

Office of the State Appellate Defender

Summary of Significant Criminal Issues Pending in the Illinois Supreme Court

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TABLE OF CONTENTS

APPEAL	1
People v. Jones , Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 230926-U.	1
People v. Vargas , Defense leave to appeal granted 11/26/25 from 2025 IL App (2d) 240609.	1
BAIL – PRETRIAL RELEASE & DETENTION	1
People v. Post , Defense leave to appeal granted 11/26/25 from 2025 IL App (4th) 250598, oral argument held 5/12/26.	1
People v. Williams , Defense leave to appeal granted 1/29/26 from 2025 IL App (2d) 250370.	2
People v. Finney , Defense leave to appeal granted 2/13/26 from 2025 IL App (5th) 250741-U.....	2
COLLATERAL REMEDIES	2
People v. Lesley , State leave to appeal granted 11/26/25 from 2024 IL App (3d) 210330.	2
People v. Lynon , Defense leave to appeal granted 11/26/25 from 2025 IL App (1st) 231422-U.	3
People v. Hammond , Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 230583-U.....	3
People v. Hewitt , Defense leave to appeal granted 1/28/26 from 2025 IL App (1st) 231294.....	3
(New) People v. Peak , Defense leave to appeal granted 5/27/26 from 2025 IL App (5th) 231222-U. ...	4
(New) People v. Simpson , Defense leave to appeal granted 5/27/26 from 2026 IL App (5th) 231214-U.	4
COUNSEL	5
People v. Gizel , State leave to appeal granted 9/24/25 from 2025 IL App (1st) 231183-U.....	5
DISORDERLY, ESCAPE, RESISTING AND OBSTRUCTING OFFENSES	5
(New) People v. Carswell , Defense leave to appeal granted 5/27/26 from 2026 IL App (1st) 231884... ..	5
DOUBLE JEOPARDY – COLLATERAL ESTOPPEL	5
(New) People v. Munoz , State leave to appeal granted 5/27/26 from 2026 IL App (2d) 250025	5
EVIDENCE	6
People v. Doss , Defense leave to appeal granted 3/25/26 from 2025 IL App (1st) 241265-U	6
FITNESS	6
People v. Gizel , State leave to appeal granted 9/24/25 from 2025 IL App (1st) 231183-U.....	6
People v. Johnson , Defense leave to appeal granted 9/25/24 from 2024 IL App (5th) 220608, oral argument held 1/13/26.	6
GUILTY PLEAS	7
People v. Williams , State leave to appeal granted 1/28/26 from 2025 IL App (4th) 240738.....	7
INSANITY – MENTALLY ILL – INTOXICATION	7

People v. Luchins , Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 221604-U.....	7
JUDGE	7
People v. Morris , State leave to appeal granted 11/26/25 from 2023 IL App (1st) 220035.....	7
JURY	8
People v. Burton , State leave to appeal granted 1/28/26 from 2025 IL App (4th) 240933.....	8
(New) People v. Jones , State leave to appeal granted 5/27/26 from 2025 IL App (1st) 221555-U.....	8
JUVENILE PROCEEDINGS	9
People v. Green-Hosey , State leave to appeal granted 9/24/25 from 2025 IL App (2d) 240284.	9
People v. McGee , Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231591-U.	9
People v. Jones , Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 230926-U.	10
People v. Smith , Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 240121-U	10
People v. Thomas , Defense leave to appeal granted 9/24/25 from 2025 IL App (5th) 230304-U.	10
People v. Hewitt , Defense leave to appeal granted 1/28/26 from 2025 IL App (1st) 231294.....	11
KIDNAPPING, UNLAWFUL RESTRAINT AND RELATED OFFENSES	11
People v. Wade , Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231936-U, oral argument held 5/13/26.	11
PROBATION, PERIODIC IMPRISONMENT, CONDITIONAL DISCHARGE & SUPERVISION	11
People v. Vargas , Defense leave to appeal granted 11/26/25 from 2025 IL App (2d) 240609.	11
SENTENCING	12
People v. Morris , State leave to appeal granted 11/26/25 from 2023 IL App (1st) 220035.....	12
People v. Green-Hosey , State leave to appeal granted 9/24/25 from 2025 IL App (2d) 240284.	12
People v. Nibbelin , Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 240446-U, oral argument held 5/14/26.	12
People v. McGee , Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231591-U.	13
People v. Jones , Defense leave to appeal granted 9/24/25 from People v. Jones, 2025 IL App (4th) 230926-U.....	13
People v. Thomas , Defense leave to appeal granted 9/24/25 from 2025 IL App (5th) 230304-U.	13
People v. Stuckey , Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 241021-U.....	14
People v. Stafford , Defense leave to appeal granted 11/26/25 from 2025 IL App (2d) 240250.	14
People v. Hewitt , Defense leave to appeal granted 1/28/26 from 2025 IL App (1st) 231294.....	14
People v. Lanning , Defense leave to appeal granted 3/25/26 from 2025 IL App (5th) 230406-U.....	15
SPEEDY TRIAL	15

People v. Jackson , Defense leave to appeal granted 5/28/25 from 2025 IL App (5th) 230504-U, oral argument held 5/13/26.	15
(New) People v. Davis , Defense leave to appeal granted 5/27/26 from 2026 IL App (1st) 231754-U ..	15
STATUTES	16
People v. Benson , Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 221230-U, oral argument held 3/10/26.	16
People v. Sandlass , State leave to appeal granted 11/26/25 from 2025 IL App (2d) 240557-U.	16
TRAFFIC OFFENSES	16
People v. Cruz Aguilar , State leave to appeal granted 5/28/25 from 2024 IL App (5th) 220651, oral argument held 5/12/26.	16
VERDICTS	17
People v. Wade , Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231936-U, oral argument held 5/13/26.	17
WAIVER – PLAIN ERROR – HARMLESS ERROR	17
(New) People v. Jones , State leave to appeal granted 5/27/26 from 2025 IL App (1st) 221555-U.....	17
(New) People v. Simpson , Defense leave to appeal granted 5/27/26 from 2026 IL App (5th) 231214-U	17
WEAPONS	18
People v. Benson , Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 221230-U, oral argument held 3/10/26.	18

APPEAL

No. 131926

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

No. 132234

People v. Vargas, Defense leave to appeal granted 11/26/25 from 2025 IL App (2d) 240609.

Whether completion of a sentence renders moot an appellate challenge to the underlying probation revocation, either because probation revocation does not create collateral consequences or because immigration status is not a sufficient collateral consequence.

Defense counsel: Dominique Estes, Elgin OSAD

BAIL – PRETRIAL RELEASE & DETENTION

No. 132403

People v. Post, Defense leave to appeal granted 11/26/25 from 2025 IL App (4th) 250598, oral argument held 5/12/26.

Whether the standard of review for detention hearings announced in **People v. Morgan**, 2025 IL 130626, applies to continued pretrial detention hearings.

Whether a defendant must demonstrate a change of circumstances before a court must revisit the issue of pretrial detention.

Defense counsel: James Wozniak, Chicago OSAD

No. 132652

People v. Williams, Defense leave to appeal granted 1/29/26 from 2025 IL App (2d) 250370.

Whether the 21-day deadline for the State's filing of a petition to deny pretrial release under 725 ILCS 5/110- 6.1(c)(1) is mandatory or directory, where the appellate court held that the requirement is directory and that an untimely petition should not be struck absent a showing that the defendant was prejudiced by the delay.

Defense counsel: Benjamin Wimmer. OSAD PFA Unit

No. 132703

People v. Finney, Defense leave to appeal granted 2/13/26 from 2025 IL App (5th) 250741-U.

Whether, where a defendant's pretrial-release hearing includes only proffered evidence, but subsequent preliminary proceedings include live testimony, the standard of review is *de novo* or deferential.

Defense Counsel: Michael Orenstein, OSAD PFA Unit

COLLATERAL REMEDIES

No. 130707

People v. Lesley, State leave to appeal granted 11/26/25 from 2024 IL App (3d) 210330.

Whether, for purposes of the Certificate of Innocence statute [735 ILCS 5/2-7-2], a petitioner who voluntarily pled guilty to an offense which was subsequently deemed unconstitutional did not cause or bring about his conviction under subsection (g)(4).

Whether a petitioner who entered a negotiated guilty plea to multiple indictments must prove his innocence of all charges of both indictments in order to obtain a certificate of innocence.

Defense counsel: Joel Flaxman, Chicago

No. 132043

People v. Lyon, Defense leave to appeal granted 11/26/25 from 2025 IL App (1st) 231422-U.

Whether a *pro se* defendant's failure to raise a claim in a **Krankel** proceeding results in forfeiture of that claim in his subsequent *pro se* post-conviction petition.

Defense counsel: Linda Olthoff, Chicago OSAD

No. 132067

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. 132458

People v. Hewitt, Defense leave to appeal granted 1/28/26 from 2025 IL App (1st) 231294

Whether, at the first stage of post-conviction proceedings, a petition raising an emerging adult proportionate penalties claim must overcome forfeiture for not having raised the claim at the petitioner's original sentencing hearing or on direct appeal, or whether forfeiture considerations are best addressed during later stages of the proceedings where petitioner has the right to the assistance of counsel.

Defense counsel: Deepa Punjabi, Chicago OSAD

No. 132878

(New) People v. Peak, Defense leave to appeal granted 5/27/26 from 2025 IL App (5th) 231222-U.

Whether, at the second stage of post-conviction proceedings, it is counsel's duty, not the petitioner's, to attempt to obtain affidavits from supporting witnesses identified by name in the *pro se* petition.

Whether, in order to establish a claim of unreasonable assistance of counsel under **People v. Addison**, 2023 IL 127119, a petitioner need not demonstrate prejudice from counsel's second-stage failure to attempt to obtain supporting evidentiary material.

Whether post-conviction counsel may at once confess the belief that the *pro se* petition lacks merit, refuse to withdraw, fail to amend the petition, and yet continue to advance the *pro se* claims at a hearing.

Defense counsel: Patrick Sullivan, Chicago OSAD

No. 133028

(New) People v. Simpson, Defense leave to appeal granted 5/27/26 from 2026 IL App (5th) 231214-U.

Whether the appellate court erred when it remanded only one claim to the circuit court after finding unreasonable assistance of post-conviction counsel as to that claim, and held that appellant's failure to raise the remaining post-conviction claims on appeal resulted in forfeiture of those claims, or whether a successful challenge to post-conviction counsel's performance always results in remand of the entire petition.

Defense counsel: Christofer Bendik, Chicago OSAD

COUNSEL

No. 131527

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

DISORDERLY, ESCAPE, RESISTING AND OBSTRUCTING OFFENSES

No. 132938

(New) People v. Carswell, Defense leave to appeal granted 5/27/26 from 2026 IL App (1st) 231884.

Whether subsection (d) of the resisting arrest statute [720 ILCS 5/31-1], which states that "a person shall not be subject to arrest for resisting arrest under this Section unless there is an underlying offense for which the person was initially subject to arrest," creates an element that must be proved beyond a reasonable doubt.

Defense counsel: Silpa Bulusu, Chicago OSAD

DOUBLE JEOPARDY – COLLATERAL ESTOPPEL

No. 132945

(New) People v. Munoz, State leave to appeal granted 5/27/26 from 2026 IL App (2d) 250025

Whether the circuit court properly dismissed defendant's felony DUI charge on double jeopardy grounds, after defendant pled guilty to a misdemeanor DUI charge brought by the Village of Carpentersville based on the same conduct.

Defense counsel: Kerry Goettsch, Elgin OSAD

EVIDENCE

No. 132785

People v. Doss, Defense leave to appeal granted 3/25/26 from 2025 IL App (1st) 241265-U

Whether, a verbal threat made by the alleged victim, such as a threat to kill the defendant, is admissible under **People v. Lynch**, 104 Ill. 2d 194 (1984).

Defense counsel: Christina Law Merriman, Chicago OSAD

FITNESS

No. 131527

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, oral argument held 1/13/26.

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. 132278

People v. Williams, State leave to appeal granted 1/28/26 from 2025 IL App (4th) 240738.

Whether, after a negotiated guilty plea, defense counsel's erroneous filing of a motion to reconsider sentence, instead of the correct motion to withdraw the plea, rebuts a facially compliant Rule 604(d) certificate because the motion filed by counsel did not adequately present or preserve the contentions of error, or whether the appellate court is precluded from so holding because the lack of a motion to withdraw the plea requires dismissal of the appeal under Rule 604(d).

Defense counsel: Edward Wittrig, Springfield OSAD

INSANITY – MENTALLY ILL – INTOXICATION

No. 131820

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, Elgin OSAD

JUDGE

No. 129992

People v. Morris, State leave to appeal granted 11/26/25 from 2023 IL App (1st) 220035.

Whether the appellate court misconstrued defendant's excessive sentence claim as a claim of judicial bias, which was not raised on appeal, and then erred in granting relief on that ground. Alternatively, if the appellate court's decision is construed as finding an abuse of discretion in the sentence itself, whether that decision was error.

Defense counsel: Grace Palacio, Chicago OSAD

JURY

No. 132427

People v. Burton, State leave to appeal granted 1/28/26 from 2025 IL App (4th) 240933

Whether the trial court erred under Rule 431(b) when it asked potential jurors if they understood and accepted that defendant’s “failure” to testify could not be held against him instead of asking if they understood and accepted that “if defendant does not testify it cannot be held against him.” If the court did err, whether the evidence was closely-balanced so as to allow first-prong plain-error review.

Defense counsel: Maria Harrigan, Springfield OSAD

No. 132710

(New) People v. Jones, State leave to appeal granted 5/27/26 from 2025 IL App (1st) 221555-U.

Whether a trial court commits second-prong plain error when it gives a jury instruction which omits an essential element bearing on the requisite mental state for the offense, or whether such an error is subject to harmless review and thus does not constitute second-prong plain error.

Defense counsel: Christopher Gehrke, Chicago OSAD

JUVENILE PROCEEDINGS

No. 131560

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. 131880

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. 131926

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

No. 132018

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. 132048

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. 132458

People v. Hewitt, Defense leave to appeal granted 1/28/26 from 2025 IL App (1st) 231294

Whether, at the first stage of post-conviction proceedings, a petition raising an emerging adult proportionate penalties claim must overcome forfeiture for not having raised the claim at the petitioner's original sentencing hearing or on direct appeal, or whether forfeiture considerations are best addressed during later stages of the proceedings where petitioner has the right to the assistance of counsel.

Defense counsel: Deepa Punjabi, Chicago OSAD

KIDNAPPING, UNLAWFUL RESTRAINT AND RELATED OFFENSES

No. 131745

People v. Wade, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231936-U, oral argument held 5/13/26.

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

PROBATION, PERIODIC IMPRISONMENT, CONDITIONAL DISCHARGE & SUPERVISION

No. 132234

People v. Vargas, Defense leave to appeal granted 11/26/25 from 2025 IL App (2d) 240609.

Whether completion of a sentence renders moot an appellate challenge to the underlying probation revocation, either because probation revocation does not create collateral consequences or because immigration status is not a sufficient collateral consequence.

Defense counsel: Dominique Estes, Elgin OSAD

SENTENCING

No. 129992

People v. Morris, State leave to appeal granted 11/26/25 from 2023 IL App (1st) 220035.

Whether the appellate court misconstrued defendant's excessive sentence claim as a claim of judicial bias, which was not raised on appeal, and then erred in granting relief on that ground. Alternatively, if the appellate court's decision is construed as finding an abuse of discretion in the sentence itself, whether that decision was error.

Defense counsel: Grace Palacio, Chicago OSAD

No. 131560

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. 131825

People v. Nibbelin, Defense leave to appeal granted 9/24/25 from 2025 IL App (4th) 240446-U, oral argument held 5/14/26.

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. 131880

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. 131926

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. 132048

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. 132060

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. 132265

People v. Stafford, Defense leave to appeal granted 11/26/25 from 2025 IL App (2d) 240250.

Whether a defendant released on bond prior to trial on the condition that he submit to GPS monitoring and, with certain exceptions, home confinement, is entitled to sentencing credit under 730 ILCS 5/5-4.5-100(b), or whether the statute is inapplicable because the definition of “home confinement” in 730 ILCS 5/5-8A-2(C) requires that the conditions be set by the “supervising authority,” and a trial court is not a supervising authority.

Defense counsel: Jaime Montgomery, Elgin OSAD

No. 132458

People v. Hewitt, Defense leave to appeal granted 1/28/26 from 2025 IL App (1st) 231294

Whether, at the first stage of post-conviction proceedings, a petition raising an emerging adult proportionate penalties claim must overcome forfeiture for not having raised the claim at the petitioner’s original sentencing hearing or on direct appeal, or whether forfeiture considerations are best addressed during later stages of the proceedings where petitioner has the right to the assistance of counsel.

Defense counsel: Deepa Punjabi, Chicago OSAD

No. 132781

People v. Lanning, Defense leave to appeal granted 3/25/26 from 2025 IL App (5th) 230406-U.

Whether consideration of the victim’s age is a double enhancement when sentencing a defendant for aggravated criminal sexual assault, where the age of the victim is an element of the offense (in this case, under 18 but at least 13); or whether the sentencing court may properly use a “sliding scale” and consider the crime more egregious the closer the victim is to age 13.

Defense counsel: Anne Izzi, Chicago OSAD

SPEEDY TRIAL

No. 131608

People v. Jackson, Defense leave to appeal granted 5/28/25 from 2025 IL App (5th) 230504-U, oral argument held 5/13/26.

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

No. 133015

(New) People v. Davis, Defense leave to appeal granted 5/27/26 from 2026 IL App (1st) 231754-U

Whether defendant’s single missed court appearance, for which the trial court refused the State’s request to issue a warrant, constitutes a “failure to appear” that waived defendant’s rights under Section 103-5(b) of the Speedy Trial Act, or if this section is triggered only by a judicial finding that defendant failed to appear.

Defense counsel: Alison Shah, Chicago OSAD

STATUTES

No. 131191

People v. Benson, Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 221230-U, oral argument held 3/10/26.

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

No. 132186

People v. Sandlass, State leave to appeal granted 11/26/25 from 2025 IL App (2d) 240557-U.

Whether the plain language of sections 2-118.1(b) and 11-501.1(h) of the Vehicle Code require the trial court to wait until the Secretary of State has filed a confirmation of a statutory summary suspension with the trial court before holding a hearing on a defendant's petition to rescind suspension.

Defense counsel: James Jenks, North Riverside

TRAFFIC OFFENSES

No. 131382

People v. Cruz Aguilar, State leave to appeal granted 5/28/25 from 2024 IL App (5th) 220651, oral argument held 5/12/26.

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

VERDICTS

No. 131745

People v. Wade, Defense leave to appeal granted 9/24/25 from 2025 IL App (1st) 231936-U, oral argument held 5/13/26.

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

WAIVER – PLAIN ERROR – HARMLESS ERROR

No. 132710

(New) People v. Jones, State leave to appeal granted 5/27/26 from 2025 IL App (1st) 221555-U.

Whether a trial court commits second-prong plain error when it gives a jury instruction which omits an essential element bearing on the requisite mental state for the offense, or whether such an error is subject to harmless review and thus does not constitute second-prong plain error.

Defense counsel: Christopher Gehrke, Chicago OSAD

No. 133028

(New) People v. Simpson, Defense leave to appeal granted 5/27/26 from 2026 IL App (5th) 231214-U

Whether the appellate court erred when it remanded only one claim to the circuit court after finding unreasonable assistance of post-conviction counsel as to that claim, and held that appellant's failure to raise the remaining post-conviction claims on appeal resulted in forfeiture of those claims, or whether a successful challenge to post-conviction counsel's performance always results in remand of the entire petition.

Defense counsel: Christofer Bendik, Chicago OSAD

WEAPONS

No. 131191

People v. Benson, Defense leave to appeal granted 1/29/25 from 2024 IL App (1st) 221230-U, oral argument held 3/10/26.

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