



## TABLE OF CONTENTS

	Page(s)
NATURE OF THE ACTION .....	1
ISSUE PRESENTED FOR REVIEW .....	1
JURISDICTION .....	1
STATUTE INVOLVED .....	2
STATEMENT OF FACTS .....	3
<b>POINTS AND AUTHORITIES</b>	
STANDARDS OF REVIEW .....	5
<i>Burnette v. Terrell</i> , 232 Ill. 2d 522 (2009) .....	5
<i>People v. Fair</i> , 2024 IL 128373 .....	5
<i>People v. Sheehan</i> , 168 Ill. 2d 298 (1995) .....	5
ARGUMENT .....	5
<b>The Circuit Court Erred in Dismissing the Charges.</b> .....	5
<b>A. The Charges Properly Alleged that Defendant Committed Aggravated DUI when He Drove a Car while His License was Suspended.</b> .....	6
<i>People v. Hoffman</i> , 2025 IL 130344 .....	6
<i>People v. Simpson</i> , 2015 IL 116512 .....	6
<b>1. The plain text of § 11-501(d)(1)(H) elevates a DUI to aggravated DUI if the DUI is committed while a person’s driver’s license is suspended.</b> .....	6
<i>Chickasaw Nation v. United States</i> , 534 U.S. 84 (2001) .....	9
<i>Conn. Nat. Bank v. Germain</i> , 503 U.S. 249 (1992) .....	11
<i>Gruchow v. White</i> , 375 Ill. App. 3d 480 (4th Dist. 2007) .....	7

<i>In re Q.P.</i> , 2015 IL 118569.....	10
<i>Lamie v. U.S. Trustee</i> , 540 U.S. 526 (2004) .....	10, 11
<i>Marx v. Gen. Rev. Corp.</i> , 568 U.S. 371 (2013).....	10
<i>People v. Chavez</i> , 2025 IL App (1st) 221601 .....	11
<i>People v. Chenoweth</i> , 2015 IL 116898 .....	7
<i>People v. Delacruz</i> , 2022 IL App (2d) 210509-U.....	10
<i>People v. Odumuyiwa</i> , 188 Ill. App. 3d 40 (2d Dist. 1989) .....	7
<i>People v. Romanowski</i> , 2016 IL App (1st) 142360 .....	9
<i>People v. Rosenbalm</i> , 2011 IL App (2d) 100243.....	7, 8, 10
<i>People v. Sass</i> , 144 Ill. App. 3d 163 (4th Dist. 1986) .....	7
<i>People v. Simpson</i> , 2015 IL 116512.....	6, 7, 10
<i>Stanley v. City of Sanford, Fla.</i> , 606 U.S. ___, 145 S. Ct. 2058 (2025) .....	9
<i>Whitaker v. Wedbush Sec., Inc.</i> , 2020 IL 124792.....	11
625 ILCS 5/1-116.1.....	7
625 ILCS 5/1-138.....	7
625 ILCS 5/1-204.....	8
625 ILCS 5/6-209.....	9
625 ILCS 5/11-501(d)(1)(G).....	9, 10
<i>Black's Law Dictionary</i> (12th ed. 2024) .....	8
<i>Webster's Third New Int'l Dictionary</i> (2002).....	8
Antonin Scalia & Bryan A. Garner, <i>Reading Law: The Interpretation of Legal Texts</i> (2012) .....	10

2.	<b>Even if § 11-501(d)(1)(H)'s language were ambiguous, extrinsic tools of statutory construction confirm that it bars defendant's charged conduct.</b>	11
	<i>Chickasaw Nation v. United States</i> , 534 U.S. 84 (2001) .....	11
	<i>People v. Hoffman</i> , 2025 IL 130344.....	11
i.	<b>The legislative history confirms that the General Assembly intended § 11-501(d)(1)(H) to apply to defendant's charged conduct.</b> .....	12
	<i>People v. Gonzalez</i> , 388 Ill. App. 3d 1003 (3d Dist. 2009).....	12, 13
	<i>People v. Rosenbalm</i> , 2011 IL App (2d) 100243.....	12, 14
	625 ILCS 5/11-501(d)(1)(G).....	12
	625 ILCS 5/11-501(d)(1)(I) .....	13
	Pub. Act 90-738, § 5 (eff. Jan. 1, 1999).....	13
	Pub. Act 94-329, § 5 (eff. Jan. 1, 2006).....	12, 13
	Pub. Act 95-578, § 5 (eff. June 1, 2008).....	14
	Pub. Act 95-578, § 5 (eff. June 1, 2008).....	14
	94th Gen. Assem., House Proceedings, Mar. 10, 2005 .....	12
	94th Gen. Assem., Sen. Proceedings, May 18, 2005 .....	12
	95th Gen. Assem., Sen. Proceedings, May 10, 2007 .....	14
	Larry A. Davis, <i>Demystifying Illinois DUI Sentencing</i> , 97 Ill. B.J. 352 (2009) .....	13, 14
ii.	<b>Interpreting § 11-501(d)(1)(H) in accordance with its plain language avoids absurd results.</b> .....	14
	<i>People v. Hartema</i> , 2019 IL App (4th) 170021-U .....	15
	<i>People v. Hoffman</i> , 2025 IL 130344.....	15

<i>People v. Odumuyiwa</i> , 188 Ill. App. 3d 40 (2d Dist. 1989) .....	15, 16
<i>People v. Rosenbalm</i> , 2011 IL App (2d) 100243 .....	15
<i>State ex rel. Raoul v. Elite Staffing, Inc.</i> , 2024 IL 128763 .....	15
625 ILCS 5/6-101 .....	15
625 ILCS 5/6-303(a) .....	15
625 ILCS 5/6-606 .....	15
<b>B. If the Court Holds that Defendant Could Not be Charged under § 11-501(d)(1)(H), It Should Modify the Circuit Court’s Judgment to Dismiss the Charges without Prejudice.</b> .....	16
<i>People v. Sheehan</i> , 168 Ill. 2d 298 (1995) .....	16
725 ILCS 5/114-1 .....	16, 17
Ill. S. Ct. R. 615(b)(1) .....	17
<b>C. The Circuit Court Lacked Authority to Depart from <i>Rosenbalm</i>.</b> .....	17
<i>Cates v. Cates</i> , 156 Ill. 2d 76 (1993) .....	17, 18
<i>People v. Hartema</i> , 2019 IL App (4th) 170021-U .....	17, 18
<i>People v. Lighthart</i> , 2023 IL 128398 .....	17
<i>People v. Rosenbalm</i> , 2011 IL App (2d) 100243 .....	17
<i>People v. Rothe</i> , 2024 IL 129906 .....	18
<i>People v. Webb</i> , 2023 IL 128957 .....	17
<i>People v. Williams</i> , 204 Ill. 2d 191 (2003) .....	17, 18
Ill. S. Ct. R. 23(e)(1) .....	18
<b>CONCLUSION</b> .....	18

**CERTIFICATION**

**CERTIFICATE OF SERVICE**

**APPENDIX**

## NATURE OF THE ACTION

Defendant — whose license was suspended due to a financial responsibility insurance violation — was charged with two counts of aggravated driving under the influence of alcohol (DUI) under §§ 11-501(a)(1), 11-501(a)(2), and 11-501(d)(1)(H) of the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.* C23-24.<sup>2</sup> On defendant’s motion, the circuit court dismissed the charges — with prejudice — for failure to state criminal offenses. C31-38. The appellate court affirmed, A1, ¶ 1, and the People appeal from that judgment. An issue is raised as to the sufficiency of the charging instrument.

## ISSUE PRESENTED FOR REVIEW

Whether defendant was properly charged with aggravated DUI under § 11-501(d)(1)(H) when he allegedly committed a DUI while his license was suspended and, if not, whether the charges should have been dismissed without prejudice to refileing.

## JURISDICTION

On May 28, 2025, this Court allowed leave to appeal. Accordingly, the Court has jurisdiction under Supreme Court Rules 315(a), 602, and 612(b)(2).

---

<sup>2</sup> “C\_\_,” “R\_\_,” and “A\_\_” refer to the common law record, report of proceedings, and the appendix to this brief.

## STATUTE INVOLVED

**625 ILCS 5/11-501 (Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof).**

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood, other bodily substance, or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2; [or]

(2) under the influence of alcohol;

\* \* \*

(d) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof.

(1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

\* \* \*

(G) the person committed a violation of subsection (a) during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a) or a similar provision, Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012;

(H) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit[.]<sup>3</sup>

---

<sup>3</sup> The full text of the statute is reproduced in the appendix. *See* A14-19.

## STATEMENT OF FACTS

On December 21, 2020, defendant's license was suspended because he failed to comply with Illinois's financial responsibility insurance requirement. C20; 625 ILCS 5/7-211(b) (requiring uninsured motorists involved in a collision to maintain proof of financial responsibility for three years). *See generally Fin. Responsibility (SR-22) Ins., Driver Serv.*, Office of Ill. Sec'y of State, [https://www.ilsos.gov/departments/drivers/drivers\\_license/SR-22\\_uninsured\\_crashes/finressr22.html](https://www.ilsos.gov/departments/drivers/drivers_license/SR-22_uninsured_crashes/finressr22.html) (last visited Oct. 6, 2025) (explaining that "problem drivers" are required to obtain financial responsibility insurance). While his license was suspended for noncompliance with this requirement, on April 30, 2021, defendant allegedly drove under the influence of alcohol. C8-9, 23-24. He was later charged with two counts of aggravated DUI under 625 ILCS 5/11-501(d)(1)(H). C23-24. The charges alleged that defendant drove under the influence of alcohol while he "did not possess a driver's license, in that [his] license, while not expired, was suspended pursuant to a financial responsibility insurance suspension." *Id.*

Defendant moved to dismiss the charges for failure to state an offense pursuant to 725 ILCS 5/114-1(a)(8). C18-19. Citing *People v. Hartema*, 2019 IL App (4th) 170021-U, defendant argued that he did not fail to "possess' a driver's license" because his license had not expired and "an unexpired, suspended driver's license" does not support a charge under § 11-501(d)(1)(H). C25-27. The People responded that *People v. Rosenbalm*, 2011 IL App (2d)

100243, a published decision, controlled over the non-precedential order in *Hartema*. *Rosenbalm* had clarified that a person does not “possess a driver’s license” if the license is suspended because the phrase “possess a driver’s license” means having “permission from the state to drive” and not merely possessing the physical card. C20-22; R37-39. The parties stipulated that defendant’s license was not expired but was suspended for a financial responsibility insurance violation. R7, 38.

The circuit court granted defendant’s motion and dismissed the charges with prejudice. C37; R40. Agreeing with *Hartema*, the court determined that defendant “owned” a driver’s license on the date of the alleged offenses, so he did not fail to “possess a driver’s license” as required to state an offense under § 11-501(d)(1)(H). C31-38.

On the People’s appeal, the appellate court affirmed the circuit court’s judgment. A9, ¶ 24. The appellate court found that *Rosenbalm*’s interpretation of § 11-501(d)(1)(H) was both dicta and erroneous, and it agreed with the non-precedential decision in *Hartema*. A9, ¶ 22. It adopted *Hartema*’s reasoning that § 11-501(d)(1)(G) lists the types of suspensions that would aggravate a DUI charge, and thus reading § 11-501(d)(1)(H) as inclusive of *all* suspensions would render § 11-501(d)(1)(G) superfluous. *Id.* Therefore, the appellate court held that § 11-501(d)(1)(H) does not encompass license suspensions. *Id.*

## STANDARDS OF REVIEW

This Court reviews de novo whether, as a matter of statutory interpretation, § 11-501(d)(1)(H) applies to defendant's alleged conduct, *see People v. Fair*, 2024 IL 128373, ¶ 61, whether the circuit court erred in dismissing the charge, *People v. Sheehan*, 168 Ill. 2d 298, 303 (1995), and whether the circuit court lacked authority to depart from binding appellate precedent, *see Burnette v. Terrell*, 232 Ill. 2d 522, 532 (2009).

## ARGUMENT

### **The Circuit Court Erred in Dismissing the Charges.**

The People properly charged defendant with aggravated DUI for driving under the influence while his license was suspended. Section 11-501(d)(1)(H) prohibits a person from driving under the influence without “possess[ing]” a driver’s license, which encompasses the factual circumstances alleged here, when a defendant’s license is suspended. And even if § 11-501(d)(1)(H) were ambiguous, extrinsic tools of statutory construction — the legislative history, the statute’s purpose, and the absurd results canon — confirm that the People’s interpretation is correct. But if dismissal was warranted, the circuit court should have dismissed the charges without prejudice. Furthermore, the Court should remind circuit courts not to depart from binding appellate court precedent, as the circuit court did here.

**A. The Charges Properly Alleged that Defendant Committed Aggravated DUI when He Drove a Car while His License was Suspended.**

The circuit court erred when it dismissed defendant's charges, which alleged that defendant committed aggravated DUI when he drove under the influence of alcohol while he "did not possess a driver's license, in that [his] license, while not expired, was suspended pursuant to a financial responsibility insurance suspension." C23-24. Whether the charges were subject to dismissal turns on the meaning of the phrase "possess a driver's license." This Court, when interpreting a statute, "ascertain[s] and give[s] effect to the true intent of the legislature," which starts and ends with the plain text unless the language is ambiguous. *People v. Simpson*, 2015 IL 116512, ¶ 29. If the text is ambiguous, the Court will consult extrinsic tools, such as legislative history and the consequences of adopting a particular interpretation to aid it in determining the legislature's intent. *People v. Hoffman*, 2025 IL 130344 ¶¶ 16, 22, 26, 37.

**1. The plain text of § 11-501(d)(1)(H) elevates DUI to aggravated DUI if the DUI is committed while a person's driver's license is suspended.**

Section 11-501(d)(1)(H) encompasses defendant's charged conduct. It provides that a person commits aggravated DUI when "the person committed the [DUI] while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit." Giving § 11-501(d)(1)(H)'s language "the fullest, rather than narrowest, possible meaning to which it is susceptible," *Simpson*, 2015 IL

116512, ¶ 29, a person with a suspended license does not “possess a driver’s license.”

The Vehicle Code defines “driver’s license” as “[a]ny license to operate a motor vehicle issued under the laws of this State.” 625 ILCS 5/1-116.1. It defines “license to drive” as “any . . . license or permit . . . to operate a motor vehicle issued under the laws of this State including . . . the privilege of any person to drive a motor vehicle whether or not such person holds a valid license or permit.” 625 ILCS 5/1-138. Properly construing these terms “according to the definitions contained in the statute,” *People v. Chenoweth*, 2015 IL 116898, ¶ 23, “the Code’s definition of driver’s license includes the physical license, as well as driving privileges,” *Gruchow v. White*, 375 Ill. App. 3d 480, 485 (4th Dist. 2007); *see also People v. Rosenbalm*, 2011 IL App (2d) 100243, ¶ 10 (“[T]he physical driver’s license card merely represents the permission, i.e., license, that the state has granted a person to drive on the state’s roadways, and it is the permission, not the card, that a person must possess to legally drive on the roads of Illinois.”); *People v. Odumuyiwa*, 188 Ill. App. 3d 40, 44 (2d Dist. 1989) (“[T]he term ‘license to drive’ encompasses two distinct meanings: (1) the physical document itself, and (2) the abstract or intangible privilege of driving.”); *People v. Sass*, 144 Ill. App. 3d 163, 170 (4th Dist. 1986) (“The privilege to drive, and the license which is given so that the privilege may be exercised, are by no means separate and divisible.”). This definition is consistent with the commonly understood meaning of

“license” as encompassing both “permission to act” and “a document evidencing a license granted.” *Webster’s Third New Int’l Dictionary* 1304 (2002); *see also id.* (defining “license” as “a right or permission granted in accordance with law by a competent authority . . . to do some act . . . which but for such license would be unlawful”). Thus, under § 11-501(d)(1)(H), a person commits aggravated DUI when the person commits the DUI while he did not have permission to operate a motor vehicle.

Defendant did not have permission to operate a motor vehicle because his license was suspended. C8-9, 23-24. The Vehicle Code defines “suspension” as “[t]he temporary withdrawal by formal action of the Secretary of a person’s license or privilege to operate a motor vehicle on the public highways.” 625 ILCS 5/1-204. Withdrawal, in turn, is “the act of taking back or away something that that has been granted or possessed.” *Webster’s Third New Int’l Dictionary* 2626 (2002); *see Black’s Law Dictionary* 1924 (12th ed. 2024) (primary definition of “withdrawal” is “the act of taking back or away; removal”). Defendant, therefore, did not have permission to operate a motor vehicle while his license was suspended because the Secretary of State had withdrawn or “tak[en] back or away” the permission that defendant “ha[d] been granted or possessed.” *Webster’s Third New Int’l Dictionary* 2626 (2002); *see Rosenbalm*, 2011 IL App (2d) 100243, ¶ 10 (under § 11-501(d)(1)(H), defendant who commits DUI while his license is suspended is guilty of aggravated DUI because the defendant’s permission to drive has

been withdrawn); *see also, e.g., People v. Romanowski*, 2016 IL App (1st) 142360, ¶¶ 8, 37 (defendant convicted under § 11-501(d)(1)(H) for committing DUI while his license was suspended). Furthermore, upon suspension, the Secretary of State “require[s]” that the physical license be surrendered; this means that legally upon suspension, a person does not lawfully possess either the permission or the physical card. 625 ILCS 5/6-209. Accordingly, pursuant to the Vehicle Code’s definitions, § 11-501(d)(1)(H) plainly prohibits a person from committing a DUI while his license is suspended.

The appellate court should have given effect to § 11-501(d)(1)(H)’s plain language, even if doing so would render the preceding section, § 11-501(d)(1)(G),<sup>4</sup> superfluous. Canons of statutory construction, like that against surplusage, “are not mandatory rules. They are guides that ‘need not be conclusive.’” *Chickasaw Nation v. United States*, 534 U.S. 84, 94 (2001). Because the canon against surplusage “is not an absolute rule,” it “certainly does not require [the Court] to favor ‘an unusual meaning that will avoid surplusage’ over a more natural one.” *Stanley v. City of Sanford, Fla.*, 145 S. Ct. 2058, 2066 (2025) (internal citations omitted). Indeed, the canon against surplusage “cannot always be dispositive because (as with most canons) the underlying proposition is not *invariably* true,” for “[s]ometimes drafters *do*

---

<sup>4</sup> Section 11-501(d)(1)(G) elevates a DUI to an aggravated DUI when “the [defendant’s] driving privileges are revoked or suspended . . . for a violation of subsection (a) or a similar provision, Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012.”

repeat themselves and *do* include words that add nothing of substance.”

Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 176-77 (2012) (emphasis in original); *see generally Marx v. Gen. Rev. Corp.*, 568 U.S. 371, 385 (2013) (observing that surplusage and redundancies are not unusual or unknown in statutory drafting).

Here, § 11-501(d)(1)(H) plainly applies to defendant’s charged conduct. And Illinois courts have applied that provision to similar conduct despite the overlap between (G) and (H) because where the factfinder finds a defendant guilty under both, the one-act, one-crime rule applies to preclude enforcement of both convictions. *See, e.g., People v. Delacruz*, 2022 IL App (2d) 210509-U, ¶ 29. Indeed, *Rosenbalm* first interpreted § 11-501(d)(1)(H) as applying to these circumstances in 2011. 2011 IL App (2d) 100243, ¶ 12.

Since the appellate court’s published decision in *Rosenbalm*, the legislature has amended the DUI statute seven times but has not amended § 11-501(d)(1)(H), signaling its acquiescence to *Rosenbalm*’s construction. When statutory “terms have a settled meaning through judicial construction and are thereafter retained by the legislature without any correction or change, courts will presume that the legislature has chosen to acquiesce to the judicial construction placed on the terms.” *Simpson*, 2015 IL 116512, ¶ 30; *see also In re Q.P.*, 2015 IL 118569, ¶¶ 14, 22-23. Given the legislature’s acquiescence, this Court may give effect to § 11-501(d)(1)(H)’s plain language even if it renders § 11-501(d)(1)(G) redundant. *See Lamie v. U.S. Trustee*, 540

U.S. 526, 536 (2004) (even if plain language construction yields surplusage, “[w]e should prefer the plain meaning since that approach respects the words of [the legislature]”); *Conn. Nat. Bank v. Germain*, 503 U.S. 249, 254 (1992) (first and cardinal rule of statutory interpretation requiring courts to give effect to unambiguous text completes judicial inquiry even if other canons favor different meaning); *People v. Chavez*, 2025 IL App (1st) 221601, ¶ 78 (“When statutory language is clear and unambiguous, we do not resort to legislative history or any other canon of construction; we apply the statute as written.”) (citing *Whitaker v. Wedbush Sec., Inc.*, 2020 IL 124792, ¶ 16)).

**2. Even if § 11-501(d)(1)(H)’s language were ambiguous, extrinsic tools of statutory construction confirm that it bars defendant’s charged conduct.**

Even if application of the surplusage canon renders § 11-501(d)(1)(H)’s language susceptible to different, reasonable interpretations, the ambiguity should be resolved by “other circumstances evidencing [legislative] intent,” *Chickasaw Nation*, 534 U.S. at 94, including legislative history and the consequences of each interpretation, *Hoffman*, 2025 IL 130344, ¶¶ 16, 22, 26, 37. Here, construing § 11-501(d)(1)(H) to encompass defendant’s charged conduct is consistent with its legislative history, aligns with the legislative purpose, and avoids the absurd consequences of the appellate court’s interpretation.

**a. The legislative history confirms that the General Assembly intended § 11-501(d)(1)(H) to apply to defendant's charged conduct.**

The legislative history confirms that § 11-501(d)(1)(H) must be construed to provide that a person commits aggravated DUI when he commits a DUI while his license is suspended, and thus to apply to defendant's charged conduct.

To start, the legislative debates related to the enactment of § 11-501(d)(1)(H) demonstrate that the General Assembly understood that provision as encompassing circumstances where a person commits a DUI while his license is suspended. What is now § 11-501(d)(1)(H) was introduced in Public Act 94-329. *People v. Gonzalez*, 388 Ill. App. 3d 1003, 1004 (3d Dist. 2009). During the debates in both chambers, the bill's sponsors explained that the provision penalized individuals who drove under the influence with "no valid driver's license," and thus, anticipated that this group would include both drivers without any license and those whose licenses were invalid due to expiration or suspension. 94th Gen. Assem., House Proceedings, Mar. 10, 2005, at 44; 94th Gen. Assem., Sen. Proceedings, May 18, 2005, at 56.

As *Rosenbalm* noted, this legislative history demonstrates that "the overlap between these two subsections [(G) and (H)] is simply an oversight." 2011 IL App (2d) 100243, ¶ 12. Originally — and prior to the enactment of § 11-501(d)(1)(H) — what is now § 11-501(d)(1)(G) appeared in § 11-501(c),

which focused on repeat DUI offenses and made driving with a revoked or suspended license due to a previous DUI a Class 4 felony. *See* Pub. Act 90-738, § 5 (eff. Jan. 1, 1999). Section 11-501(d), in turn, described aggravated DUI offenses, which were also Class 4 felonies. *Id.* In the mid-2000s, the General Assembly added two aggravated DUI offenses to § 11-501(d): the failure to possess a driver's license (now § 11-501(d)(1)(H)) and the failure to have liability insurance (now § 11-501(d)(1)(I)). *See* Pub. Act 94-329, § 5 (eff. Jan. 1, 2006). As the above-described debates confirm, when the General Assembly added now subsection (H) to § 11-501(d), it intended that provision to encompass circumstances where a person committed a DUI with a suspended license. But the General Assembly appears to have overlooked that § 11-501(c) already made driving drunk with a suspended license in some circumstances an aggravated DUI offense. *Id.*

Critically, the General Assembly passed Public Act 94-329 — which added what is now § 11-501(d)(1)(H) — during a three-year period in which it passed six different and inconsistent versions of § 11-501. *See* Larry A. Davis, *Demystifying Illinois DUI Sentencing*, 97 Ill. B.J. 352, 353 (2009). In fact, even though Public Act 94-329 was passed in 2006, a subsequent version of the Act did not include the additions made by Public Act 94-329. *See Gonzalez*, 388 Ill. App. 3d at 1005.

Indeed, even the General Assembly recognized that it had enacted contradictory versions of the DUI statute during this three-year period when,

in June 2008, it passed Public Act 95-578. *See Davis, supra*, 97 Ill. B.J. at 353. This act reorganized the statute; as relevant here, it moved the repeat DUI provisions into § 11-501(d) and added a title, “Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof.” Pub. Act 95-578, § 5 (eff. June 1, 2008). Public Act 95-578’s sponsor, Senator Cullerton, explained that “it’s just a recodification, not any substantive changes.” 95th Gen. Assem., Sen. Proceedings, May 10, 2007, at 39. Another member stated that “there were internal conflicts within the statute” due to the General Assembly having passed different provisions at different times. *Id.* Accordingly, as the appellate court observed in *Rosenbalm*, “given the extensive history of amendments to this statute and the resulting confusion, it is not at all unreasonable to believe that the overlap between [subsections (G) and (H)] is simply an oversight by the legislature.” 2011 IL App (2d) 100243, ¶ 12.

The legislative history of § 11-501(d)(1)(H) thus confirms what its plain language provides: that the General Assembly intended that it apply to individuals who, like defendant, commit DUI while driving on a suspended license.

**b. Interpreting § 11-501(d)(1)(H) in accordance with its plain language aligns also avoids absurd results.**

The consequences of interpreting § 11-501(d)(1)(H) in accordance with its plain language to prohibit defendant’s conduct not only aligns with its purpose, it also avoids absurd results. When interpreting a statute, the

Court “may consider the purpose behind the law and the evils sought to be remedied, as well as the consequences that would result from construing the law one way or the other.” *State ex rel. Raoul v. Elite Staffing*, 2024 IL 128763, ¶ 16. If one interpretation aligns with the purpose of the law or ameliorates the evils the legislature intended to remedy, that is an indicator that an interpretation is correct. *Id.* On the other hand, a court should “reject an otherwise reasonable interpretation of a statute if the interpretation would lead to absurd results.” *Hoffman*, 2025 IL 130344, ¶ 37.

The appellate court’s construction — limiting § 11-501(d)(1)(H) to circumstances where the person has “not gone through the testing and process to obtain a license and permission to drive in Illinois,” *see Hartema*, 2019 IL App (4th) 170021-U, ¶¶ 39-41<sup>5</sup> — yields absurd results. *Hoffman*, 2025 IL 130344, ¶ 37 (statutes are presumed not to lead to absurd results). That interpretation would punish as aggravated DUI only those persons who *never* possessed a license but not persons whose subsequent unlawful actions caused their licenses to be suspended, expired, revoked, or cancelled. *See Rosenbalm*, 2011 IL App (2d) 100243, ¶ 9. But the Vehicle Code generally punishes suspensions more harshly than the failure to obtain a license. *Compare* 625 ILCS 5/6-303(a) (driving with suspended or revoked license is Class A misdemeanor) *with id.* §§ 6-101, 6-606(c) (driving when never issued a license is Class B misdemeanor); *cf. Odumuyiwa*, 188 Ill. App. 3d at 44

---

<sup>5</sup> The appellate court adopted *Hartema*’s reasoning as its own. A9, ¶ 22.

(comparing cancellation, a procedural error regarding the driver's license application, with suspension, and explaining: "A suspension generally applies to situations where the driver has committed a relatively serious offense warranting the suspension of his privilege to drive.").

In sum, § 11-501(d)(1)(H)'s plain language criminalizes defendant's alleged act of committing a DUI while his license was suspended. Construing the provision consistently with its plain language best aligns with the legislative purpose and avoids absurd results. The Court should therefore reverse the appellate court's judgment affirming the judgment of the circuit court, and reinstate defendant's charges.

**B. If the Court Holds that Defendant Could Not Be Charged under § 11-501(d)(1)(H), It Should Modify the Circuit Court's Judgment to Dismiss the Charges without Prejudice.**

Should the Court hold that § 11-501(d)(1)(H) does not apply to defendant's charged conduct, then it should modify the circuit court's judgment to dismiss defendant's charges without prejudice. Defendant moved to dismiss the information under 725 ILCS 5/114-1(a)(8), C25-26, and the circuit court granted that motion and dismissed the information "with prejudice pursuant to 725 ILCS 5/114-1(a)(8)," C31, 38. But § 114-1(a)(8) tests the sufficiency of the pleadings, not the sufficiency of the evidence. *Sheehan*, 168 Ill. 2d at 303. Therefore, by statute, a dismissal of the charges under § 114-1(a)(8) must be without prejudice so that the People may file new charges. *See* 725 ILCS 5/114-1(e) ("Dismissal of the charge upon the grounds

set forth in subsections (a)(4) through (a)(11) of this Section shall not prevent the return of a new indictment or the filing of a new charge.”). Accordingly, should the Court hold that the information failed to state an offense under § 11-501(d)(1)(H), it should modify the circuit court’s judgment to dismiss the charges without prejudice. *See* Ill. S. Ct. R. 615(b)(1) (permitting this Court to modify the judgment or order from which the appeal is taken).

**C. The Circuit Court Lacked Authority to Depart from *Rosenbalm*.**

Finally, the circuit court lacked authority to depart from *Rosenbalm*. C31-38. In *Rosenbalm*, the appellate court stated that “[i]f, when the offense was committed, the person’s permission, *i.e.*, license, was revoked, suspended, or expired, then that person did not possess a license to drive” under § 11-501(d)(1)(H). 2011 IL App (2d) 100243, ¶ 10. This was judicial dicta because it was “an expression of opinion upon a point in a case argued by counsel and deliberately passed upon by the court.” *Cates v. Cates*, 156 Ill. 2d 76, 80 (1993). Therefore, it also was binding on the circuit court. *See People v. Webb*, 2023 IL 128957, ¶ 34 (circuit court bound to follow governing precedent on legal questions); *People v. Lighthart*, 2023 IL 128398, ¶ 75 (until this Court says otherwise, appellate court decisions are binding on circuit court); *People v. Williams*, 204 Ill. 2d 191, 206 (2003) (appellate court dicta “should receive dispositive weight in an inferior court”).

Despite this binding authority, the circuit court declined to apply *Rosenbalm* and instead followed *Hartema*, a 2019 order issued under Rule

23(c). C37 (citing *Hartema*, 2019 IL App (4th) 170021-U). But Rule 23 orders issued before January 1, 2021 are “not precedential.” Ill. S. Ct. R. 23(e)(1); see *People v. Rothe*, 2024 IL 129906, ¶ 19 n.2. The circuit court thus erred when it dismissed defendant’s charges in reliance on *Hartema*. See *Cates*, 156 Ill. 2d at 80. The Court should remind the circuit courts that they must following binding appellate court precedent — even if it appears to be dicta, see *Williams*, 204 Ill. 2d at 206, and even if nonprecedential decisions hold otherwise.

### CONCLUSION

For these reasons, the People of the State of Illinois respectfully request that this Court reverse the judgment of the appellate and circuit courts and reinstate defendant’s charges. Alternatively, the People request that the Court modify the circuit court’s judgment to dismiss the charges without prejudice.

October 14, 2025

Respectfully submitted,

KWAME RAOUL  
Attorney General of Illinois

JANE ELINOR NOTZ  
Solicitor General

KATHERINE M. DOERSCH  
Criminal Appeals Division Chief

RACHEL MIKLASZEWSKI  
Assistant Attorney General  
115 S. LaSalle Street  
Chicago, Illinois 60603  
(773) 519-3025  
eserve.criminalappeals@ilag.gov

*Counsel for Plaintiff-Appellant  
People of the State of Illinois*

**RULE 341(c) CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 19 pages.

/s/ Rachel Miklaszewski  
RACHEL MIKLASZEWSKI  
Assistant Attorney General

**CERTIFICATE OF FILING AND SERVICE**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On October 14, 2025, the foregoing **Brief and Appendix of Plaintiff-Appellant People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the Court's electronic filing system, which provided service to the following:

Douglas R. Hoff  
Office of the State Appellate Defender  
203 N. LaSalle Street, 24th Floor  
Chicago, Illinois 60601  
1stdistrict.eserve@osad.state.il.us

*Counsel for Defendant-Appellee*

/s/ Rachel Miklaszewski  
RACHEL MIKLASZEWSKI  
Assistant Attorney General

# APPENDIX

**TABLE OF CONTENTS**

*People v. Cruz Aguilar*, 2024 IL App (5th) 220651 .....A1  
Notice of Appeal.....A10  
Index to the Record.....A12  
625 ILCS 5/11-501 .....A14

**NOTICE**  
Decision filed 12/05/24. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2024 IL App (5th) 220651

NO. 5-22-0651

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

---

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Champaign County.
	)	
v.	)	No. 21-CF-671
	)	
GERMAN CRUZ AGUILAR,	)	Honorable
	)	Adam M. Dill,
Defendant-Appellee.	)	Judge, presiding.

---

PRESIDING JUSTICE McHANEY delivered the judgment of the court, with opinion. Justices Welch and Cates concurred in the judgment and opinion.

**OPINION**

¶ 1 The State filed a two-count information alleging the defendant, German Cruz Aguilar, committed the offense of aggravated driving under the influence of alcohol (DUI) while he did not possess a driver’s license (625 ILCS 5/11-501(a)(1), (2), (d)(1)(H) (West 2020)). After granting the defendant’s motion to dismiss the State’s information for failure to state an offense, the trial court granted the State leave to file additional counts with specificity. The State filed counts III and IV, charging the defendant with aggravated driving under the influence of alcohol while his driver’s license was suspended pursuant to a financial responsibility insurance suspension. The trial court entered a written order dismissing counts III and IV, with prejudice, from which the State appeals. On appeal, the State contends that the trial court’s judgment granting the defendant’s motion to dismiss counts III and IV should be reversed where the trial court disregarded existing

precedent and relied on an unpublished decision with no precedential value. For the following reasons, we affirm.

¶ 2 I. Background

¶ 3 On June 10, 2021, the State filed a two-count information. Count I alleged that on April 30, 2021, the defendant committed the offense of aggravated driving under the influence of alcohol when the alcohol concentration in the defendant’s blood or breath was 0.08 or more in violation of the Illinois Vehicle Code (*id.* § 11-501(a)(1)). Count II alleged that the defendant drove under the influence of alcohol (*id.* § 11-501(a)(2)). The aggravating factor cited in each count was that “defendant committed the violation while he did not possess a driver’s license” in violation of section 11-501(d)(1)(H) of the Vehicle Code (*id.* § 11-501(d)(1)(H)) (“subsection (H)”).

¶ 4 On May 31, 2022, the defendant filed a motion to dismiss the State’s information for failing to state an offense. In his motion the defendant asserted that on the date he was charged with DUI, he had an unexpired driver’s license that was suspended due to his failure to comply with an SR-22 insurance requirement.<sup>1</sup> The defendant maintained that the circuit court, in reliance on *People v. Hartema*, 2019 IL App (4th) 170021-U, previously had dismissed two similar cases by finding that a charge under subsection (H) cannot be properly based on an insurance suspension. The defendant noted that in the unpublished Rule 23 order (see Ill. S. Ct. R. 23(b) (eff. Apr. 1, 2018)), the Fourth District resolved the inconsistency between section 11-501(d)(1)(H) and section 11-501(d)(1)(G) of the Vehicle Code (625 ILCS 5/11-501(d)(1)(G) (West 2020)), holding that an

---

<sup>1</sup>An SR-22, or financial responsibility insurance, is required in Illinois for individuals with safety responsibility suspensions, unsatisfied judgment suspensions, revocations, mandatory insurance supervisions and individuals who receive three or more convictions for mandatory insurance violation. See Financial Responsibility (SR-22) Insurance, Driver Services, Office of Ill. Sec’y of State,, [https://www.ilsos.gov/departments/drivers/drivers\\_license/SR-22\\_uninsured\\_crashes/finressr22.html](https://www.ilsos.gov/departments/drivers/drivers_license/SR-22_uninsured_crashes/finressr22.html) (last visited Nov. 25, 2024) [<https://perma.cc/CK2P-4GCU>].

unexpired, suspended driver's license did not support a felony charge and conviction. *Hartema*, 2019 IL App (4th) 170021-U, ¶ 42.

¶ 5 On July 5, 2022, the State filed a response to the defendant's motion to dismiss, arguing that, because the defendant did not "possess" a driver's license in April 2021, counts I and II were viable charges. The State argued that in *People v. Rosenbalm*, 2011 IL App (2d) 100243, the Second District clarified what it means to "possess a driver's license" for purposes of subsection (H).

¶ 6 On August 16, 2022, following a hearing on the defendant's motion, the trial court dismissed counts I and II but granted the State leave to file additional counts specifically alleging the proof that defendant "did not possess a driver's license." On the same date, the State filed counts III and IV, which charged the same offenses as counts I and II but further alleged that defendant did not "possess" a driver's license, "in that [his] driver's license, while not expired, was suspended pursuant to a financial responsibility insurance suspension." Each count was charged as a Class 4 felony pursuant to section 11-501(d)(1)(H).

¶ 7 Thereafter, the defendant filed a motion to dismiss counts III and IV, again in reliance on *Hartema*, arguing that an unexpired, suspended driver's license did not support a felony charge and conviction. The State, in reliance on *Rosenbalm*, argued that the defendant did not "possess" a driver's license when he was charged with DUI; thus, the defendant was guilty of aggravated DUI. The State maintained that subsection (H) should be interpreted to apply to all license suspensions, including the defendant's suspension resulting from a financial responsibility insurance (SR-22) violation.

¶ 8 At the motion hearing, the parties stipulated that at the time the defendant was charged with aggravated DUI, his driver's license was suspended pursuant to a financial responsibility

insurance (SR-22) violation. The parties also stipulated that the defendant's Illinois driver's license was not expired at the time of the offense.

¶ 9 On September 20, 2022, the trial court dismissed counts III and IV with prejudice. In its written order, the trial court noted that the parties pled and stipulated that the defendant "owned" an unexpired driver's license in Illinois, although his right to use it was suspended for an SR-22 violation. The trial court further found that the plain language of subsection (H) does not elevate a Class A misdemeanor DUI to a Class 4 felony when a defendant's driver's license is suspended but unexpired. The trial court found that the State had cited *dicta* in *Rosenbalm* in support of the State's restrictive interpretation of what it means to "possess" a driver's license. The trial court explicitly stated that it fundamentally agreed with the analysis set forth on the issue in *Hartema*, a Rule 23 order from the Fourth District. The State filed a timely appeal.

¶ 10 II. Analysis

¶ 11 The State argues that the trial court's judgment granting the defendant's motion to dismiss counts III and IV should be reversed where the trial court disregarded existing precedent, relying instead on an unpublished decision with no precedential value. The defendant counters that the trial court did not err where its reasoning, based on an unpublished Rule 23 order, reflected the correct interpretation of subsection (H). Furthermore, the defendant asserts that the *Rosenbalm* court's comments regarding license suspensions under subsection (H) constituted nonbinding *dicta*. A reviewing court generally considers a trial court's ultimate ruling on a motion to dismiss charges under an abuse of discretion standard, but in cases such as the one before us where the issues present purely legal questions, the standard of review is *de novo*. See *People v. Stapinski*, 2015 IL 118278, ¶ 35.

¶ 12 The State argues that the trial court erred in relying on *Hartema*, an unpublished Rule 23 order from the Fourth District, instead of relying on *Rosenbalm*, a published decision from the Second District. An unpublished Rule 23 order is not precedential authority and may be cited only to support claims of double jeopardy, *res judicata*, collateral estoppel, or law of the case. *In re Michael H.*, 392 Ill. App. 3d 965, 968 (2009).<sup>2</sup>

¶ 13 Although a published decision of the appellate court is not binding on other appellate districts, it is binding on circuit courts throughout the state, unless there are conflicting decisions from various appellate districts and no controlling authority from a particular circuit court's home district, in which case that circuit court may choose between the conflicting decisions. *State Farm Fire & Casualty Co. v. Yapejian*, 152 Ill. 2d 533, 539-40 (1992). However, we note that "the precedential scope of a decision is limited to the facts before the court." *People v. Palmer*, 104 Ill. 2d 340, 345-46 (1984). Thus, the issue before this court is whether *Rosenbalm* was binding on the trial court or constituted nonbinding *dicta*.

¶ 14 In *Rosenbalm*, the defendant was convicted of aggravated DUI while he "did not possess a driver's license." *Rosenbalm*, 2011 IL App (2d) 100243, ¶ 3. At the time of his arrest, the defendant's driver's license was being held as bond in another case, during which time it expired. *Id.* The defendant moved for dismissal of the charges, arguing that the statute simply required possession of a driver's license, not possession of a valid driver's license. *Id.* ¶ 4. The trial court denied the defendant's motion, and he appealed. *Id.* ¶ 7.

¶ 15 In the instant case, the State attached to its reply brief *Rosenbalm*'s appellate brief wherein *Rosenbalm* argued that, because the Secretary of State would not allow him to renew his expired

---

<sup>2</sup>A nonprecedential Rule 23 order entered on or after January 1, 2021, may be cited for persuasive purposes. Ill. S. Ct. R. 23(e)(1) (eff. Jan. 1, 2021). *Hartema*, 2019 IL App (4th) 170021-U, was filed in 2019.

driver's license because he had unpaid fines for various traffic violations, his driver's license was effectively "suspended" by the State. The appellate court rejected the defendant's argument and found that the defendant had forfeited review of his claim because he failed to raise it in a timely posttrial motion. *Id.* Nevertheless, the *Rosenbalm* court addressed the merits of the defendant's claim. *Id.* ¶¶ 8-12. In affirming the judgment of the trial court, the Second District reasoned:

“[T]he physical driver's license card merely represents the permission, *i.e.*, license, that the state has granted a person to drive on the state's roadways, and it is the permission, not the card, that a person must possess to legally drive on the roads of Illinois. [Citation.] Thus, the real question is not whether a person was ever issued a driver's license card, but whether, when the offense was committed, the person possessed permission from the state to drive. If, when the offense was committed, the person's permission, *i.e.*, license, was revoked, *suspended*, or expired, then that person did not possess a license to drive.” (Emphasis added.) *Id.* ¶ 10.

¶ 16 The State concedes that, where a reviewing court holds that a claim has been forfeited, any subsequent discussions as to the merits of the claim are *dicta*, as they are unnecessary to the disposition of the case. See *Ripplinger v. Quigley*, 231 Ill. App. 3d 1002, 1005 (1992). Nevertheless, the State maintains that the *Rosenbalm* court's comments were judicial *dicta*, which “have the force of a determination by a reviewing court and should receive dispositive weight in an inferior court.” *People v. Williams*, 204 Ill. 2d 191, 206 (2003). “*Dicta* normally comes in two varieties: *obiter dicta* and judicial *dicta*.” *Id.* “The term ‘*dictum*’ is generally used as an abbreviation of *obiter dictum*, which means a remark or opinion uttered by the way.” *Cates v. Cates*, 156 Ill. 2d 76, 80 (1993). Generally, such a remark or opinion is not binding as authority or precedent within the *stare decisis* rule. *Id.* Judicial *dictum*, on the other hand, is “an expression of

opinion upon a point in a case argued by counsel and deliberately passed upon by the court, though not essential to the disposition of the cause.” *Id.* Judicial *dictum* is “entitled to much weight, and should be followed unless found to be erroneous.” *Id.* Thus, the task before this court is to determine whether the judicial *dictum* in *Rosenbalm* was erroneous.

¶ 17 When interpreting a statute, “[t]he most reliable indicator of legislative intent is the language of the statute, given its plain and ordinary meaning.” *People v. Clark*, 2019 IL 122891,

¶ 20. The statute must be viewed by a reviewing court “as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation.” *Id.* “Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous.” *Id.* A reviewing court may consider “the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another,” with the presumption that the General Assembly did not intend absurdity, inconvenience, or injustice in enacting the legislation. *Id.*

¶ 18 Pursuant to section 11-501(c)(1), it is a Class A misdemeanor for a person to drive in the state of Illinois when the alcohol concentration in a person’s blood or breath is above the legal limit (625 ILCS 5/11-501(a)(1) (West 2020)) or when a person is under the influence of alcohol (*id.* § 11-501(a)(2)). Subsection (H) elevates the penalty to a Class 4 felony where “the person committed the violation *while he or she did not possess a driver’s license* or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit.” (Emphasis added.) *Id.* § 11-501(d)(1)(H).

¶ 19 The *Rosenbalm* court noted that, although subsection (H) “does not expressly refer to a valid driver’s license, to read the statute to avoid application of the aggravating factor where a person possesses a revoked, suspended, or expired license would lead to absurd results.”

*Rosenbalm*, 2011 IL App (2d) 100243, ¶ 9. The *Rosenbalm* court recognized that its interpretation of subsection (H) renders superfluous subsection (G); nevertheless, it concluded that it was better to render subsection (G) superfluous than to permit the “absurd result that would obtain from defendant’s interpretation of [subsection] (H).” *Id.* ¶ 12.

¶ 20 In the instant case, the trial court in its written order noted that a statutory dysfunction arose when subsection (H) was read in concert with subsection (G). In subsection (G), the legislature explicitly enumerated offenses that would elevate a Class A misdemeanor DUI to a Class 4 felony. These enumerated offenses include a suspension related to a previous DUI, a refusal to submit to chemical testing, failure to stop and comply with statutory factors after being involved in a motor vehicle accident resulting in death or personal injury, and reckless homicide. 625 ILCS 5/11-501(d)(1)(G) (West 2020). The trial court further noted that excluded from subsection (G) are the entirety of the other possible reasons for a driver’s license suspension in Illinois including suspensions resulting from an SR-22 violation. Applying the rules of statutory interpretation, the trial court concluded that interpreting subsection (H) based on its plain language would in no way render subsection (G) superfluous. The trial court ultimately rejected the State’s interpretation of what it means to “possess” a driver’s license found in *Rosenbalm* and, instead, explicitly stated that it fundamentally agreed with the analysis set forth in *Hartema*.

¶ 21 In *Hartema*, the defendant appealed, arguing, *inter alia*, that the State failed to prove the aggravating element—not possessing a driver’s license—to support his conviction for aggravated DUI. *Hartema*, 2019 IL App (4th) 170021-U, ¶ 3. In *Hartema*, the Fourth District disagreed with the *Rosenbalm* court’s *dicta* that subsection (H) applies to suspended licenses. *Id.* ¶¶ 40-42. “Following the mandate to interpret a statute in a manner so as not to render other provisions superfluous, [the *Hartema* court found] subsection (H) does not act as a catchall to extend

aggravated DUI to individuals with suspended licenses for offenses not listed in subsection (G).”

*Id.* ¶ 42.

¶ 22 Because the judicial *dicta* in *Rosenbalm* conflicts with the plain language of subsection (H) when read in concert with subsection (G) as it renders subsection (G) superfluous, we find it to be erroneous. Accordingly, as did the trial court, we agree with reasoning in *Hartema*.

¶ 23 III. Conclusion

¶ 24 For the foregoing reasons, we affirm the trial court’s judgment granting the defendant’s motion to dismiss counts III and IV, with prejudice.

¶ 25 Affirmed.

9/30/2022 2:55 PM

By: AL

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
CHAMPAIGN COUNTY, ILLINOIS

*Susan W. Moore*  
CLERK OF THE CIRCUIT COURT  
CHAMPAIGN COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff-Appellant,	)	
	)	
vs.	)	21-CF-671
	)	
GERMAN CRUZ AGUILAR	)	
Defendant-Appellee.	)	

**NOTICE OF APPEAL**

An appeal is taken from the order of judgement described below:

1. Court to which appeal is taken: Appellate Court of Illinois, Fifth Judicial Circuit
2. Name of Appellant and address to which notice shall be sent:  
Name: Julia R. Rietz, State's Attorney of Champaign County  
Address: Champaign County Courthouse, 101 E. Main St., Urbana IL 61801
3. Name and address of Appellant's Attorney on appeal:  
Name: Patrick Daly, State's Attorney's Appellate Prosecutor  
Address: 4114 N. Water Tower Place, Suit C, Mt. Vernon, IL 62864
4. Name and address of Defendant's trial attorney:  
Name: Kari Gibson, Champaign County Assistant Public Defender  
Address: 101 East Main St., Urbana, IL 61801
5. Date of Judgement or order: September 20, 2022
6. Offenes of which charged: Aggravated Driving with a Blood or Breath Alcohol  
Concentration of 0.08 or More pursuant to 725 ILCS 5/11-501(a)(1) and 625 ILCS 5/11-501(d)(1)(H), and Aggravated Driving Under the Influence of Alcohol (Class 4 felony) pursuant to 725 ILCS 5/11-501(a)(2) and 625 ILCS 5/11-501(d)(1)(H),
7. Sentence: N/A
8. If appeal is not from conviction, nature of order appealed from: the appeais is from the order entered by the Trial Court on September 20, 2021, dismissing the above-captioned

case. The relief sought on appeal would include, but not be limited to, a reversal of the trial court's order of dismissal, and reversal of the ruling that the plain language of 625 ILCS 5/11-501(d)(1)(H) does not elevate a class A misdemeanor DUI to a class 4 felony when the defendant's license was suspended but unexpired. The People request this Court reverse the Judgement entered on behalf of the Defendant and remand this case for trial.

Respectfully Submitted,

By: 

Regan W. Radtke  
Assistant State's Attorney  
Champaign County  
101 E. Main St.  
Urbana, IL 61801  
ARDC #6313779

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT  
FROM THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
CHAMPAIGN COUNTY, ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS, )  
Petitioner, ) APPELLATE CASE: **5-22-0651**  
— vs — ) CIRCUIT CASE: **2021-CF-000671**  
 ) TRIAL JUDGE: **DILL**  
**German F Cruz Aguilar,** )  
Respondent. )

COMMON LAW RECORD – TABLE OF CONTENTS  
Page 1 of 1

Date Filed	Title/Description	Page No.
	Record Sheet	C3-C7
6/10/2021	Charge 01 Count 001 AGG DUI/NO VALID DL Statute 625 5/11-501(a)	C8
6/10/2021	Charge 02 Count 002 AGG DUI/NO VALID DL Statute 625 5/11-501(a)	C9
6/10/2021	Affidavit in support of request to appoint attorney.	C10-C11
8/12/2021	Proof \Certificate of Service Proof of Service	C12
8/12/2021	Discovery	C13-C14
8/16/2021	Answer to Discovery filed	C15-C16
11/12/2021	Notice of hearing in Spanish prepared/mailed to defendant.	C17
5/31/2022	Motion to Dismiss Information for Failing to State an Offense on file.	C18-C19
7/5/2022	Response to Defendant's Motion to Dismiss	C20-C22
8/16/2022	Charge 03 Count 003 AGG DUI/NO VALID DL Statute 625 5/11-501(a)	C23
8/16/2022	Charge 04 Count 004 AGG DUI/NO VALID DL Statute 625 5/11-501(a)	C24
9/15/2022	Motion to Dismiss Information for Failing to State an Offense on file.	C25-C27
9/15/2022	Motion to Dismiss Information on file.	C28-C30
9/20/2022	Order Granting Motion to Dismiss for Failure to State an Offense Pursuant	C31-38
9/30/2022	Notice of Appeal	C39-C41
10/3/2022	Appellate Court Docketing Order on File.	C42-C44

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT  
FROM THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
CHAMPAIGN COUNTY, ILLINOIS

The People of the State of Illinois  
Plaintiff/Petitioner

Appellate Court No: 5-22-0651  
Circuit Court No: 21-CF-671  
Trial Judge: Dill

v.

German F Cruz Aguilar  
Defendant/Respondent

**REPORT OF PROCEEDINGS – TABLE OF CONTENTS**

Page 1 of 1

<b><u>Date of Proceeding</u></b>	<b><u>Title/Description</u></b>	<b><u>Page No.</u></b>
7/5/2022	<a href="#">Defendant's Motion to Dismiss Arguments</a>	R2-R17
8/16/2022	<a href="#">Ruling Only</a>	R18-R34
9/20/2022	<a href="#">Motion to Dismiss</a>	R35-R43

E-FILED  
5/29/2025 9:06 AM  
CYNTHIA A. GRANT  
SUPREME COURT CLERK

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 625. Vehicles

Act 5. Illinois Vehicle Code (Refs & Annos)

Chapter 11. Rules of the Road (Refs & Annos)

Article V. Driving While Under the Influence, Transporting Alcoholic Liquor, and Reckless Driving

625 ILCS 5/11-501

Formerly cited as IL ST CH 95 1/2 ¶ 11-501

5/11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof

#### Currentness

§ 11-501. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

(1) the alcohol concentration in the person's blood, other bodily substance, or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving;

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, other bodily substance, or urine resulting from the unlawful use or consumption of a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act; or

(7) the person has, within 2 hours of driving or being in actual physical control of a vehicle, a tetrahydrocannabinol concentration in the person's whole blood or other bodily substance as defined in paragraph 6 of subsection (a) of Section 11-501.2 of this Code. Subject to all other requirements and provisions under this Section, this paragraph (7) does not apply

to the lawful consumption of cannabis by a qualifying patient licensed under the Compassionate Use of Medical Cannabis Program Act who is in possession of a valid registry card issued under that Act, unless that person is impaired by the use of cannabis.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, cannabis under the Compassionate Use of Medical Cannabis Program Act, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(c) Penalties.

(1) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(2) A person who violates subsection (a) or a similar provision a second time shall be sentenced to a mandatory minimum term of either 5 days of imprisonment or 240 hours of community service in addition to any other criminal or administrative sanction.

(3) A person who violates subsection (a) is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children if the person was transporting a person under the age of 16 at the time of the violation.

(4) A person who violates subsection (a) a first time, if the alcohol concentration in his or her blood, breath, other bodily substance, or urine was 0.16 or more based on the definition of blood, breath, other bodily substance, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(5) A person who violates subsection (a) a second time, if at the time of the second violation the alcohol concentration in his or her blood, breath, other bodily substance, or urine was 0.16 or more based on the definition of blood, breath, other bodily substance, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(d) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof.

(1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with one or more passengers on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle crash that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle crash that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm;

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle crash or snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death;

(G) the person committed a violation of subsection (a) during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a) or a similar provision, Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012;

(H) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit;

(I) the person committed the violation while he or she knew or should have known that the vehicle he or she was driving was not covered by a liability insurance policy;

(J) the person in committing a violation of subsection (a) was involved in a motor vehicle crash that resulted in bodily harm, but not great bodily harm, to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury;

(K) the person in committing a second violation of subsection (a) or a similar provision was transporting a person under the age of 16; or

(L) the person committed a violation of subsection (a) of this Section while transporting one or more passengers in a vehicle for-hire.

(2)(A) Except as provided otherwise, a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony.

(B) A third violation of this Section or a similar provision is a Class 2 felony. If at the time of the third violation the alcohol concentration in his or her blood, breath, other bodily substance, or urine was 0.16 or more based on the definition of blood, breath, other bodily substance, or urine units in Section 11-501.2, a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the third violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(C) A fourth violation of this Section or a similar provision is a Class 2 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, other bodily substance, or urine was 0.16 or more based on the definition of blood, breath, other bodily substance, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fourth violation, the defendant was transporting a person under the age of 16 a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(D) A fifth violation of this Section or a similar provision is a Class 1 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, other bodily substance, or urine was 0.16 or more based on the definition of blood, breath, other bodily substance, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fifth violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(E) A sixth or subsequent violation of this Section or similar provision is a Class X felony. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, other bodily substance, or urine was 0.16 or more based on the definition of blood, breath, other bodily substance, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(F) For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years.

(G) A violation of subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, unless the court determines that extraordinary circumstances exist and require probation, shall be sentenced to: (i) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (ii) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.

(H) For a violation of subparagraph (J) of paragraph (1) of this subsection (d), a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(I) A violation of subparagraph (K) of paragraph (1) of this subsection (d), is a Class 2 felony and a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction. If the child being transported suffered bodily harm, but not great bodily harm, in a motor vehicle crash, and the violation was the proximate cause of that injury, a mandatory fine of \$5,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(J) A violation of subparagraph (D) of paragraph (1) of this subsection (d) is a Class 3 felony, for which a sentence of probation or conditional discharge may not be imposed.

(3) Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge in addition to any other criminal or administrative sanction.

(e) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(f) The imposition of a mandatory term of imprisonment or assignment of community service for a violation of this Section shall not be suspended or reduced by the court.

(g) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(h) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

### Credits

P.A. 76-1586, § 11-501, eff. July 1, 1970. Amended by P.A. 76-1738, § 1; P.A. 77-575, § 1, eff. July 31, 1971; P.A. 77-2720, § 1, eff. Jan. 1, 1973; P.A. 78-255, § 61, eff. Oct. 1, 1973; P.A. 80-1495, § 36, eff. Jan. 8, 1979; P.A. 82-221, § 3, eff. Jan. 1, 1982; P.A. 82-311, § 1, eff. Jan. 1, 1982; P.A. 82-783, Art. III, § 37, eff. July 13, 1982; P.A. 83-204, § 2, eff. Jan. 1, 1984; P.A. 83-1281, § 1, eff. July 1, 1985; P.A. 84-272, § 7, eff. Jan. 1, 1986; P.A. 84-899, § 1, eff. Jan. 1, 1986; P.A. 84-916, § 2, eff. Jan. 1, 1986; P.A. 84-1308, Art. II, § 96, eff. Aug. 25, 1986; P.A. 84-1394, § 5, eff. Sept. 18, 1986; P.A. 85-303, § 1, eff. Jan. 1, 1988; P.A. 86-581, § 2, eff. Jan. 1, 1990; P.A. 86-1019, § 7, eff. July 1, 1990; P.A. 86-1475, Art. 2, § 2-25, eff. Jan. 10, 1991; P.A. 87-274, § 2, eff. Jan. 1, 1992; P.A. 87-1073, § 2, eff. Jan. 1, 1993; P.A. 87-1074, § 2, eff. Jan. 1, 1993; P.A. 87-1075, § 2, eff. Jan. 1, 1993; P.A. 87-1198, § 6, eff. Sept. 25, 1992; P.A. 87-1222, § 1, eff. July 1, 1993; P.A. 88-45, Art. II, § 2-54, eff. July 6, 1993; P.A. 88-238, § 5, eff. Jan. 1, 1994; P.A. 88-433, § 1, eff. Jan. 1, 1994; P.A. 88-670, Art. 2, § 2-59, eff. Dec. 2, 1994; P.A. 88-680, Art. 20, § 20-900, eff. Jan. 1, 1995; P.A. 89-8, Art. 1, § 1-5, eff. March 21, 1995; P.A. 89-156, § 5, eff. Jan. 1, 1996; P.A. 89-203, § 25, eff. July 21, 1995; P.A. 89-507, Art. 90, § 90C-31, eff. July 1, 1997; P.A. 89-626, Art. 2, § 2-66, eff. Aug. 9, 1996; P.A. 90-43, § 5, eff. July 2, 1997; P.A. 90-400, § 5, eff. Aug. 15, 1997; P.A. 90-611, § 5, eff. Jan. 1, 1999; P.A. 90-655, § 153, eff. July 30, 1998; P.A. 90-738, § 5, eff. Jan. 1, 1999; P.A. 90-779, § 5, eff. Jan. 1, 1999; P.A. 91-126, § 5, eff. July 16, 1999; P.A. 91-357, § 231, eff. July 29, 1999. Re-enacted by P.A. 91-692, Art. 20, § 20-900, eff. April 13, 2000. Amended by P.A. 91-822, § 10, eff. June 13, 2000; P.A. 92-248, § 5, eff. Aug. 3, 2001; P.A. 92-418, § 10, eff. Aug. 17, 2001;

P.A. 92-420, § 5, eff. Aug. 17, 2001; P.A. 92-429, § 5, eff. Jan. 1, 2002; P.A. 92-431, § 10, eff. Jan. 1, 2002; P.A. 92-651, § 77, eff. July 11, 2002; P.A. 93-156, § 3, eff. Jan. 1, 2004; P.A. 93-213, § 5, eff. July 18, 2003; P.A. 93-584, § 10, eff. Aug. 22, 2003; P.A. 93-712, § 5, eff. Jan. 1, 2005; P.A. 93-800, § 5, eff. Jan. 1, 2005; P.A. 93-840, Art. 30, § 30-5, eff. July 30, 2004; P.A. 93-1093, § 5, eff. Mar. 29, 2005; P.A. 94-110, § 5, eff. Jan. 1, 2006; P.A. 94-113, § 5, eff. Jan. 1, 2006; P.A. 94-114, § 5, eff. Jan. 1, 2006; P.A. 94-116, § 5, eff. Jan. 1, 2006; P.A. 94-329, § 5, eff. Jan. 1, 2006; P.A. 94-609, § 5, eff. Jan. 1, 2006; P.A. 94-963, § 5, eff. June 28, 2006; P.A. 95-149, § 5, eff. Aug. 14, 2007; P.A. 95-355, § 10, eff. Jan. 1, 2008; P.A. 95-400, § 10, eff. Jan. 1, 2009; P.A. 95-578, § 5, eff. June 1, 2008; P.A. 95-778, § 5, eff. Aug. 4, 2008; P.A. 95-876, § 300, eff. Aug. 21, 2008; P.A. 96-289, § 5, eff. Aug. 11, 2009; P.A. 97-1150, § 575, eff. Jan. 25, 2013; P.A. 98-122, § 935, eff. Jan. 1, 2014; P.A. 98-573, § 5, eff. Aug. 27, 2013; P.A. 98-756, § 675, eff. July 16, 2014; P.A. 99-697, § 20, eff. July 29, 2016; P.A. 101-363, § 65, eff. Aug. 9, 2019; P.A. 102-982, § 105, eff. July 1, 2023.

**Formerly** Ill.Rev.Stat.1991, ch. 95 ½, ¶ 11-501.

### VALIDITY

<On November 18, 1999, the Supreme Court of Illinois held that P.A. 89-203 violated the single-subject rule of the Illinois Constitution in the case of *People v. Wooters*, 1999, 243 Ill.Dec. 33, 188 Ill.2d 500, 722 N.E.2d 1102. Amendments made by P.A. 93-800 removed the changes made by P.A. 89-203.>

### Notes of Decisions (1173)

625 I.L.C.S. 5/11-501, IL ST CH 625 § 5/11-501

Current through P.A. 104-130 of the 2025 Reg. Sess. Some statute sections may be more current, see credits for details

---

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.