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

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. 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.

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