

**SUMMARY OF SIGNIFICANT CRIMINAL ISSUES
PENDING IN THE ILLINOIS SUPREME COURT***

June 2, 2017

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***SUMMARIES OF NEW CASES APPEAR IN BOLD AND WITH AN ASTERISK**

TABLE OF CONTENTS

<u>APPEAL</u>	1
<u>ARMED VIOLENCE</u>	1
<u>BAIL</u>	2
<u>BATTERY, ASSAULT & STALKING OFFENSES</u>	2
<u>COLLATERAL REMEDIES</u>	3
<u>COUNSEL</u>	4
<u>EVIDENCE</u>	6
<u>FITNESS TO STAND TRIAL</u>	8
<u>GUILTY PLEAS</u>	8
<u>HOMICIDE</u>	9
<u>INDICTMENTS, INFORMATION, COMPLAINTS</u>	9
<u>JURY</u>	10
<u>JUVENILE</u>	11
<u>NARCOTICS</u>	13
<u>PROBATION</u>	14
<u>PROSECUTOR</u>	14
<u>ROBBERY</u>	15
<u>SEARCH & SEIZURE</u>	15
<u>SENTENCING</u>	16
<u>SEX OFFENSES</u>	18
<u>SPEEDY TRIAL</u>	19
<u>STATUTES</u>	19
<u>TRAFFIC OFFENSES</u>	21
<u>TRIAL JOINDER AND SEVERANCE</u>	22
<u>UNLAWFUL USE OF WEAPONS</u>	22
<u>VERDICTS</u>	24

TABLE OF AUTHORITIES

In re Destiny P.	11	People v. Harris.	17
In re Jarquan B.	12, 14	People v. Holman.	11
People ex rel. Hartrich v. Henderson (2010 Harley-Davidson).	13	People v. Holmes.	15
People v. Bailey.	3	People v. Hunter.	11, 20
People v. Bingham.	18, 20	People v. McKinney.	23
People v. Boykins.	8	People v. Nelson.	4
People v. Brooks.	16, 21	People v. Pepitone.	18, 21
People v. Brown.	3, 6, 8	People v. Peterson.	1, 4, 7
People v. Campanelli.	5	People v. Reed.	16, 22
People v. Carey.	9, 10	People v. Reese.	15
People v. Casas.	2	People v. Releford.	3
People v. Chairez.	23	People v. Ringland, Pirro, Saxen, Harris and Flynn.	14
People v. Coats.	1, 23, 24	People v. Staake.	7, 19, 22
People v. Encalado.	10	People v. Thomas.	6
People v. Gipson.	8, 16	People v. Vara.	1, 17
People v. Gray.	2, 19	People v. Wilson.	12, 20
People v. Harding.	22	People v. Wright.	4, 6, 9, 10, 15
People v. Hardman.	5, 13		

APPEAL

No. 120331

People v. Peterson, Defense leave to appeal granted 3/30/16 from 2015 IL App (3d) 130157

Whether the Appellate Court erred by finding that a decision in a prior appeal precluded it from considering whether evidence was properly admitted under the forfeiture by wrongdoing doctrine, where the prior appeal concerned only a different aspect of the doctrine - the possible application of a new statute. (§2-6(a))

Defense counsel: Stephen Greenberg, Chicago

No. 121823

People v. Vara, State leave to appeal granted 3/29/17 from 2016 IL App (2d) 140848

Whether **People v. Castleberry**, 2015 IL 116916 prohibits the Appellate Court from remanding a cause for resentencing where statutorily mandatory fines were imposed by the circuit court clerk rather than by the trial court, and requires the State to file a *mandamus* action in the Illinois Supreme Court so that mandatory fines can be imposed. (§2-6(e))

Defense counsel: Jaime Montgomery, Elgin OSAD

ARMED VIOLENCE

***No. 121926**

People v. Coats, Defense leave to appeal granted 5/24/17 from 2017 IL App (1st) 142028-U

Whether under the one-act, one-crime doctrine a defendant may be convicted of multiple offenses for possessing a single weapon? (§3-1)

Defense counsel: Sam Hayman, Chicago OSAD

BAIL

No. 120797

People v. Casas, Defense leave to appeal granted 9/28/16 from 2016 IL App (2d) 150456

Whether violation of bail bond is a continuing offense so that the statute of limitations is tolled until the offender is returned to custody. (§§6-1, 6-3)

Defense counsel: Mark Kusatzky, Northfield, IL

BATTERY, ASSAULT & STALKING OFFENSES

No. 120958

People v. Gray, State leave to appeal as a matter of right granted 9/28/16 from 2016 IL App (1st) 134012

Whether 725 ILCS 5/122A-3(3), which defines a "[f]amily or household member" for purposes of aggravated domestic battery to include "persons who have or have had a dating or engagement relationship" but not "casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts," is unconstitutional as applied where the victim and defendant had a dating relationship which ended 15 years before the incident in question, because treating all persons who have dated at any time in the past as members of the same family or household has no rational relationship to any legitimate State interest. (§7-1(a)(1))

Defense counsel: Christofer Bendik, Chicago OSAD

No. 121094

People v. Releford, State appeal as a matter of right granted 11/23/16 from 2016 IL App (1st) 132531(Cook)

Whether the stalking statute (720 ILCS 5/12-7.3) and cyberstalking statute (720 ILCS 5/12-7.5) are unconstitutional on their face because the statutes lack any *mens rea* requirement and rely on a “reasonable person” standard in assessing criminal liability. (§7-2(a))

Defense counsel: Jonathan Yeasting, Chicago OSAD

COLLATERAL REMEDIES

No. 121450

People v. Bailey, Defense leave to appeal granted 1/25/17 from 2016 IL App (3d) 140847-U

Whether the State may provide input on the circuit court’s decision to grant or deny a *pro se* petitioner leave to file a successive post-conviction petition. (§9-1(i)(1))

Defense counsel: Jessica Arizo, Elgin OSAD

No. 121681

People v. Brown, Defense leave to appeal granted 3/29/17 from 2016 IL App (4th) 140760

Whether the test used in *Rissley*, 206 Ill.2d 402 (2003) (which held that to establish prejudice resulting from counsel’s incorrect advice at a guilty plea, a defendant must claim in his post-conviction petition that he is innocent or has a plausible defense), applies to a case where defendant alleges that he entered into a fully negotiated guilty plea based on his counsel’s incorrect advice that he would only need to serve 50% of his sentence when in fact he would have to serve 85% of his sentence. (§9-1(f))

Defense counsel: Ann Fick, Elgin OSAD

COUNSEL

No. 119561

People v. Wright, State leave to appeal granted 11/25/15 from 2015 IL App (1st) 123496

Whether the waiver of the right to counsel was unknowing and involuntary where the trial court erroneously admonished defendant that he faced a potential 60-year maximum sentence, where the maximum sentence was 75 years but a sentence of 50 years was ultimately imposed. (§13-2(d))

Defense counsel: Peter Sgro, Chicago OSAD

No. 120198

People v. Nelson, Defense leave to appeal granted 3/30/16 from 2015 IL App (1st) 132157

Whether Illinois should abandon its current test for determining whether there is a conflict of interest in representing co-defendants (which holds that the mere availability of a strategy that would help one defendant at the expense of another does not create a conflict between defendants), and replace it with the test used in federal courts (which only requires a showing that defendant had a plausible alternative defense that was inherently in conflict with counsel's other loyalties or interests.) (§13-5(b)(2))

Defense counsel: Emily Hartman, Chicago OSAD

No. 120331

People v. Peterson, Defense leave to appeal granted 3/30/16 from 2015 IL App (3d) 130157

1. Whether defense counsel suffered from a conflict of interest where before trial: (1) he and defendant signed a media rights deal by which counsel was to receive 85% of any revenues generated, and (2) counsel presented defendant for interviews which resulted in answers that were used by the State at trial. (§13-5(d)(1))

2. Whether defense counsel was ineffective at defendant's murder trial where he called as a defense witness an attorney who had been contacted by the decedent for purposes of obtaining a divorce from defendant, where the witness testified about the decedent's statements which the trial court had previously ruled were privileged and could not be presented by the prosecution in its case in chief. (§§13-4(b)(3), 13-4(b)(6)(c))

Defense counsel: Stephen Greenberg, Chicago

No. 120997

People v. Campanelli, Direct appeal (Cook)

1. Whether a public defender's office constitutes a "law firm" under the rules of professional conduct and may therefore refuse an appointment on conflict of interest grounds where co-defendants would be represented by different assistant public defenders. (§§13-5(a), 13-5(d)(2)(c))

2. Whether in this case there was a conflict of interest between various co-defendants such that some clients should be represented by counsel other than the Public Defender. (§13-5(a))

Defense counsel: Lester Finkle, Cook County PD

No. 121453

People v. Hardman, Defense leave to appeal granted 1/25/17 from unpublished order 2016 IL App (1st) 140913

Whether 725 ILCS 5/113-3.1(a), which authorizes a reasonable reimbursement fee for the cost of the public defender where the trial court conducts a hearing no more than 90 days after the entry of a final order disposing of the case at the trial level, authorizes a remand for a more complete hearing where the proceeding at the trial court level merely announced the amount of the fee and did not consider the cost of the representation, the defendant's financial circumstances, or the defendant's ability to pay. (§13-3(c))

Defense counsel: Joy Reedy, Chicago OSAD

No. 121681

People v. Brown, Defense leave to appeal granted 3/29/17 from 2016 IL App (4th) 140760

Whether the test used in *Rissley*, 206 Ill.2d 402 (2003) (which held that to establish prejudice resulting from counsel's incorrect advice at a guilty plea, a defendant must claim in his post-conviction petition that he is innocent or has a plausible defense), applies to a case where defendant alleges that he entered into a fully negotiated guilty plea based on his counsel's incorrect advice that he would only need to serve 50% of his sentence when in fact he would have to serve 85% of his sentence. (§13-4(b)(2))

Defense counsel: Ann Fick, Elgin OSAD

EVIDENCE

No. 118589

People v. Thomas, State leave to appeal granted 5/27/2015 from 2014 IL App (2d) 121001

Whether the burden to show that the clergy-penitent privilege (735 ILCS 5/8-803) applied to the confession of a minor third-party penitent shifted to the penitent where the minister testified that under the rules of his religion it was his decision alone whether statements were confidential, and §8-803 permits the privilege only when disclosure by the clergyman is "enjoined by the rules or practices" of the religion to which he or she belongs. (§19-26(d))

Defense counsel: Rachel Moran, Chicago OSAD

No. 119561

People v. Wright, State leave to appeal granted 11/25/15 from 2015 IL App (1st) 123496

Whether the trial court erred by failing to admit the co-defendant's statement that he committed the crime with a BB gun where that statement was admissible as a statement against

penal interest, was sufficiently corroborated, and was essential to defendant's defense on the firearm element of armed robbery with a firearm. (§19-19)

Defense counsel: Peter Sgro, Chicago OSAD

No. 120331

People v. Peterson, Defense leave to appeal granted 3/30/16 from 2015 IL App (3d) 130157

1. Whether the trial court erred by admitting evidence of other crimes where it found that there was no "good cause" for the State's failure to provide notice as required by Illinois Rule of Evidence 404(b). (§19-24(a))

2. Whether the trial court erred at a murder trial by allowing defense counsel to call as a defense witness a lawyer who testified about privileged statements that had been made by the decedent. (§19-26(b))

3. Whether the forfeiture by wrongdoing doctrine permits the introduction of statements by a deceased person where the State failed to establish that defendant acted with the intent to make the witness unavailable for trial. (§19-10(b))

Defense counsel: Stephen Greenberg, Chicago

No. 121755

People v. Staake, Defense leave to appeal granted 3/29/17 from 2016 IL App (4th) 140638

Whether defendant was improperly precluded from arguing in a first degree murder prosecution that the victim's refusal to accept medical treatment was the cause of his death. (§19-1)

Defense counsel: Allen Andrews, Springfield OSAD

FITNESS TO STAND TRIAL

No. 119594

People v. Gipson, State petition for appeal as a matter of right or leave to appeal granted 11/23/16 from 2015 IL App (1st) 122451

Whether the trial court conducted an improper fitness restoration hearing by relying on the parties stipulations to the experts' testimony where there were questions about defendant's fitness that could not be adequately resolved by the stipulations. (Ch. 21)

Defense counsel: David Harris, Chicago OSAD

GUILTY PLEAS

No. 121365

People v. Boykins, Defense leave to appeal granted 11/23/16 from 2016 IL App (1st) 142542-U

Whether a trial court, in the course of admonishing a defendant about the terms of his negotiated guilty plea, must explicitly inform defendant that he will be required to serve a term of mandatory supervised release, or whether it is sufficient for a trial court to simply inform defendant that a term of mandatory supervised release is a possible penalty. (§24-6(d))

Defense counsel: Aliza Kaliski, Chicago OSAD

No. 121681

People v. Brown, Defense leave to appeal granted 3/29/17 from 2016 IL App (4th) 140760

Whether the test used in *Rissley*, 206 Ill.2d 402 (2003) (which held that to establish prejudice resulting from counsel's incorrect advice at a guilty plea, a defendant must claim in his post-conviction petition that he is innocent or has a plausible defense), applies to a case where defendant alleges that he entered into a fully negotiated guilty plea based on his counsel's incorrect

advice that he would only need to serve 50% of his sentence when in fact he would have to serve 85% of his sentence. (§24-4)

Defense counsel: Ann Fick, Elgin OSAD

HOMICIDE

No. 121371

People v. Carey, State petition for leave to appeal granted 11/23/16 from 2016 IL App (1st) 131944

Whether an indictment for felony murder based on armed robbery is legally insufficient if it does not describe the underlying felony with enough detail, including a statutory citation, to determine whether the underlying felony is armed robbery with a firearm or armed robbery with a dangerous weapon. (§26-2)

Defense counsel: Manny Serritos, Chicago OSAD

INDICTMENTS, INFORMATION, COMPLAINTS

No. 119561

People v. Wright, State leave to appeal granted 11/25/15 from 2015 IL App (1st) 123496

Whether due process was violated when the prosecutor secured an indictment for armed robbery with a firearm by presenting testimony which misled the grand jurors where a detective testified that no weapon was recovered, when in fact a BB gun was discovered at the location where the co-defendant discarded the weapon used in the offense. (§29-2)

Defense counsel: Peter Sgro, Chicago OSAD

No. 121371

People v. Carey, State petition for leave to appeal granted 11/23/16 from 2016 IL App (1st) 131944

Whether an indictment for felony murder based on armed robbery is legally insufficient if it does not describe the underlying felony with enough detail, including a statutory citation, to determine whether the underlying felony is armed robbery with a firearm or armed robbery with a dangerous weapon. (§29-4(b))

Defense counsel: Manny Serritos, Chicago OSAD

JURY

No. 119561

People v. Wright, State leave to appeal granted 11/25/15 from 2015 IL App (1st) 123496

Whether the trial court erred by failing to instruct the jury on the definition of a firearm, and that a BB gun was excluded from this definition, where the evidence at trial showed that a BB gun was found in the area where the co-defendant discarded his weapon and the failure to instruct left the jury without guidance on one of the elements of armed robbery with a firearm. (§32-8(a))

Defense counsel: Peter Sgro, Chicago OSAD

***No. 122059**

People v. Encalado, State petition for leave to appeal granted 5/24/17 from 2017 IL App (1st) 142548

Whether the trial court abused its discretion by denying a defense request to ask prospective jury members about any bias against persons who are customers of prostitutes, where the evidence would show that defendant engaged in sexual acts with prostitutes and then robbed them. (§32-4(a))

Defense counsel: Jennifer Bontrager, Chicago OSAD

JUVENILE

No. 120655

People v. Holman, Defense leave to appeal granted 9/28/16 from 2012 IL App (5th) 100587-U

Whether the trial court properly considered the factors in mitigation required by **Miller v. Alabama**, 567 U.S. ____ (2012) when it sentenced defendant, a juvenile, to natural life imprisonment. (§33-6(d))

Defense counsel: Amanda Horner, Mount Vernon OSAD

No. 120796

In re Destiny P., Direct appeal (Cook)

Whether the Juvenile Court Act (705 ILCS 405/5101(3) and 405/5-605(1)) violates equal protection because it fails to authorize a jury trial for a minor facing a charge of first degree murder. (§33-5(c)(1))

Defense counsel: Jessica Fortier, Chicago OSAD

No. 121306

People v. Hunter, Defense leave to appeal granted 11/23/16 from 2016 IL App (1st) 141904 (consolidated with **People v. Wilson**, No. 121345)

Whether Public Act 99-69 and 99-258, which became effective January 1, 2016 modified the law concerning transfer and sentencing of juvenile offenders and among other provisions affords the trial court discretion not to impose a mandatory firearm enhancement, should be applied retroactively to cases which were on appeal on the effective date of the legislation. (§§33-3, 33-6(a))

Defense counsel: Katie Anderson, Chicago OSAD

No. 121345

People v. Wilson, Defense leave to appeal granted 11/23/16 from 2016 IL App (1st) 141500 (consolidated with **People v. Hunter**, No. 121306)

Whether Public Act 99-69 and 99-258, which became effective January 1, 2016 modified the law concerning transfer and sentencing of juvenile offenders and among other provisions affords the trial court discretion not to impose a mandatory firearm enhancement, should be applied retroactively to cases which were on appeal on the effective date of the legislation. (§§33-3, 33-6(a))

Defense counsel: Meredith Baron, Chicago OSAD

No. 121483

In re Jarquan B., Defense petition for leave to appeal granted 1/5/17 from 2016 IL App (1st) 161180

Whether a court is prohibited from sentencing a minor to the Department of Juvenile Justice for a misdemeanor under the amended version of 705 ILCS 405/5-710(1)(b) (which now prohibits such sentences), where the minor was sentenced after the effective date of the amendment but was originally sentenced to probation before the effective date of the amendment, and another statute (705 ILCS 405/5-720(4)) generally permits a court to impose any sentence upon revocation of probation that was available when the minor was initially sentenced. (§33-6(b))

Defense counsel: Darren Miller, Chicago OSAD

NARCOTICS

No. 121453

People v. Hardman, Defense leave to appeal granted 1/25/17 from unpublished order 2016 IL App (1st) 140913-U

Whether in order to prove that a narcotics offense occurred within an enhancing location such as within 1000 feet of a school, the prosecution must present substantive, particularized testimony from a witness with personal knowledge of the location's actual use at the time of the offense or only evidence such as the location's name or a police officer's testimony that the building constituted protected premises. (§35-3(a))

Defense counsel: Joy Reedy, Chicago OSAD

No. 121636

People ex rel. Hartrich v. Henderson (2010 Harley-Davidson), State leave to appeal granted 1/25/17 from 2016 IL App (5th) 150035

Whether the excessive fines clause of the Eighth Amendment was violated where a motorcycle that was worth \$35,000 was ordered forfeited on the ground that it was used with the owner's consent to commit the offense of driving on a suspended or revoked license where the revocation was due to a prior DUI conviction. (§34-5)

Defense counsel: Jon C. Anderson, Robinson, IL

PROBATION

No. 121483

In re Jarquan B., Defense petition for leave to appeal granted 1/5/17 from 2016 II App (1st) 161180

Whether a court is prohibited from sentencing a minor to the Department of Juvenile Justice for a misdemeanor under the amended version of 705 ILCS 405/5-710(1)(b) (which now prohibits such sentences), where the minor was sentenced after the effective date of the amendment but was originally sentenced to probation before the effective date of the amendment, and another statute (705 ILCS 405/5-720(4)) generally permits a court to impose any sentence upon revocation of probation that was available when the minor was initially sentenced. (§40-6)

Defense counsel: Darren Miller, Chicago OSAD

PROSECUTOR

No. 119484

People v. Ringland, Pirro, Saxen, Harris and Flynn, State leave to appeal granted 11/25/15 from 2015 IL App (3d) 130523

Whether 55 ILCS 5/3-9005(b), which permits the State's Attorney to appoint one or more special investigators to serve subpoenas, make return of process, conduct investigations that assist the State's Attorney in the performance of his or her duties, and exercise the powers possessed by investigators under the State's Attorneys Appellate Prosecutor's Act, authorizes the State's Attorney to appoint and equip investigators to staff a drug interdiction unit to patrol highways which pass through the county. (§41-1)

Defense counsel:

Saxen: Dimitri Golfis (Ottawa OSAD)

Ringland: Stephen Komie & Allan Ackerman (Chicago)

Harris: Douglas Olivero (Peru, IL)

Pirro & Flynn: Louis Bertrand (LaSalle, IL)

ROBBERY

No. 119561

People v. Wright, State leave to appeal granted 11/25/15 from 2015 IL App (1st) 123496

Whether the State proved that defendant committed armed robbery while his co-defendant was armed with a firearm where the State's witnesses only briefly saw the handle of an alleged gun in the co-defendant's waistband and the defense presented compelling evidence that the co-defendant actually possessed a BB gun. (§43-2)

Defense counsel: Peter Sgro, Chicago OSAD

No. 120011

People v. Reese, State petition for leave to appeal granted 3/30/16 from 2015 IL App (1st) 120654

Whether a defendant commits aggravated vehicular hijacking where he enters a vehicle while armed and orders the driver to drive, but does not actually dispossess the driver of the vehicle. (§43-4)

Defense counsel: David Harris, Chicago OSAD

SEARCH & SEIZURE

No. 120407

People v. Holmes, State leave to appeal granted 9/28/16 from 2015 IL App (1st) 141256

Whether the Fourth Amendment was violated by an arrest based on probable cause that the arrestee committed Aggravated Unlawful Use of a Weapon, where the arresting officer relied on the state of law at the time of the arrest but the statute creating the offense was subsequently found unconstitutional in **People v. Aguilar**. (§§44-1(c)(1), 44-4(b))

Defense counsel: Eileen Pahl, Cook County PD

No. 121413

People v. Brooks, State leave to appeal granted from 11/23/16 from 2016 IL App (5th) 150095-U

Whether a hospital blood test was the result of State action where, despite defendant's refusal of emergency medical treatment, an officer physically removed him from a vehicle, forced him onto a gurney, assisted in putting him into an ambulance for transport to the hospital, and when defendant tried to resist applied handcuffs, rode in the ambulance to the hospital, and assisted paramedics in delivering defendant to the emergency room. (§§44-1(a), 44-1(b))

Defense counsel: H. Kent Heller, Mattoon

SENTENCING

No. 118164

People v. Reed, Direct appeal from St. Clair County

Whether aggravated unlawful use of a weapon for possession of a firearm without a FOID card, which is a Class 4 felony under 720 ILCS 5/24-1.6(a)(1), (a)(3)(C), violates the proportionate penalties clause because under 430 ILCS 65/2(a)(1), the identical offense of possession of a firearm without a FOID card is a Class A misdemeanor. (§45-1(b)(2))

Defense counsel: James Gomric, Belleville

No. 119594

People v. Gipson, State petition for appeal as a matter of right or leave to appeal granted 11/23/16 from 2015 IL App (1st) 122451

1. Whether defendant's mandatory minimum aggregate sentence of 52 years for two counts of attempt first degree murder, resulting from the convergence of the excluded jurisdiction provision, the mandatory firearm enhancements, and the mandatory consecutive sentencing

provision, violated the proportionate penalties clause of the Illinois Constitution as applied to defendant who was 15 years old at the time of the offense. (§45-1(b)(2))

2. Whether the Appellate Court exceeded its authority by directing the trial court to impose an appropriate Class X sentence without considering the mandatory firearm enhancements applicable to defendant's case rather than simply directing the trial court to impose a constitutionally proportionate sentence. (§45-18(c))

Defense counsel: David Harris, Chicago OSAD

No. 121823

People v. Vara, State leave to appeal granted 3/29/17 from 2016 IL App (2d) 140848

Whether **People v. Castleberry**, 2015 IL 116916 prohibits the Appellate Court from remanding a cause for resentencing where statutorily mandatory fines were imposed by the circuit court clerk rather than by the trial court, and requires the State to file a *mandamus* action in the Illinois Supreme Court so that mandatory fines can be imposed. (§45-7(b))

Defense counsel: Jaime Montgomery, Elgin OSAD

***No. 121932**

People v. Harris, State appeal as a matter of right or in the alternative leave to appeal granted from 2016 IL App (1st) 141744

Whether the 18-year-old defendant's statutorily mandated minimum aggregate sentence of 76 years imprisonment for first degree murder and attempt first degree murder during which he personally discharged a firearm that proximately caused death or great bodily harm was unconstitutional as applied under the rehabilitation clause of Article I, Section 11 of the Illinois Constitution. (§45-1(b)(2))

Defense counsel: Lauren Bauser, Chicago OSAD

SEX OFFENSES

***No. 122008**

People v. Bingham, Defense leave to appeal granted from 2017 IL App (1st) 143150

1. Whether the 2011 amendment to the Sex Offender Registration Act (SORA), which requires lifetime registration for a defendant who is convicted of any felony after having been previously convicted of a sex offense, violates due process as applied to defendant since there is no rational relationship between SORA's purpose of protecting the public from sex offenders and defendant's current conviction for theft coupled with a conviction for a sex offense that occurred 30 years earlier. (§46-7)

2. Whether the current version of the Sex Offender Registration Act has become punitive in nature and thus its imposition in this case for a sex offense that occurred 30 years earlier violates the prohibition against ex post facto legislation by increasing the punishment for an offense that had already been committed. (§46-7)

Defense counsel: Deborah Nall, Chicago OSAD

***No. 122034**

People v. Pepitone, State leave to appeal as a matter of right or in the alternative for leave to appeal granted 5/24/17 from 2017 IL App (3d) 140627 (2/10/17)

Whether 720 ILCS 5/11-9.4-1, which provides that it is unlawful for a child sex offender or sexual predator to be knowingly present in any public park building or on real property comprising any public park, violates due process because a total ban of persons convicted of a sex offense from all public park buildings and all public parks at all times is an unreasonable method of protecting the public and encompasses substantial amounts of innocent conduct. (§46-4)

Defense counsel: Katherine Strohl, Ottawa OSAD

SPEEDY TRIAL

No. 121755

People v. Staake, Defense leave to appeal granted 3/29/17 from 2016 IL App (4th) 140638

Whether first degree murder is a new and additional charge to second degree murder for the purpose of calculating the speedy trial term under the compulsory joinder statute. (§47-1(b))

Defense counsel: Allen Andrews, Springfield OSAD

STATUTES

No. 120958

People v. Gray, State leave to appeal as a matter of right granted 9/28/16 from 2016 IL App (1st) 134012

Whether 725 ILCS 5/122A-3(3), which defines a "[f]amily or household member" for purposes of aggravated domestic battery to include "persons who have or have had a dating or engagement relationship" but not "casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts," is unconstitutional as applied where the victim and defendant had a dating relationship which ended 15 years before the incident in question, because treating all persons who have dated at any time in the past as members of the same family or household has no rational relationship to any legitimate State interest. (§48-3(a))

Defense counsel: Christofer Bendik, Chicago OSAD

No. 121306

People v. Hunter, Defense leave to appeal granted 11/23/16 from 2016 IL App (1st) 141904 (consolidated with **People v. Wilson**, No. 121345)

Whether Public Act 99-69 and 99-258, which became effective January 1, 2016 modified the law concerning transfer and sentencing of juvenile offenders and among other provisions affords the trial court discretion not to impose a mandatory firearm enhancement, should be applied retroactively to cases which were on appeal on the effective date of the legislation. (§48-2)

Defense counsel: Katie Anderson, Chicago OSAD

No. 121345

People v. Wilson, Defense leave to appeal granted 11/23/16 from 2016 IL App (1st) 141500 (consolidated with **People v. Hunter**, No. 121306)

Whether Public Act 99-69 and 99-258, which became effective January 1, 2016 modified the law concerning transfer and sentencing of juvenile offenders and among other provisions affords the trial court discretion not to impose a mandatory firearm enhancement, should be applied retroactively to cases which were on appeal on the effective date of the legislation. (§48-2)

Defense counsel: Meredith Baron, Chicago OSAD

***No. 122008**

People v. Bingham, Defense leave to appeal granted from 2017 IL App (1st) 143150

Whether the current version of the Sex Offender Registration Act has become punitive in nature and thus its imposition in this case for a sex offense that occurred 30 years earlier violates the prohibition against ex post facto legislation by increasing the punishment for an offense that had already been committed. (§48-2)

Defense counsel: Deborah Nall, Chicago OSAD

***No. 122034**

People v. Pepitone, State leave to appeal as a matter of right or in the alternative for leave to appeal granted 5/24/17 from 2017 IL App (3d) 140627 (2/10/17)

Whether 720 ILCS 5/11-9.4-1, which provides that it is unlawful for a child sex offender or sexual predator to be knowingly present in any public park building or on real property comprising any public park, violates due process because a total ban of persons convicted of a sex offense from all public park buildings and all public parks at all times is an unreasonable method of protecting the public and encompasses substantial amounts of innocent conduct. (§48-3(a))

Defense counsel: Katherine Strohl, Ottawa OSAD

TRAFFIC OFFENSES

No. 121413

People v. Brooks, State leave to appeal granted from 11/23/16 from 2016 IL App (5th) 150095-U

Whether a hospital blood test was the result of State action where, despite defendant's refusal of emergency medical treatment, an officer physically removed him from a vehicle, forced him onto a gurney, assisted in putting him into an ambulance for transport to the hospital, and when defendant tried to resist applied handcuffs, rode in the ambulance to the hospital, and assisted paramedics in delivering defendant to the emergency room. (§50-2(a))

Defense counsel: H. Kent Heller, Mattoon

TRIAL JOINDER AND SEVERANCE

No. 121755

People v. Staake, Defense leave to appeal granted 3/29/17 from 2016 IL App (4th) 140638

Whether first degree murder is a new and additional charge to second degree murder for the purpose of calculating the speedy trial term under the compulsory joinder statute. (§51-2)

Defense counsel: Allen Andrews, Springfield OSAD

UNLAWFUL USE OF WEAPONS

No. 118164

People v. Reed, Direct appeal from St. Clair County

Whether aggravated unlawful use of a weapon for possession of a firearm without a FOID card, which is a Class 4 felony under 720 ILCS 5/24-1.6(a)(1), (a)(3)(C), violates the proportionate penalties clause because under 430 ILCS 65/2(a)(1), the identical offense of possession of a firearm without a FOID card is a Class A misdemeanor. (§53-1)

Defense counsel: James Gomric, Belleville

No. 118392

People v. Harding, Direct appeal (St. Clair)

Whether the Class 4 felony penalty for aggravated unlawful use of a weapon based on possessing a firearm without having been issued a valid FOID card (720 ILCS 5/24-1.6(a)(1), (a)(2), (a)(3)(C)) violates the proportionate penalties clause because it is composed of the same elements as acquiring or possessing a firearm while not in possession of a FOID card (430 ILCS 65/2(a)(1)), which is a Class A misdemeanor. (§53-1)

Defense counsel: Nathan Swanson, Clayton MO

No. 118782

People v. McKinney, Direct appeal (St. Clair)

Whether the Class 4 felony penalty for aggravated unlawful use of a weapon based on possessing a firearm without having been issued a valid FOID card (720 ILCS 5/24-1.6(a)(1), (a)(2), (a)(3)(C)) violates the proportionate penalties clause because it is composed of the same elements as acquiring or possessing a firearm while not in possession of a FOID card (430 ILCS 65/2(a)(1)), which is a Class A misdemeanor. (§53-1)

Defense counsel: OSAD

No. 121417

People v. Chairez, Direct appeal (Kane County)

Whether 720 ILCS 5/24-1(a)(4), (c)(1.5), which prohibits carrying a firearm on a public way within 1000 feet of a park, amounts to a blanket prohibition on the exercise of Second Amendment rights or is a permissible regulation of the right to carry a firearm. (§53-1)

Defense counsel: Elgin OSAD

***No. 121926**

People v. Coats, Defense leave to appeal granted 5/24/17 from 2017 IL App (1st) 142028-U

Whether under the one-act, one-crime doctrine a defendant may be convicted of multiple offenses for possessing a single weapon? (§53-1)

Defense counsel: Sam Hayman, Chicago OSAD

VERDICTS

***No. 121926**

People v. Coats, Defense leave to appeal granted 5/24/17 from 2017 IL App (1st) 142028-U

Whether under the one-act, one-crime doctrine a defendant may be convicted of multiple offenses for possessing a single weapon? (§55-3(a))

Defense counsel: Sam Hayman, Chicago OSAD