



Illinois Prosecutor Services, LLC

Don Hays

PO Box 722

Carlinville, Illinois 62626

Office Phone: (217) 854-8041 Fax: (217) 854-5343

Webpage: www.ipsllconline.com

Email: don.ipsllc@gmail.com



PUBLISHER NOTE: If you are interested in obtaining access to these and other materials on our website at www.ipsllconline.com please see the subscription information at the end of this publication or contact us at don.ipsllc@gmail.com and subscription information will be provided.

CRIMINAL CASE LAW QUARTERLY

WINTER ISSUE– 2019

(Oct-Dec 2019 Cases)

IN THIS ISSUE

1. **People v. Eric W. Catchings, 2018 IL APP (3rd) 160186, (3rd Dist., December 18, 2018)** Domestic Battery; Aggravated Domestic Battery - - Affirmed in Part; Vacated in Part; Case Remanded with Directions. **ISSUE: OFFENSES (One Act – One Crime):** Could the defendant properly have been convicted of multiple offenses involving the same domestic violence? (No).
2. **People v. Anthony J. Maples, 2018 IL APP (2nd) 160577, (2nd Dist., December 14, 2018)** Tattooing the Body of a Minor - - Affirmed. **ISSUES: 1) REASONABLE DOUBT (Tattooing the Body of a Minor):** Were the People required to present sufficient evidence to prove this defendant did not have a medical license? (No); 2) **STATUTORY CONSTRUCTION (Knowledge):** Was the defendant required to know that the person tattooed was under 18 years-of-age? (No).
3. **People v. Timothy Herring, 2018 IL APP (1st) 152067, (1st Dist., December 11, 2018)** First-Degree Murder - - Affirmed. **ISSUES: 1) REASONABLE DOUBT (First-Degree Murder):** Did the People introduce sufficient evidence to support this defendant's convictions? (Yes); 2) **CONSTITUTIONALITY OF STATUTE (Sentencing):** Was the defendant's sentence of natural life unconstitutional? (No).
4. **People v. Jasper McLaurin, 2018 IL APP (1st) 170258, (1st Dist., December 4, 2018)** Armed Habitual Criminal - - Reversed. **ISSUE: REASONABLE DOUBT (AHC):** Did the People fail to present sufficient evidence to support this defendant's conviction for being an Armed Habitual Criminal? (Yes).
5. **People v. Stephen S. Bona, 2018 IL APP (2nd) 160581, (2nd Dist., December 10, 2018)** Threatening a Public Official - - Affirmed. **ISSUES: 1) CONSTITUTIONALITY OF STATUTE (Threatening a Public Official):** Does this offense violate the free speech rights of the First Amendment? (No); 2) **REASONABLE DOUBT (Threatening a Public Official):** Did the People fail to present sufficient evidence to support this defendant's convictions? (No).
6. **People v. Michael Caraga, 2018 IL APP (1st) 170123, (1st Dist., December 4, 2018)** Loan Fraud, Financial Institution Fraud, Attempted Theft, Wire Fraud and Forgery - - Affirmed. **ISSUE:**

REASONABLE DOUBT (Numerous Fraud Charges): Did the People fail to present sufficient evidence to support this defendant's convictions? (No).

7. **People v. Brandon Meyers, 2018 IL APP (1st) 140891, (1st Dist., December 3, 2018)** Aggravated Discharge of a Firearm - - Affirmed. **ISSUE: REASONABLE DOUBT (Aggravated Discharge)**: Did the People fail to present sufficient evidence to support this defendant's convictions? (No).

8. **People v. Adam Landerman, 2018 IL APP (3rd) 150684, (3rd Dist., December 3, 2018)** First-Degree Murder - - Affirmed. **ISSUE: CONSTITUTIONALITY OF STATUTE (Sentences)**: Was this defendant's natural life sentence unconstitutional? (No).

9. **People v. Rodney Lee, 2018 IL APP (1st) 152522, (1st Dist., November 30, 2018)** Failure to Register as a Sex Offender - - Affirmed. **ISSUE: CONSTITUTIONALITY OF STATUTE (SORA)**: Was the SORA unconstitutional on its face and as applied to this defendant? (No).

10. **People v. Travis D. Rhoades, 2018 IL App. (4th) 160457, (4th Dist., November 27, 2018)** Predatory Criminal Sexual Assault and Aggravated Criminal Sexual Abuse - - Affirmed. **ISSUE: CONSTITUTIONALITY OF STATUTE (Sentences)**: Was the mandatory life sentence received by this defendant unconstitutional? (No).

11. **People v. Victor Denis, 2018 IL APP (1st) 151892, (1st Dist., November 19, 2018)** Predatory Criminal Sexual Assault of a Crile, Aggravated Criminal Sexual Assault; Aggravated Criminal Sexual Abuse - - Affirmed. **ISSUES: 1) REASONABLE DOUBT (Various Sex Offenses)**: Did the People present sufficient evidence to support this defendant's various sex offenses convictions? (Yes); **2) CONSTITUTIONALITY OF STATUTE (SORA)**: Was the SORA unconstitutional on its face and as applied to this defendant? (No).

12. **People v. Claude Crowder, 2018 IL APP (1st) 161226, (1st Dist., November 13, 2018)** AAUW - - Reversed. **ISSUES: 1) REASONABLE DOUBT (AAUW)**: Did the People present sufficient evidence to support this defendant's convictions for both Aggravated Unlawful Use of a Firearm after the defendant drew his father's firearm to defend himself and his father? (No).

13. **People v. Edward R. Cetwinski, 2018 IL App (3rd) 160174, (3rd Dist., October 26, 2018)** Criminal Sexual Assault and Aggravated Criminal Sexual Abuse - - Affirmed. **ISSUE: CONSTITUTIONALITY OF STATUTE (Sentences)**: Did the sentencing scheme created for sex offenses violate this defendant's constitutional rights? (No).

14. **People v. David Williams, 2018 IL App (2nd) 160683, (2nd Dist., October 23, 2018)** DUI; Possession of Drug Paraphernalia; Disobeying a Traffic Control Device - - Affirmed. **ISSUE: REASONABLE DOUBT (DUI)**: Did the People present sufficient evidence to support this defendant's DUI conviction? (Yes).

15. **People v. Justin E. Cavette, 2018 IL App (4th) 150910, (4th Dist., October 23, 2018)** Armed Habitual Criminal and Unlawful Possession of Cannabis - - Reversed and Remanded. **ISSUE: REASONABLE DOUBT (Armed Habitual Criminal)**: Did the People provide sufficient evidence to support this defendant's Armed Habitual Criminal conviction where one of his prior convictions was void? (No).

16. **People v. Randell L. Owens, 2018 IL App. (4th) 170506, (4th Dist., October 23, 2018)** Failure to Register as a Sex Offender - - Affirmed. **ISSUE: CONSTITUTIONALITY OF STATUTE (Mandatory Presumption)**: Did the Sex Offender Registration Statute create an unconstitutional mandatory presumption? (No).

17. **People v. Darien Harris, 2018 IL 121932, (Ill. Sup. Ct., October 18, 2018)** First-Degree Murder - - Affirmed. **ISSUE: REASONABLE DOUBT: (First-Degree Murder):** Did the People present sufficient evidence to support a jury's determination that the defendant was guilty of first-degree murder? (Yes).
18. **People v. Deforrest Newton, 2018 IL 122958, (Ill. Sup. Ct., October 18, 2018)** Delivery of a Controlled Substance - - Affirmed. **ISSUE: REASONABLE DOUBT: (Delivery of a Controlled Substance):** Did the People present sufficient evidence to support a jury's determination that the defendant delivered contraband within 1,000 feet of a church? (Yes).
19. **People v. Xavier D. Crump, 2018 IL APP (3rd) 160124, (3rd Dist., October 17, 2018)** DUI - - Affirmed. **ISSUE: REASONABLE DOUBT (DUI):** Did the People provide sufficient evidence to support this defendant's DUI conviction? (Yes).
20. **People v. Gregory Reed, 2018 IL APP (1st) 160609, (1st Dist., October 12, 2018)** Attempted Murder, Aggravated Battery; Aggravated Discharge of a Firearm - - Affirmed in Part; Vacated in Part; Case Remanded with Directions. **ISSUES: 1) REASAONBLE DOUBT (Various Charges):** Did the People present sufficient evidence to support this defendant's various convictions? (Yes); **2) OFFENSES (One Act – One Crime):** Could the defendant properly have been convicted of multiple offenses involving the same conduct? (No).
21. **People v. Lavail W. Dunbar, 2018 IL APP (3rd) 150674, (1st Dist., October 12, 2018)** First-Degree Murder and Aggravated Battery of a Child - - Affirmed. **ISSUE: REASAONBLE DOUBT (First-Degree Murder):** Did the People present sufficient evidence to support this defendant's murder conviction? (Yes).
22. **People v. Aden D. Khan, 2018 IL App (2nd) 160724, (2nd Dist., October 11, 2018)** Disorder Conduct - - Affirmed. **ISSUES: 1) CONSTITUTIONALITY OF STATUTE (Disorderly Conduct):** Was the offense of the Disorderly Conduct unconstitutional? (No); **2) REASONABLE DOUBT (Disorderly Conduct):** Did the People present sufficient evidence to support this defendant's Disorderly Conduct conviction? (Yes).
23. **People v. Jermon Little, 2018 IL APP (1st) 151954, (1st Dist., September 28, 2018)** Aggravated Battery of a Peace Officer and Criminal Damage to Government Supported Property - - Affirmed. **ISSUE: REASONABLE DOUBT (Aggravated Battery and Criminal Damage):** Did the People present sufficient evidence to support this defendant's convictions for both Aggravated Battery and Criminal Damage? (Yes).
24. **People v. Juis A. Camacho, 2018 IL APP (2nd) 160350, (2nd Dist., September 28, 2018)** Domestic Battery - - Affirmed. **ISSUE: REASONABLE DOUBT (Domestic Battery):** Did the People fail to present enough evidence to support this defendant's conviction for Domestic Battery? (No).
25. **People v. Joseph Goodwin, 2018 IL App (1st) 152045, (1st Dist., September 21, 2018)** Threatening a Public Official and Unlawful Restraint - - Reversed and Remanded with Directions. **ISSUE: REASONABLE DOUBT (Threatening a Public Official):** Did the People present sufficient evidence to support this defendant's conviction for Threatening a Public Official? (No).
26. **People v. DeAnthony Pearson, 2018 IL APP (1st) 142819, (1st Dist., September 21, 2018)** Attepted First-Degree Murder and Attempted Armed Robbery - - Affirmed. **ISSUE: REASONABLE DOUBT (Attempted First-Degree Murder):** Did the People fail to prove that he intended to kill his victim? (No).

27. **People v. Jennifer N. Nere, 2018 IL 122566, (Ill. Sup. Ct., September 20, 2018)** Drug-Induced Homicide - - Affirmed. **ISSUE: REASONABLE DOUBT (Drug Induced Homicide):** Did the People provide sufficient evidence to support this defendant's Drug Induced Homicide conviction? (Yes).

28. **People v. Lamarr Maxey, 2018 IL APP (1st) 130698, (1st Dist., September 13, 2018)** Residential Burglary and Aggravated Fleeing or Attempting to Elude a Police Officer - - Affirmed in Part; Reversed in Part; Fees and Fines Corrected. **ISSUE: REASONABLE DOUBT (Fleeing):** Did the People present sufficient evidence to support the defendant's Fleeing conviction? (No).

29. **People v. Aaron Jackson, 2018 IL APP (5th) 150274, (5th Dist., September 11, 2018)** First-Degree Murder - - Affirmed. **ISSUE: REASONABLE DOUBT (First-Degree Murder):** Did the People fail to present enough evidence to support this defendant's conviction for First-Degree Murder? (No);

CASE ANALYSIS

1. **People v. Eric W. Catchings, 2018 IL APP (3rd) 160186, (3rd Dist., December 18, 2018)** Domestic Battery; Aggravated Domestic Battery - - Affirmed in Part; Vacated in Part; Case Remanded with Directions.

ISSUE: OFFENSES (One Act – One Crime): Could the defendant properly have been convicted of multiple offenses involving the same domestic violence? (No).

FACTS: Catchings appealed from his convictions for aggravated domestic battery and domestic battery and raises two issues on appeal: (1) he was denied a fair trial where the court allowed the People to use his prior felony conviction for possession of a weapon by a felon for impeachment purposes and (2) his conviction and sentence on count IV is subject to vacatur under the one-act, one-crime rule.

FINDING: The defendant's conviction for domestic battery was subject to vacatur under the one-act, one-crime doctrine. **WHY:** The indictment contained an aggravated domestic battery charge and the domestic battery charge; both charges contained the similar and nonspecific allegation that the defendant struck the victim, his off-on again girlfriend, about the head; and the trial evidence regarding the charges was similarly general as the People did not differentiate which punch or strike to the victim's head caused each the injury, which indicated the injuries arose out of a single physical act.

2. **People v. Anthony J. Maples, 2018 IL APP (2nd) 160577, (2nd Dist., December 14, 2018)** Tattooing the Body of a Minor - - Affirmed.

ISSUES: 1) REASONABLE DOUBT (Tattooing the Body of a Minor): Were the People required to present sufficient evidence to prove this defendant did not have a medical license? (No); **2) STATUTORY CONSTRUCTION (Knowledge):** Was the defendant required to know that the person tattooed was under 18 years-of-age? (No).

FACTS: Maples appealed from the judgment of the circuit court of Carroll County finding him guilty of tattooing the body of a minor (720 ILCS 5/12C-35(a)). He argued that the People were required to prove that he did not have a medical license and that he knew that the victim was under 18 years old.

FINDING #1: The evidence in this case was sufficient to support a finding that the defendant knew the victim was under the age of 18 when he tattooed her, as required to support his conviction for tattooing the body of a minor. **WHY:** The victim stayed with the defendant for several weeks, during that time the defendant gave the victim several tattoos, and the victim testified that she told defendant she was 17.

FINDING #2: The legislature intended the language in the offense of tattooing the body of a minor

excepting persons licensed to practice medicine to withdraw certain persons from criminal liability, and not as a description of the offense, and thus the People did not have to prove the defendant did not have a medical license. 720 Ill. Comp. Stat. Ann. 5/12C-35(a).

3. **People v. Timothy Herring, 2018 IL APP (1st) 152067, (1st Dist., December 11, 2018)** First-Degree Murder - - Affirmed.

ISSUES: 1) **REASONABLE DOUBT (First-Degree Murder):** Did the People introduce sufficient evidence to support this defendant's convictions? (Yes); 2) **CONSTITUTIONALITY OF STATUTE (Sentencing):** Was the defendant's sentence of natural life unconstitutional? (No).

FACTS: The victim discovered that someone had broken into his mother's garage and damaged his prized Ford Mustang. He called the police. An evidence technician arrived to collect fingerprints and other evidence. While the two men stood in the alley outside the garage, they were shot and killed. A few days later, friends and relatives of Herring informed the police that Herring had committed the murders. A jury convicted Herring of first-degree murder of both men. Herring argued on appeal that (i) the People did not prove the *corpus delicti* of the offense due to insufficient evidence; (ii) the trial court erred in making several evidentiary; (iii) the prosecutor committed prosecutorial misconduct in several ways; (iv) his trial counsel was ineffective for failing to object to fingerprint evidence and cell phone location data; and (v) his mandatory natural life sentence is unconstitutional.

FINDING #1: The evidence in this case, beyond the defendant's statements to friends and family, was sufficient to support his conviction beyond a reasonable doubt for the first-degree murder of two victims.

WHY: The defendant's guilt was corroborated by phone records showing his calls to and from various friends; the defendant's fingerprint was on an item in the garbage can taken from the scene; the defendant's cell phone was present near the crime scene during the time it was committed, and the defendant's cousin testified that the defendant had told her he wanted to take one of the victim's speakers.

FINDING #2: A natural life sentence for the murder of two victims imposed upon this 19-year-old defendant was not unconstitutional in violation of the Eighth Amendment. **WHY:** The defendant fell on the adult side of the line protecting individuals under the age of 18 from capital punishment or mandatory life imprisonment without parole.

FINDING #3: The record was insufficient to allow the appellate review of the defendant's claim that the mandatory nature of his natural life sentence was unconstitutional under Illinois law as it prevented the trial court from taking his age into account as mitigating evidence. **WHY:** An as-applied constitutional challenge was not raised in the trial court; no evidentiary record existed to base the defendant's constitutional claim; and the trial court made no findings of fact regarding his circumstances.

4. **People v. Jasper McLaurin, 2018 IL APP (1st) 170258, (1st Dist., December 4, 2018)** Armed Habitual Criminal - - Reversed.

ISSUE: REASONABLE DOUBT (AHC): Did the People fail to present sufficient evidence to support this defendant's conviction for being an Armed Habitual Criminal? (Yes).

FACTS: Following a bench trial, McLaurin was convicted of being an armed habitual criminal and sentenced to seven years' imprisonment. On appeal, he argued that the People failed to prove him guilty beyond a reasonable doubt because they failed to present sufficient evidence that he possessed a firearm as defined by the Illinois Criminal Code (Code) (720 ILCS 5/2-7.5); 430 ILCS 65/1.1).

FINDING: This evidence was insufficient to find that the defendant possessed a device designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas, as an element of being an armed habitual criminal. **WHY:** The police sergeant's testimony that she observed the defendant in possession of an item that she believed was a firearm, standing alone, was insufficient to

sustain the defendant's conviction, and there was no evidence that the item the sergeant observed met the statutory definition of a firearm. 430 Ill. Comp. Stat. Ann. 65/1.1; 720 Ill. Comp. Stat. Ann. 5/2-7.5, 5/24-1.1(a), 5/24-1.6(a)(1), 5/24-1.7(a).

5. People v. Stephen S. Bona, 2018 IL APP (2nd) 160581, (2nd Dist., December 10, 2018)
Threatening a Public Official - - Affirmed.

ISSUES: 1) CONSTITUTIONALITY OF STATUTE (Threatening a Public Official): Does this offense violate the free speech rights of the First Amendment? **(No); 2) REASONABLE DOUBT (Threatening a Public Official):** Did the People fail to present sufficient evidence to support this defendant's convictions? **(No).**

FACTS: Following a jury trial, Bona, was convicted of two counts of threatening a public official, in violation of section 12-9 of the Criminal Code of 2012 (Code) (720 ILCS 5/12-9(a)). He appealed his conviction, challenging (1) whether the statute is constitutional, (2) the sufficiency of the evidence presented against him, (3) the admissibility of certain evidence, and (4) allegedly improper comments during closing argument.

FINDING #1: The statute which criminalized threats made against public officials only proscribed “true threats[,]” and thus did not constitute a facial violation of the First Amendment to the United States Constitution. **WHY:** The statute applied only to instances wherein a defendant knowingly communicated a threat to a public official and required that this threat place the official in reasonable apprehension of harm as well as relate to performance or nonperformance of official's duties. 720 Ill. Comp. Stat. Ann. 5/4-3; 5/4-5; 5/12-9. **FINDING #2:** The statute did not constitute a violation of the First Amendment, as applied to the defendant who left voicemail threats against a state representative and her family. **WHY:** The jury instructions included a definition of a “true threat” and required the jury to convict only if it found that defendant actually intended to communicate a threat, rather than that defendant simply knew the message would be viewed as a threat, thereby affording him greater protection than he was entitled to. **FINDING #3:** The statute was not subject to a strict scrutiny review, despite the statute's content-based restriction on speech. **WHY:** The statute only prohibited “true threats,” which, as a matter of law, were not protected by the First Amendment to the United States Constitution. **FINDING #4:** This evidence was sufficient to establish that the defendant knowingly communicated a threat to the state representative by leaving a hostile voicemail at the representative's office, supporting his conviction for threatening a public official. **WHY:** The evidence showed that the defendant started his message with a reference to Sarah Palin's map portraying Democratic legislators in the crosshairs of a gun and then stated that he knew where the representative lived and that “[t]here is no longer an assault weapons ban.”

6. People v. Michael Caraga, 2018 IL APP (1st) 170123, (1st Dist., December 4, 2018)
Loan Fraud, Financial Institution Fraud, Attempted Theft, Wire Fraud and Forgery - - Affirmed.

ISSUE: REASONABLE DOUBT (Numerous Fraud Charges): Did the People fail to present sufficient evidence to support this defendant's convictions? **(No).**

FACTS: Caraga—along with several co-defendants participated in an organized scheme to commit mortgage fraud. In this scheme, a straw buyer would obtain a mortgage to buy property; the loan proceeds would be split primarily among the defendants and the buyer would later default on the loan. As part of the scheme, Caraga prepared the loan application for the straw buyer, using fraudulent income documentation provided by the straw buyer. Unbeknownst to the defendants, the straw buyer in the transaction involved in this case was an undercover federal agent, and this the transaction was part of a sting operation in the federal investigation. Following a bench trial, the trial court found Caraga guilty of (i) loan fraud (720 ILCS 5/17-10.6(d)), (ii) financial institution fraud (*id.* § 17-10.6(c)(2)), (iii) attempted

theft (*id.* §§ 8-4(a), 16-1(a)(1)), (iv) wire fraud (*id.* § 17-24(b)(2)), and (v) forgery (*id.* § 173(a)(2)). The trial court merged all other counts into the loan fraud count and sentenced Caraga to two year' probation and 200 hours of community service. Caraga appealed his convictions asserting that (i) his co-conspirators' statements should have been inadmissible as hearsay because the State failed to prove that he agreed to participate in the conspiracy, (ii) the evidence was insufficient to establish his participation in the conspiracy, and (iii) evidence of other crimes should have been excluded.

FINDING #1: The defendant's words and actions during the course of the mortgage fraud conspiracy demonstrated that he was a member of the conspiracy. **WHY:** The defendant was the first mortgage broker contacted by the orchestrator of the scheme; the defendant had secured a mortgage in three prior transactions that used a straw buyer to obtain a mortgage; the defendant instructed the straw buyer, in a lowered voice, to never change his address, especially relating to the delivery of the bank's mortgage statements; when federal agents stopped the closing, the defendant denied involvement and proclaimed his innocence in an attempt to deflect the focus of the investigation and cover up the crime, demonstrating a consciousness of guilt; and, even though the co-conspirators excluded him from the conversations about a joint venture agreement, the joint venture agreement was only one aspect of the conspiracy. **FINDING #2:** There was a common design among the defendant and his co-conspirators to engage in the mortgage fraud scheme. **WHY:** The defendants and the co-conspirators all worked toward a common goal of closing the real estate transaction using a straw buyer to buy property, but without a mortgage for the straw buyer to purchase the property, the object of the conspiracy would fail, and thus, although one of the co-conspirators, and not the defendant, orchestrated the fraudulent mortgage scheme, the defendant became an integral part of the common design when he agreed to usher the straw buyer through the loan application process. **FINDING #3:** There was sufficient evidence of the defendant's intent to aid and abet the conspirators in this mortgage fraud scheme to support his convictions for loan fraud, financial institution fraud, and attempted theft. **WHY:** The defendant completed the loan application for the straw buyer to purchase the property, successfully secured a mortgage, and ensured that the parties closed on the property. **FINDING #4:** There was sufficient evidence to support the defendant's convictions for forgery and wire fraud offenses committed during the course of his involvement in the mortgage fraud scheme. **WHY:** Although the record did not establish that the defendant actually uploaded a loan application into the lending service's system, it was undisputed that he intended the completed application to be reviewed and ultimately submitted to the lending service electronically.

7. **People v. Brandon Meyers, 2018 IL APP (1st) 140891, (1st Dist., December 3, 2018)** Aggravated Discharge of a Firearm - - Affirmed.

ISSUE: REASONABLE DOUBT (Aggravated Discharge): Did the People fail to present sufficient evidence to support this defendant's convictions? (No).

FACTS: In connection with defendant's alleged discharge of a firearm at two police officers, he was separately charged with four counts of attempted first degree murder (counts I through IV) (720 ILCS 5/8-4(a), 9-1(a)) and two counts of aggravated discharge of a firearm in the direction of a peace officer (counts V and VI) (720 ILCS 5/24-1.2(a)(3)). A jury acquitted him of the attempted first-degree murder charges (720 ILCS 5/8-4(a), 9-1(a)) but found defendant guilty of both counts of aggravated discharge of a firearm in the direction of a peace officer (720 ILCS 5/24-1.2(a)(3)). The trial court sentenced Meyers to two concurrent 19-year terms of imprisonment. He appealed his convictions for aggravated discharge of a firearm in the direction of a peace officer (720 ILCS 5/24-1.2(a)(3)). He argued that (1) the evidence failed to prove defendant guilty beyond a reasonable doubt, (2) the trial court abused its discretion when it admitted testimonial and photographic evidence of a bullet hole in the siding of a garage at the scene of the shooting, (3) the trial court erred when it limited defendant's cross-examination, and (4) the prosecutor's closing arguments deprived defendant of a fair trial.

FINDING #1: Sufficient evidence supported these convictions for aggravated discharge of a firearm in direction of a peace officer. **WHY:** *The testimony of either of the two officers who testified alone would have supported the defendant's convictions; one officer testified that he was within 10 feet of the defendant when he saw the muzzle of the defendant's gun flash and heard the bullet "whizz" past him; the other officer testified he heard the defendant fire a shot and heard bullet "whizz" past him, and saw the defendant holding the gun after the shot was fired, and the defendant's gun was recovered at the scene.*

8. People v. Adam Landerman, 2018 IL APP (3rd) 150684, (3rd Dist., December 3, 2018) First-Degree Murder - - Affirmed.

ISSUE: CONSTITUTIONALITY OF STATUTE (Sentences): Was this defendant's natural life sentence unconstitutional? (No).

FACTS: Landerman appealed his convictions for two counts of first-degree murder and sentence of natural life imprisonment. He argues he received ineffective assistance of counsel where counsel raised a baseless defense that the inaudible nature of defendant's recorded statement rendered it insufficient to prove defendant's guilt. He also argued that counsel was ineffective for failing to redact irrelevant and prejudicial portions of his statement that were improperly admitted as other-crimes evidence. Alternatively, he argued that the cumulative effect of counsel's errors requires reversal of his convictions. Landerman also argued that the statute mandating that he received a sentence of natural life imprisonment was unconstitutional as applied to him because the court was without discretion to impose a lesser sentence based on his youth and potential for rehabilitation. Alternatively, he argues his counsel was ineffective for failing to challenge the constitutionality of his sentence. Defendant also argues that the court failed to properly admonish him pursuant to Illinois Supreme Court Rule 605(a) (Oct. 1, 2001).

FINDING #1: This record was not sufficiently developed for the Appellate Court to address the defendant's as-applied constitutional claim, in which he argued that the sentencing statute mandating natural life imprisonment violated the Eighth Amendment and the proportionate penalties clause of Illinois Constitution as applied to the defendant because it did not allow the court to consider his youth, social or mental health history, or rehabilitative potential. **WHY:** *The record contained only basic information about the defendant; the information primarily came from a presentence investigation report (PSI); and there was no sworn testimony or factual findings regarding the defendant's history of mental illness, his susceptibility to peer pressure, or evidence on the science of juvenile maturity or brain development. U.S. Const. Amend. 8; Ill. Const. art. 1, § 11; 730 Ill. Comp. Stat. Ann. 5/5-8-1(c)(ii).*

FINDING #1: The defendant's argument that his counsel was ineffective for failing to raise an as-applied constitutional challenge and failing to present evidence in support of the claim was premature, though the defendant argued that the sentencing statute mandating natural life imprisonment violated the Eighth Amendment and the proportionate penalties clause of Illinois Constitution as applied to him because it did not allow the court to consider his youth, social or mental health history, or rehabilitative potential. **WHY:** *The record did not disclose what applicable evidence the defense counsel could have presented on juvenile maturity and brain development, and this argument was better suited to postconviction proceedings, where the defendant could present evidence he believed his counsel should have offered.*

9. People v. Rodney Lee, 2018 IL APP (1st) 152522, (1st Dist., November 30, 2018) Failure to Register as a Sex Offender - - Affirmed.

ISSUE: CONSTITUTIONALITY OF STATUTE (SORA): Was the SORA unconstitutional on its face and as applied to this defendant? (No).

FACTS: Lee was convicted of violating the Sex Offender Registration Act (SORA) (730 ILCS 150/1 et seq.) for his failure to register as a sex offender and was sentenced to four years' imprisonment. On appeal, he contended that SORA's statutory scheme violates federal and Illinois constitutions' due process

rights by infringing on registrants' fundamental liberty interests where it places upon them severe restrictions, intrusive monitoring and burdensome registration requirements without providing substantive or procedural due process.

FINDING #1: The reporting requirements and restrictions of the Sex Offender Registration Act (SORA) did not impact the fundamental rights of this defendant, who was a convicted sex offender, and thus the Appellate Court would apply the rational basis test, rather than strict scrutiny, in assessing the defendant's due process challenge to the constitutionality of SORA, although the burdens and restrictions of SORA would significantly impact a registered sex offender's life. **WHY:** The defendant did not have a fundamental right affected by the statute's prohibition on the defendant changing his name or the requirement for license renewal, and there was no fundamental right relating to the statute's prohibition on where the defendant could work, live, or be present. U.S. Const. Amends. 5, 14; Ill. Const. art. 1, § 2; 730 Ill. Comp. Stat. Ann. 150/1 et seq. **FINDING #2:** The statutory scheme of the Sex Offender Registration Act (SORA) did not violate the substantive due process rights of this defendant, who was a convicted sex offender, even though not every offender was necessarily inclined to commit another sex offense, and even though SORA may not have been perfect in its execution. **WHY:** Subjecting convicted sex offenders as a whole to certain restrictions served a legitimate state interest of protecting the public from sex offenders and the restrictions were rationally related to that interest. **FINDING #3:** The statutory scheme of the Sex Offender Registration Act (SORA) did not violate the procedural due process rights of the defendant and thus the additional procedures that would allow sex offenders to demonstrate that they were not likely to reoffend were not necessary to satisfy due process. **WHY:** The civil registration requirements of SORA were based entirely on the convicted offense, which provided the defendant with a procedurally safeguarded opportunity to contest, and the defendant's likelihood of recidivism was not relevant to determine whether he committed the charged offense.

10. People v. Travis D. Rhoades, 2018 IL App. (4th) 160457, (4th Dist., November 27, 2018)
Predatory Criminal Sexual Assault and Aggravated Criminal Sexual Abuse - - Affirmed.

ISSUE: CONSTITUTIONALITY OF STATUTE (Sentences): Was the mandatory life sentence received by this defendant unconstitutional? (No).

FACTS: The trial court convicted Rhoades of predatory criminal sexual assault (720 ILCS 5/11-1.40(a)(1) and aggravated criminal sexual abuse (720 ILCS 5/11-1.60(d) after a bench trial and sentenced him to a mandatory term of natural life in prison for predatory criminal sexual assault pursuant to section 11-1.40(b)(2) and a consecutive term of 12 years in prison for aggravated criminal sexual abuse. He appealed, arguing section 11-1.40(b)(2) of the Criminal Code was facially unconstitutional because it mandates a life sentence—the harshest sentence allowed under Illinois law. Rhoades argued this violates “the principle of proportionality and the Eighth Amendment's ban on cruel and unusual punishment.”

FINDING: The defendant's sentence to a mandatory term of natural life in prison for predatory criminal sexual assault did not violate the proportionate penalties clause of the Illinois constitution or the Eighth Amendment's ban on cruel and unusual punishment, though the criminal sexual assault sentencing statute mandated a natural life sentence and a natural life sentence was the harshest sentence allowed under Illinois law. **WHY:** The sentence did not lead to the inference of disproportionality based on the crime for which the defendant was convicted; the Eighth Amendment did not require an individualized determination of appropriateness before the imposition of a mandatory life sentence; and the legislature's decision to abolish the death penalty in murder cases yet leave in place the mandatory life sentence for sexual predators did not offend societal standards of decency. U.S. Const. Amend. 8; Ill. Const. art. 1, § 11; 720 Ill. Comp. Stat. Ann. 5/11-1.40(b)(2).

11. People v. Victor Denis, 2018 IL APP (1st) 151892, (1st Dist., November 19, 2018) Predatory Criminal Sexual Assault of a Crile, Aggravated Criminal Sexual Assault; Aggravated Criminal Sexual Abuse - - Affirmed.

ISSUES: 1) **REASONABLE DOUBT (Various Sex Offenses):** Did the People present sufficient evidence to support this defendant's various sex offenses convictions? **(Yes);** 2) **CONSTITUTIONALITY OF STATUTE (SORA):** Was the SORA unconstitutional on its face and as applied to this defendant? **(No).**

FACTS: Denis was convicted of criminal sexual assault and aggravated criminal sexual abuse and was sentenced to three and five-year terms of imprisonment, respectively, and required to register as a sex offender for the remainder of his natural life under the Sex Offender Registration Act (SORA). He appealed.

FINDING #1: The evidence in this case, particularly the defendant's written confession and the victim's positive and credible testimony that when the victim was seven-years-old and the defendant was 17-years-old he placed her hands on his penis, was sufficient to convict the defendant of aggravated criminal sexual abuse. **FINDING #2:** There was sufficient evidence that the defendant knew the seven-year-old victim was unable to understand the nature of his sexual act and unable to give knowing consent to it to support his conviction of criminal sexual assault. **WHY:** *The defendant was the victim's cousin, spent the night at her house, saw her every week, was charged with the responsibility of watching over her while her mother was away or at work, and watched her grow up.* **FINDING #3:** The evidence, particularly defendant's confession to having put his penis inside seven-year-old victim's vagina and the victim's positive and credible testimony to the same, was sufficient to convict the defendant of aggravated criminal sexual assault. **FINDING #4:** The Sex Offender Registration Act (SORA) and separate statutes prohibiting a sex offender's right to change his or her name, his right to drive or possess a driver's license, or to be physically present or loiter near school property or public parks were rationally related to the legitimate state interest of protecting the public from sex offenders, and therefore did not violate substantive due process.

12. People v. Claude Crowder, 2018 IL APP (1st) 161226, (1st Dist., November 13, 2018) AAUW - - Reversed.

ISSUES: 1) **REASONABLE DOUBT (AAUW):** Did the People present sufficient evidence to support this defendant's convictions for both Aggravated Unlawful Use of a Firearm after the defendant drew his father's firearm to defend himself and his father? **(No).**

FACTS: Crowder was convicted of aggravated unlawful use of a weapon (AUUW) after a bench trial and was sentenced to one year of imprisonment. His felony conviction was based on his brief possession of a handgun legally possessed by his father, Sammie, during an altercation started by others. On appeal, Crowder argued the Court should reverse his conviction because his possession of the handgun was necessary for him to defend himself and his father after three men—one of whom appeared to be reaching for a "bulge" that Crowder believed was a weapon—attacked them without provocation.

FINDING #1: This evidence did not support the trial court's finding that the People carried their burden of negating the defendant's theory of self-defense in this prosecution for the unlawful use of a weapon (AUUW) after the defendant took possession of his father's handgun during an altercation. **WHY:** *The evidence was presented that three men accosted the defendant and his father and threatened to use force by yelling and threatening to shoot both the defendant and his father; it was undisputed that the defendant had come to the house where the incident occurred to pick up his daughter and his clothes, and not to pick a fight, and that the defendant and his father were attacked without provocation, all of which occurred before the defendant reached for his father's handgun.* 720 Ill. Comp. Stat. Ann. 5/7-1, 5/24-1.6(a)(1), 5/24-1.6(a)(1), (a)(3)(C); (a)(2). **FINDING #1:** The evidence did not support the trial court's

finding that People carried their burden of negating the defendant's theory of defense of necessity. **WHY:** The defendant and his father were involved in an unprovoked altercation with three men, and regardless of whether the men who had attacked him had a gun, the defendant had a legitimate fear of injury to himself and further injury to his father, who was already immobilized with injuries; and the defendant's conduct after leaving the altercation, manually unloading the handgun and identifying the ejected bullets for the police, revealed that the defendant attempted to minimize or eliminate any harm resulting from his continued possession of the weapon. 720 Ill. Comp. Stat. Ann. 5/7-13.; 720 Ill. Comp. Stat. Ann. 5/24-1.6(a)(1), 5/24-1.6(a)(1), (a)(3)(C); (a)(2).

13. People v. Edward R. Cetwinski, 2018 IL App (3rd) 160174, (3rd Dist., October 26, 2018) Criminal Sexual Assault and Aggravated Criminal Sexual Abuse - - Affirmed.

ISSUE: CONSTITUTIONALITY OF STATUTE (Sentences): Did the sentencing scheme created for sex offenses violate this defendant's constitutional rights? **(No).**

FACTS: Cetwinski, appealed following his conviction for criminal sexual assault and aggravated criminal sexual abuse. He argued that certain comments from the trial court made during jury instructions served to hasten the jury's verdict. He also argued that the Illinois statutory scheme of lifetime penalties to which convicted sex offenders are subjected is unconstitutional as applied to him.

FINDING: The defendant's sentence to a term of six years' imprisonment for criminal sexual assault and four years' probation for aggravated criminal sexual abuse was not grossly disproportionate to the crime, so as to violate the Eighth Amendment's prohibition against cruel and unusual punishment or the Proportionate Penalties Clause under the Illinois Constitution. **WHY:** This defendant, a coach at a high school, sexually assaulted a student who was on the team the defendant coached; the offense was among the most serious sex offenses that can be committed in Illinois; and many lesser offenses were subject to that same scheme under which the defendant was sentenced. U.S. Const. Amend. 8; Ill. Const. art. 1, § 11; 720 Ill. Comp. Stat. Ann. 5/11-1.30; 720 ILCS 5/1213(a)(4), (b)(1); 730 Ill. Comp. Stat. Ann. 150/2(E)(7).

14. People v. David Williams, 2018 IL App (2nd) 160683, (2nd Dist., October 23, 2018) DUI; Possession of Drug Paraphernalia; Disobeying a Traffic Control Device - - Affirmed.

ISSUE: REASONABLE DOUBT (DUI): Did the People present sufficient evidence to support this defendant's DUI conviction? **(Yes).**

FACTS: Following a jury trial in the circuit court of Kane County, defendant, David R. Williams, was found guilty of driving under the influence of alcohol (DUI) (625 ILCS 5/11-501(a)(2)), possession of drug paraphernalia (720 ILCS 600/3.5(a)) and disobeying a traffic control device (625 ILCS 5/11-305(a)). Defendant argues on appeal that the trial court erred in denying his pretrial motion to quash his arrest and suppress evidence discovered during a search incident to his arrest. Defendant further argues that the State failed to prove beyond a reasonable doubt that he was guilty of DUI.

FINDING: The evidence in this case was sufficient to support the defendant's conviction for driving under the influence of alcohol (DUI). **WHY:** Although the defendant asserted that his impairment was explained by the fact that he was exhausted after a long workday and his evening activities, and that he was able to drive his car through the intersection without weaving or jerking, he activated his turn signal, he properly pulled into a parking space, he exited his vehicle without hesitation and without stumbling or falling, and he was able to communicate with police officers, the arresting officers testified that the defendant improperly proceeded straight through an intersection when the green left-turn arrow came on, he smelled of alcohol, he had slurred speech and bloodshot eyes, and that he admitted that he consumed

several beers that evening; and their testimony was partly corroborated by the video recordings from their squad car cameras.

15. People v. Justin E. Cavette, 2018 IL App (4th) 150910, (4th Dist., October 23, 2018) Armed Habitual Criminal and Unlawful Possession of Cannabis - - Reversed and Remanded.

ISSUE: REASONABLE DOUBT (Armed Habitual Criminal): Did the People provide sufficient evidence to support this defendant's Armed Habitual Criminal conviction where one of his prior convictions was void? **(No)**.

FACTS: A jury found defendant Cavette guilty of being an Armed Habitual Criminal (720 ILCS 5/24-1.7(a)(1)) and unlawful possession of cannabis (720 ILCS 550/4(c)). He appealed both his convictions and his sentence.

FINDING: The defendant's vacated conviction for aggravated unlawful use of a weapon (AUUW) was not a predicate felony conviction for being an armed habitual criminal, in this prosecution of the defendant for being an armed habitual criminal, and a cannabis offense. **WHY:** The statutory sections on which the AUUW conviction was based had been declared unconstitutional, and void ab initio. 720 Ill. Comp. Stat. Ann. 5/24-1.6(a)(1), 5/24-1.6(a)(3)(A), 5/24-1.7(a)(1).

16. People v. Randell L. Owens, 2018 IL App. (4th) 170506, (4th Dist., October 23, 2018) Failure to Register as a Sex Offender - - Affirmed.

ISSUE: CONSTITUTIONALITY OF STATUTE (Mandatory Presumption): Did the Sex Offender Registration Statute create an unconstitutional mandatory presumption? **(No)**.

FACTS: Owens was charged with failure to register as a sex offender under the Sex Offender Registration Act (Act). 730 ILCS 150/3(a). Owens filed a *pro se* motion to dismiss, arguing that the double jeopardy clause and the due process clause barred this prosecution. The trial court denied his motion. He appealed, arguing (1) the Act subjected him to double jeopardy, (2) collateral estoppel bared the People's prosecution for his failure to register as a sex offender, and (3) the Act creates an unconstitutional mandatory presumption.

FINDING: The statute governing the duty to register as a sex offender contained no provision that permitted or required the trier of fact to assume the existence of any ultimate fact, and, therefore, there was no presumption in the statute. 730 Ill. Comp. Stat. Ann. 150/3.

17. People v. Darien Harris, 2018 IL 121932, (Ill. Sup. Ct., October 18, 2018) First-Degree Murder - - Affirmed.

ISSUE: REASONABLE DOUBT: (First-Degree Murder): Did the People present sufficient evidence to support a jury's determination that the defendant was guilty of first-degree murder? **(Yes)**.

FACTS: Harris was convicted of first-degree murder (720 ILCS 5/9-1(a)(1), attempted first degree murder (720 ILCS 5/8-4(a), 9-1), and aggravated battery with a firearm (720 ILCS 5/12-4.2(a)(1)) and sentenced to a mandatory minimum aggregate term of 76 years' imprisonment. He was 18 years, 3 months of age at the time of the offenses. The appellate court vacated defendant's sentences and remanded for resentencing, holding that, as applied to his circumstances, the aggregate prison term violates the proportionate penalties clause of the Illinois Constitution.

FINDING: This evidence was sufficient to support the defendant's conviction for first-degree murder. **WHY:** *The driver testified that he dropped the defendant off at a gas station, shots were fired at the gas station and the victim ran; the victim was found nearby and had died from multiple gunshot wounds; three witnesses placed the defendant at the gas station, two witnesses positively identified the defendant as the shooter, and the gas station surveillance video substantially corroborated the testimony of the witnesses.*

18. People v. De Forrest Newton, 2018 IL 122958, (Ill. Sup. Ct., October 18, 2018) Delivery of a Controlled Substance - - Affirmed.

ISSUE: REASONABLE DOUBT: (Delivery of a Controlled Substance): Did the People present sufficient evidence to support a jury's determination that the defendant delivered contraband within 1,000 feet of a church? **(Yes).**

FACTS: Following a jury trial, Newton was convicted of unlawful delivery of a controlled substance within 1000 feet of a church in violation of the Illinois Controlled Substances Act. See 720 ILCS 570/401(d)(i), 407(b)(2). On appeal, he argued, *inter alia*, that he was not proven guilty beyond a reasonable doubt because the People failed to offer sufficient evidence to establish that the building was operating as a church used primarily for religious worship. The appellate court affirmed. Newton brought this appeal before the Supreme Court.

FINDING #1: The People were not required to prove that the enhancing locality was a church used primarily for religious worship in order for the penalty for the delivery of a controlled substance to be enhanced under the statute providing for enhancement when a delivery occurs within a certain proximity to a church or place used primarily for religious worship. **WHY:** *A church was, by definition, already recognized in its ordinary and popular meaning as a place primarily used for religious worship, and trier of fact was permitted to make reasonable inferences that flowed from facts presented and apply his or her common knowledge regarding a church to find that it was what it purported to be. 720 Ill. Comp. Stat. Ann. 570/401(d)(i), 570/407(b)(2).* **FINDING #2:** The evidence in this case was sufficient to show that the location of the offense was a church and that it was functioning as it purported to be at the time of the offense, as required to support the defendant's conviction for the delivery of a controlled substance within 1,000 feet of a church. **WHY:** *The detective who had personal knowledge and familiarity with the area in which the offense occurred testified that the real property at issue operated as a church; the evidence showed that there was signage with the name of a church, as well as a cross and goblet, and that the lantern by the front doors of the building was lit, the grass had been mowed, and cars were seen coming and going from the parking lot. 720 Ill. Comp. Stat. Ann. 570/401(d)(i), 570/407(b)(2).*

19. People v. Xavier D. Crump, 2018 IL APP (3rd) 160124, (3rd Dist., October 17, 2018) DUI - - Affirmed.

ISSUE: REASONABLE DOUBT (DUI): Did the People provide sufficient evidence to support this defendant's DUI conviction? **(Yes).**

FACTS: Crump appealed his conviction for driving with an alcohol concentration of 0.08 or higher (625 ILCS 5/11-501(a)(1)). He argued that the trial court erred in admitting the results of his Breathalyzer test because (1) the People failed to lay the proper foundation to admit certain exhibits as business records and (2) regardless of whether the records were properly admitted, they were insufficient to certify the proper functioning of the Breathalyzer test.

FINDING #1: The electronic certification documents, proffered by the People along with the results of the breath test, were admissible as self-authenticated business records, in this prosecution of the defendant for DUI, and related offenses. **WHY:** *The documents contained the official seal of the state police; the*

documents were signed by the “keeper of records” of the Alcohol and Substance Testing Section of the Illinois State Police Academy; and the letter stated that the accuracy checks on the breath test machine were made at or near the time of the defendant's breath test, the accuracy checks were kept in the course of a regularly conducted activity, and the accuracy checks were part of the regular business practice.

FINDING #2: The defendant waived his right to challenge the admission of the logbook and the result of his breath test in his reply brief, based on the absence of certain information from the electronic certification documents, on his appeal from his conviction for DUI, and related offenses. **WHY:** The defendant did not raise such challenges in his initial brief on appeal, and he failed to elaborate on his argument that the absence of such information rendered the documents untrustworthy. **FINDING #1:** The People's exhibits demonstrated that the breath test machine used on the defendant was approved by the Department of Health, tested regularly for accuracy, and was working properly, and thus the results of the defendant's test were admissible, in this prosecution of the defendant for driving with an alcohol concentration of 0.08 or more, and related offenses. **WHY:** The accuracy check documentation the People attached to the verified certification letter provided a notation indicating the machine's passage of a scheduled certification test, prior to the defendant's breath test, for a “dry gas target” of .079, and another notation indicating the machine's passage the following month of test for a dry gas target of .080; and the trooper certified the breath test machine as accurate in the logbook in the month after the defendant's test.

20. People v. Gregory Reed, 2018 IL APP (1st) 160609, (1st Dist., October 12, 2018) Attempted Murder, Aggravated Battery; Aggravated Discharge of a Firearm - - Affirmed in Part; Vacated in Part; Case Remanded with Directions.

ISSUES: 1) **REASONABLE DOUBT (Various Charges):** Did the People present sufficient evidence to support this defendant's various convictions? **(Yes);** 2) **OFFENSES (One Act – One Crime):** Could the defendant properly have been convicted of multiple offenses involving the same conduct? **(No).**

FACTS: Reed was arrested on suspicion of attempted murder, aggravated battery, and aggravated discharge of a firearm after an individual fired several shots at a group standing outside a nightclub on Chicago's south side. He proceeded to a bench trial. After trial, the court entered a finding of guilty on 14 of the 16 charges. Reed filed a motion for new trial, which the trial court denied. The trial court then sentenced him as follows: 40 years on the attempted murder counts, 30 years on the attempted murder counts (personal discharge of a firearm), 50 years on the attempted murder counts (great bodily harm/permanent disfigurement), 30 years on the aggravated battery count, and 15 years on the aggravated discharge of a firearm counts. The trial court denied the motion to reconsider sentence. Reed raised several issues on appeal. He argued (1) the evidence was insufficient to prove him guilty of attempted murder, (2) the People failed to prove one of the victims was present when the shooting occurred, (3) the People failed to prove another victim suffered great bodily harm or permanent disfigurement, (4) the trial court failed to address his ineffective assistance of counsel claim pursuant to *People v. Krankel*, 102 Ill. 2d 181, 80 Ill. Dec. 62, 464 N.E.2d 1045 (1984), (5) the trial court improperly considered elements of his crime as aggravating factors during sentencing, (6) his sentences were excessive in light of the mitigating factors, and (7) several of his convictions must be vacated under the one-act, one-crime rule.

FINDING #1: The evidence in this case was sufficient to find the defendant possessed the requisite criminal intent to commit attempted murder. **WHY:** Two witnesses testified that the defendant fired at them, and the logical inference from the victim's gunshot injury was that the defendant was aiming for the victim, and not that the injury occurred accidentally. **FINDING #2:** This evidence was sufficient to find that the victim was present at the scene of the shooting that was the subject of this prosecution for attempted murder, and thus was a victim of the shooting. **WHY:** The witness stated that the victim was one of the individuals standing with him near the car when the shooting occurred, and the victim was a part of the group standing near the car; although the second victim did not identify the victim as being present, he was not specifically asked; and the court found second victim's version corroborated the witnesses' accounts as to the location and sequence of the events. **FINDING #3:** This evidence was

sufficient to find that the victim suffered great bodily harm or permanent disfigurement, as an element of the attempted murder. **WHY:** *The victim testified that he suffered a gunshot wound to his finger and the right side of his body, and a bullet remained in his body.* **FINDING #4:** The Appellate Court would vacate the defendant's conviction for attempted murder while armed with a firearm. **WHY:** *The defendant was convicted of attempted murder, and personally discharging a firearm, which were more serious offenses, for the same act.*

21. People v. Lavail W. Dunbar, 2018 IL APP (3rd) 150674, (1st Dist., October 12, 2018) First-Degree Murder and Aggravated Battery of a Child - - Affirmed.

ISSUE: REASONABLE DOUBT (First-Degree Murder): Did the People present sufficient evidence to support this defendant's murder conviction? (Yes).

FACTS: *After a jury trial, Dunbar was found guilty of first-degree murder (720 ILCS 5/9-1(a)(2)) and aggravated battery of a child (720 ILCS 5/12-3.05(b)(1)). He was sentenced on the first degree murder charge only and was sentenced to 30 years in prison and appealed, arguing that (1) he was not proven guilty of either offense beyond a reasonable doubt, (2) the trial court failed to comply with Illinois Supreme Court Rule 431(b) (eff. July 1, 2012) when it questioned potential jurors during voir dire, (3) his trial counsel was ineffective for failing to move to redact certain portions of the video recording of his police interview, and (4) the trial court erred in admitting certain hearsay statements of his girlfriend (the victim's mother) under the medical treatment exception to the hearsay rule and in instructing the jury that it could consider those statements as substantive evidence.*

FINDING: The People's evidence was more than sufficient to establish the defendant's guilt for first degree murder and/or aggravated battery of a child, based on either one of the two alternative theories of guilt (defendant acting either as the principal or as an accomplice), depending upon each individual juror's interpretation of the evidence, since unanimity of the jury was not required concerning the alternate ways in which a crime could be committed. **WHY:** *The emergency room staff documented fissures and redness around the baby's anus that the doctor did not observe three days earlier; the defendant was the last person to change the baby's diaper before he stopped breathing; the baby sustained great bodily harm from multiple blows; the defendant was the only person present in the apartment with the mother and her baby; the mother was petite and weighed 114 pounds and the defendant was 5 feet, 10 inches tall and considerably heavier than the mother; and the mother was the person who discovered the baby was unresponsive and not breathing and called 911.*

22. People v. Aden D. Khan, 2018 IL App (2nd) 160724, (2nd Dist., October 11, 2018) Disorder Conduct - - Affirmed.

ISSUES: 1) CONSTITUTIONALITY OF STATUTE (Disorderly Conduct): Was the offense of the Disorderly Conduct unconstitutional? (No); **2) REASONABLE DOUBT (Disorderly Conduct):** Did the People present sufficient evidence to support this defendant's Disorderly Conduct conviction? (Yes).

FACTS: *After a jury trial, Khan was convicted of committing disorderly conduct by making a threat of violence against persons at a school (720 ILCS 5/26-1(a)(3.5)) and sentenced to 30 months' probation. On appeal, he contends that (1) the disorderly conduct statute is unconstitutional and (2) he was not proved guilty beyond a reasonable doubt.*

FINDING #1: The school-threat provision of the disorderly conduct statute may be applied to the knowing communication of a message if the defendant knows that a reasonable speaker would foresee the message as communicating, to a reasonable recipient, a serious intent to commit harm. **WHY:** *The provision includes a mental-state requirement that is consistent with the First Amendment, and while the intent to threaten is not essential, the knowledge that the communication is a true threat is sufficient. U.S.*

Const. Amend. 1; 720 Ill. Comp. Stat. Ann. 5/26-1(a) (3.5). **FINDING #2:** For purposes of the crime of disorderly conduct by making a threat of violence against persons at a school, if the defendant does not know that he is transmitting a true threat, which is unprotected by the First Amendment, he is not guilty. **WHY:** *A defendant need not know that his message is unprotected by the First Amendment and need realize only that it is of a certain character, and knowledge of the First Amendment is not an element, and ignorance of the First Amendment is not a defense. U.S. Const. Amend. 1; 720 Ill. Comp. Stat. Ann. 5/26-1(a) (3.5).* **FINDING #3:** There was sufficient evidence that the defendant knew the message he posted on a social networking website, which stated that “I bring a gun to school every day. Someday someone is going to p*** me off and end up in a bag,” was a serious expression of an intent to do harm, as required to support his conviction for disorderly conduct by making a threat of violence against persons at a school; **WHY:** *This anonymous message conveyed the reasonable impression that the sender was a student at the school. 720 Ill. Comp. Stat. Ann. 5/26-1(a) (3.5).*

23. People v. Jermon Little, 2018 IL APP (1st) 151954, (1st Dist., September 28, 2018) Aggravated Battery of a Peace Officer and Criminal Damage to Government Supported Property - - Affirmed.

ISSUE: REASONABLE DOUBT (Aggravated Battery and Criminal Damage): Did the People present sufficient evidence to support this defendant’s convictions for both Aggravated Battery and Criminal Damage? **(Yes).**

FACTS: Little was convicted after a bench trial of aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4)) and criminal damage to government-supported property (*id.* § 21-1.01). On appeal, he challenged the sufficiency of the evidence to sustain these convictions. And he contended that the trial court’s premature finding of guilt, announced before his counsel was permitted to argue the case, denied him his constitutional right to make a closing argument.

FINDING #1: Even if the police officers did not accurately testify about the time the alleged events occurred, this evidence was sufficient to prove that the defendant hit the police officers, as an element of aggravated battery of a peace officer. **WHY:** *The police chief testified that the defendant grabbed his arm, and a police officer testified that the defendant kicked and punched him; and photographic evidence did not refute the officers’ account of the incident. 720 Ill. Comp. Stat. Ann. 5/12-3.05(d)(4).* **FINDING #2:** This evidence was sufficient to find that the defendant damaged a squad car, as an element of criminal damage to government-supported property. **WHY:** *The police officer testified that the defendant kicked out the rear passenger-side window of his squad car while en route to the police station; the police chief did not see this alleged incident, but testified that when he saw the squad car at the station, one of the rear windows was broken, and the window frame was bent; and when he had seen the squad car earlier that evening, before the incident, the window and frame were intact. 720 Ill. Comp. Stat. Ann. 5/21-1.01(a)(1), 5/21-1.01(b).*

24. People v. Juis A. Camacho, 2018 IL APP (2nd) 160350, (2nd Dist., September 28, 2018) Domestic Battery - - Affirmed.

ISSUE: REASONABLE DOUBT (Domestic Battery): Did the People fail to present enough evidence to support this defendant’s conviction for Domestic Battery? **(No).**

FACTS: Following a jury trial, Camacho was convicted of domestic battery based on insulting or provoking physical contact (720 ILCS 5/12-3.2(a)(2)). He raised three issues in his direct appeal. The first was whether the People proved all elements of the crime beyond a reasonable doubt, when none of its witnesses were present during the alleged incident and defendant testified to an alternate version of events. The second is whether the trial court erred in admitting the recording of a 911 telephone call, when the People did not present a witness who could identify the caller’s voice. Thirdly, Camacho

contended that comments by the prosecutor during closing argument constitute plain error that excuses his forfeiture of the issue and warranted reversal.

FINDING: Sufficient evidence supported this defendant's conviction for domestic battery based on insulting or provoking physical contact, though the defendant was the only eyewitness who testified at trial. **WHY:** The jury heard evidence from the victim on a 911 recording, and law enforcement officers testified that the defendant admitted to grabbing the victim's arm in anger, putting his hands around her throat, and pushing her against a wall. 720 Ill. Comp. Stat. Ann. 5/12-3.2(a)(2).

25. People v. Joseph Goodwin, 2018 IL App (1st) 152045, (1st Dist., September 21, 2018)
Threatening a Public Official and Unlawful Restraint - - Reversed and Remanded with Directions.

ISSUE: REASONABLE DOUBT (Threatening a Public Official): Did the People present sufficient evidence to support this defendant's conviction for Threatening a Public Official? **(No).**

FACTS: Goodwin was charged with threatening a public official, intimidation, and unlawful restraint after he yelled obscenities at an assistant state's attorney and followed her down the hall of the courthouse to her office. After a jury trial, defendant was convicted of threatening a public official and unlawful restraint. He was ultimately sentenced to two and a half years' imprisonment. Goodwin appeals, arguing that (1) the People failed to prove him guilty of threatening a public official beyond a reasonable doubt because there was no evidence that he threatened the victim, (2) in the alternative, he was deprived of a fair trial due to ineffective assistance of counsel, (3) the threatening a public official statute is unconstitutional, and (4) the People failed to prove him guilty of unlawful restraint beyond a reasonable doubt.

FINDING: The evidence presented by the People was not sufficient to prove that the defendant meant for his communications and expressions to a State's attorney to convey a serious intent to carry out an unlawful act of violence, as required to sustain his conviction for threatening a public official, brought after the defendant yelled obscenities at the State's attorney and followed her to her office. **WHY:** The defendant did not make any verbal threats to the attorney, but only used offensive language in a loud voice, which did not create a reasonable inference that he intended to use violence. 720 Ill. Comp. Stat. Ann. 5/12-9.

26. People v. DeAnthony Pearson, 2018 IL APP (1st) 142819, (1st Dist., September 21, 2018)
Attempted First-Degree Murder and Attempted Armed Robbery - - Affirmed.

ISSUE: REASONABLE DOUBT (Attempted First-Degree Murder): Did the People fail to prove that he intended to kill his victim? **(No).**

FACTS: Pearson appealed his conviction after a jury trial of attempted first degree murder and attempted armed robbery and his sentence to consecutive terms of 45 years' and 5 years' imprisonment. On appeal, he contended (1) he is entitled to a new trial where the People's expert witness stated that the fingerprint identification results were verified by a non-testifying examiner, which constitutes inadmissible hearsay; (2) his conviction for attempted first degree murder should be reduced to aggravated battery with a firearm where the People failed to prove beyond a reasonable doubt that he had an intent to kill; and (3) a new sentencing hearing is required where his aggregate sentence of 50 years' imprisonment amounts to a *de facto* life sentence without consideration of the unique characteristics of his youth and violates the eighth amendment and the proportionate penalties clause of the Illinois Constitution.

FINDING: This evidence was sufficient to find that the defendant intended to kill the victim, as an element of attempted first-degree murder. **WHY:** The People presented evidence that the victim was working behind the glass window when the co-defendant entered the store and purchased a cigarette; and

when the victim opened the glass window to light the co-defendant's cigarette, the defendant entered the store, pointed a gun at the victim, put his hand on the window so the victim could not close it, struggled with the victim and then fired his gun at the victim from one to one and a half feet away, striking the victim in the chest.

27. People v. Jennifer N. Nere, 2018 IL 122566, (Ill. Sup. Ct., September 20, 2018) Drug-Induced Homicide - - Affirmed.

ISSUE: REASONABLE DOUBT (Drug Induced Homicide): Did the People provide sufficient evidence to support this defendant's Drug Induced Homicide conviction? **(Yes).**

FACTS: A jury convicted Nere of drug-induced homicide (720 ILCS 5/9-3.3(a)). She appealed, arguing, inter alia, that (1) the trial court erred in refusing her proposed jury instructions on causation and (2) she was not proved guilty beyond a reasonable doubt. The appellate court affirmed her conviction and sentence.

FINDING: The evidence in this case was sufficient to support a conviction for drug-induced homicide. **WHY:** There was expert testimony that the victim died from cocaine and heroin intoxication; the evidence established that the defendant delivered heroin to the victim on the day of the victim's death, and while there was conflicting evidence as to whether the victim had used heroin the day before her death, members of the victim's family testified that the victim was acting normally both on the evening prior to her death and on the day of her death prior to the defendant's arrival and drug delivery; and the presence of metabolite in the victim's blood established the recent use of heroin. 720 Ill. Comp. Stat. Ann. 5/9-3.3(a).

28. People v. Lamarr Maxey, 2018 IL APP (1st) 130698, (1st Dist., September 13, 2018) Residential Burglary and Aggravated Fleeing or Attempting to Elude a Police Officer - - Affirmed in Part; Reversed in Part; Fees and Fines Corrected.

ISSUE: REASONABLE DOUBT (Fleeing): Did the People present sufficient evidence to support the defendant's Fleeing conviction? **(No).**

FACTS: Maxey was found guilty of residential burglary and aggravated fleeing or attempting to elude a peace officer. The trial court subsequently sentenced defendant to concurrent terms of 20 years for the residential burglary conviction and 3 years for the aggravated fleeing conviction. He appealed, arguing that: (1) defendant's waiver of counsel was invalid because the trial court failed to properly admonish him pursuant to Illinois Supreme Court Rule 401(a) (eff. July 1, 1984); (2) during the suppression hearing, the trial court erred in allowing the People to question defendant on irrelevant matters and in excluding relevant evidence; (3) the trial court did not obtain a knowing and voluntary jury waiver; (4) the People failed to prove the charge of aggravated fleeing or attempting to elude a peace officer; and (5) the fines and fees order should be reduced by \$24 due to improperly imposed fines and full credit for time in custody awaiting trial.

FINDING: The evidence in this case failed to show that the officers who directed the defendant to stop were in uniform, thus warranting the reversal of the defendant's conviction for aggravated fleeing or attempting to elude a peace officer. **WHY:** The testimony from the detective conducting the traffic stop failed to mention what the officers were wearing at the time of the stop and according to the statute, the Officers were required to be in uniform. 625 Ill. Comp. Stat. Ann. 5/11-204(a).

29. People v. Aaron Jackson, 2018 IL APP (5th) 150274, (5th Dist., September 11, 2018) First-Degree Murder - - Affirmed.

ISSUE: REASONABLE DOUBT (First-Degree Murder): Did the People fail to present enough evidence to support this defendant's conviction for First-Degree Murder? (No);

FACTS: Jackson appealed his conviction for first degree murder and argued that the evidence was insufficient to prove him guilty beyond a reasonable doubt due to credibility problems with two witnesses and weaknesses in the forensic evidence. He also argued that he was prejudiced by the admission of portions of a letter written by one of the witnesses to the court and by remarks during closing arguments in which the prosecutor overstated the strength of the forensic evidence. He contended that he was denied a fair trial by the cumulative effect of these claimed errors. Finally, he argued that the court erred by allowing the People to present an argument at a preliminary inquiry into claims of ineffective assistance of counsel he raised in a posttrial letter and that the court abused its discretion in declining to appoint a new attorney to help him present these claims.

FINDING: Sufficient evidence supported this conviction for first degree murder. **WHY:** While one eyewitness acknowledged being under the influence of drugs at the time of the murder and another admitted to having memory problems, the jury was not required to disregard the witnesses' accounts due to minor inconsistencies; the defendant admitted to the police that he was at the scene and his girlfriend testified that he was out that night driving her car, which was same type of car the eyewitness saw the defendant use to leave scene; the DNA sample taken from a bloodstain on the defendant's jeans provided strong evidence connecting him to the crime, and, although a sample yielded a partial profile and could not be called a match, the analyst was able to determine that the profile occurred in only 1 in 46,000 unrelated African Americans, thereby making it likely, in his opinion, that the blood was the victim's.

For a complete analysis of recent Criminal Justice Case Law see our **CRIMINAL CASE LAW DIGEST** on our website at: www.ipsllonline.com



Illinois Prosecutor Services, LLC

Training Division – Website Section

Don Hays

630 Talley Street, Standard City, Illinois 62640

or

PO Box 722, Carlinville, Illinois 62626

Office Phone: (217) 854-8041 Fax: (217) 854-5343

Webpage: www.ipsllconline.com



The Illinois Prosecutor Services, LLC now offers Criminal Justice publication on our website. You can find it at www.ipsllconline.com.

Included on this Website is the following Publications:

- Law Enforcement Officers Training Case of the Week (Weekly)
- Recently Published Criminal Justice Opinions (Monthly)
- Criminal Case Law Digest (Monthly)
- Confessions and Admissions (Quarterly)
- Criminal Case Law (Quarterly)
- Criminal Justice Publication Digest (Quarterly)
- Chapter 720 - Criminal Offenses - As Of 1-1-15 (Quarterly)
- Criminal Trial Procedure and Sentencing (Quarterly)
- Evidence Case Law (Quarterly)
- Juvenile Justice Case Law (Quarterly)
- Law Enforcement Liability (Quarterly)
- Post-Conviction Petition Case Law (Quarterly)
- Search and Seizure (Quarterly)
- Sex Offenses and Offender (Quarterly)
- Unlawful Substances Case Law (Quarterly)
- Vehicle Code Case Law (Quarterly)
- Legislative Update (Annually)

NOTE: The single subscription fee is \$100.00 per subscriber. (If your office has a number of subscribers (more than 5) who would like access to our Site, please contact our office for group rate quote). Each subscriber will have his or her own User ID/Name and Password.

NOTE: All subscribers to our Website will automatically begin receiving Weekly Criminal Justice Publication via E-Mail at no extra charge.

Accompanying this letter is a subscription form. If you would like to become a member to the Illinois Prosecutor Services website, just fill out the form and email, fax or mail it back to us and we will bill you. Illinois Prosecutor Services Website goal is Keeping the Criminal Justice System Up-To-Date. We believe it to be a valuable asset that can be used to assist you in your law enforcement duties. We look forward to working with you in the future.

Thank you for your support,

Don Hays



Illinois Prosecutor Services, LLC

Training Division – Website Section

Don Hays

630 Talley Street, Standard City, Illinois 62640

or

PO Box 722, Carlinville, Illinois 62626

Office Phone: (217) 854-8041 Fax: (217) 854-5343

Webpage: www.ipsllconline.com



ILLINOIS PROSECUTOR SERVICES

Website Yearly Subscription Form

(PLEASE PRINT OR TYPE)

Name: _____

Agency: _____

Business Address: _____

Position: _____

Phone: _____

E-Mail Address: _____

Product Cost:

Website Access: \$100.00 X _____ (# of Subscribers) \$ _____

(Call me if your agency has 6 or more subscribers sign up, you can qualify for a group rate)

X _____ I AGREE TO THE TERMS AND CONDITIONS. (They are found on our Website)
(Check)

(Fee Payment – Check One):

____ Check Enclosed (Please make check payable to: Illinois Prosecutor Services, LLC.)

____ Please bill me via Mail.

____ Please bill me via E-Mail.

____ Payment via Credit Card.

RETURN BY FAX, MAIL or E-Mail TO:

ILLINOIS PROSECUTOR SERVICES, LLC.

P. O. Box 722, Carlinville, IL 62626

Phone: (217) 854-8041 Fax: (217) 854-5343

E-Mail: don@ipsllconline.com