2026 IL App (1st) 240302-U

No. 1-24-0302

Order filed September 15, 2026

Second Division

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 22 CR 11798
	)	
CRISTIAN LOPEZ,	)	Honorable
	)	Sophia Atcherson,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE VAN TINE delivered the judgment of the court.
Presiding Justice D.B. Walker and Justice McBride concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's conviction for armed habitual criminal is affirmed where the evidence was sufficient to show that he possessed a firearm and the statute underlying his conviction is not unconstitutional.

¶ 2 Following a bench trial, defendant Cristian Lopez (whose first name also appears in the record as Christian) was found guilty of armed habitual criminal (AHC) and sentenced to six years in prison. On appeal, defendant argues that the evidence undermined the account of the only eyewitness who testified that defendant possessed a firearm and no physical evidence linked him

to the recovered firearm. Defendant also argues that the AHC statute is unconstitutional facially and as applied to him. We affirm.

¶ 3 Defendant was charged with AHC (720 ILCS 5/24-1.7(a) (West 2022)) (count I), unlawful use or possession of a weapon by a felon (UUWF) (*id.* § 24-1.1(a)) (counts II and III), and aggravated unlawful use of a weapon (AUUW) (*id.* § 24-1.6(a)(1), (a)(3)(a-5), (a)(3)(C), (a)(3)(i)) (counts IV-VI)).

¶ 4 At trial, Chicago police officer Daniel Collins testified that around 7 p.m. on September 17, 2022, he and Officer Roger Ferriera were patrolling near the 6200 block of South Central Park Avenue in Chicago. Collins observed someone in a black Malibu throw garbage from the rear driver's side window. Collins initiated a traffic stop and the vehicle pulled over momentarily before driving away. Collins observed the license plate number and radioed a description of the vehicle, but did not pursue it. Chicago police commander Bryan Spreyne radioed that he was following the vehicle and that a firearm had been discarded from the vehicle in an alley on 62nd Place.

¶ 5 The State published footage from Collins' body-worn camera, which is included in the record on appeal and has been viewed by this court. In the video, Collins is driving and a voice over the radio orders, "go back and get the gun." Collins parks in the entrance of an alley. He exits his vehicle, appears to search the alley, and states, "they tossed a pistol." After a few minutes, a voice over the radio states that two occupants of a vehicle are running and one has "got a gun." In court, Collins stated that the speaker was Spreyne. Several minutes later, defendant, wearing a black t-shirt, is escorted to a police vehicle by an officer.

¶ 6 On cross-examination, Collins confirmed that he never saw defendant holding a firearm. However, Collins was present when Chicago police officer Justin Carrillo retrieved a firearm from the wheel well of a parked vehicle approximately three houses from where defendant was arrested.

¶ 7 Spreyne testified that he pursued the black vehicle, but did not see how many people were inside. While Spreyne followed the vehicle through an alley, an arm in a black sleeve emerged from the vehicle's rear driver's side window and tossed a firearm. The vehicle stopped on 61st Street and two men exited, one from each of the vehicle's rear doors. The man exiting the rear driver's side door wore a black long-sleeve shirt. The other man, whom Spreyne identified in court as defendant, exited the rear passenger side door. Spreyne viewed defendant's face in daylight for 5 to 10 seconds from 20 or 25 feet away and confirmed he got "a good look at him." Defendant wore a black t-shirt and held a firearm in his right hand. The weapon was "full-sized semi-automatic, dark colored" with a "purplish/blue type slide" and an extended magazine. Spreyne radioed his observations and pursued the vehicle's occupants on foot. He confirmed this was the second time he had radioed his observation of a firearm.

¶ 8 Spreyne lost sight of the two men when they ran down a gangway, but soon afterwards saw other officers place defendant into custody. Spreyne returned to the location where he had observed the firearm thrown from the black vehicle and recovered the weapon, "the first gun that the gentleman with the black sleeve threw out of the car while it was moving." The second firearm, which Spreyne saw in defendant's hand, was recovered from the wheel well of a parked vehicle, which was located on the "next block" from where Spreyne had "originally chased the two offenders."

¶ 9 The State published footage from Spreyne's body-worn camera, which is included in the record on appeal and has been viewed by this court. In the footage, Spreyne exits his vehicle and the radio dispatcher states that "one of them has a gun." Spreyne runs through several yards before approaching the street where several police vehicles and officers are located. Spreyne then walks back to the area where, according to his testimony, he observed the first firearm being discarded. There, Spreyne and another officer recover a firearm from the ground.

¶ 10 On cross-examination, Spreyne confirmed that he authored a "traffic pursuit report," which neither described defendant nor noted that he held a firearm. Spreyne explained that this type of report only detailed the "pursuit." The report indicated that he pursued a vehicle, observed the vehicle deaccelerate, observed an arm discard a firearm from the rear driver's side window, and then saw the vehicle accelerate away from the scene. Regarding the firearm observed in defendant's hand, Spreyne explained that the pursuit report "would have no bearing on the second firearm from the pursuit."

¶ 11 Spreyne confirmed he had radioed that he was pursuing two Hispanic males in black clothing, and that one was armed, but that he did not specify which individual was armed. Defendant was arrested one block from where the firearm was recovered from a vehicle's wheel well. No firearm was recovered from defendant's person.

¶ 12 On redirect examination, Spreyne testified that the traffic pursuit report documented that a firearm was discarded from the vehicle, but two weapons were ultimately recovered. Spreyne also confirmed that he radioed two calls relating to two separate firearms, one when he saw a firearm thrown from the vehicle's window and the other when he saw a firearm in defendant's hand when

he fled from the vehicle. Spreyne had viewed Ferreira's body-worn camera footage and confirmed it captured his radio calls.

¶ 13 Chicago police officer Carrillo testified that he recovered a loaded blue and black semi-automatic firearm with an extended magazine from the driver's side rear wheel well of a red van on the 3700 block of West 61st Place. Carrillo noted that it was a "ghost gun," lacking a serial number or manufacturer. On cross-examination, Carrillo confirmed that he did not observe anyone place the firearm in the wheel well.

¶ 14 The parties stipulated that defendant had two felony convictions for AUUW in 2021. The parties also stipulated that a forensic report indicated that defendant's fingerprints were not identified on the firearm recovered from the vehicle wheel well.

¶ 15 The court found defendant guilty of AHC, UUWF, and AUUW. In announcing its findings, the court stated that Spreyne's failure to mention in the traffic pursuit report the firearm observed in defendant's hand was "impeaching, to a certain degree," but Spreyne was otherwise credible. The radio communications corroborated Spreyne's testimony about radioing his observation of the firearm discarded in an alley. Moreover, Spreyne observed defendant holding the firearm that was later recovered from the wheel well. The court remarked that it did not know when and how the firearm was placed in the wheel well, but believed that Spreyne observed defendant with that firearm. The court found Spreyne "credible and believable *** enough to make a finding of guilty in this case."

¶ 16 Defendant filed a motion for new trial arguing, *inter alia*, that Spreyne had been impeached by omission for failing to memorialize in the traffic pursuit report that he observed a firearm in

defendant's hand. The court denied defendant's motion, explaining that it believed that Spreyne observed a weapon in defendant's hand when he exited the vehicle.

¶ 17 Following a hearing, the court merged all counts into the count for AHC and imposed six years in prison.

¶ 18 On appeal, defendant argues that the evidence was insufficient to prove beyond a reasonable doubt that he possessed a firearm.

¶ 19 On a challenge to the sufficiency of the evidence, this court examines " 'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (Emphasis omitted.) *People v. McLaurin*, 2020 IL 124563, ¶ 22 (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "That standard applies whether the evidence is direct or circumstantial and does not allow this court to substitute its judgment for that of the trier of fact on issues that involve the credibility of the witnesses and the weight of the evidence." *People v. Jones*, 2019 IL App (1st) 170478, ¶ 25.

¶ 20 A conviction will not be overturned "unless the evidence is so unreasonable, improbable or unsatisfactory" that reasonable doubt exists as to the defendant's guilt. *People v. Wright*, 2017 IL 119561, ¶ 70. We will not reverse a conviction merely because the evidence is contradictory or the defendant claims a witness was not credible. *People v. Bonaparte*, 2014 IL App (1st) 112209, ¶ 41. Rather, "[t]he positive, credible testimony of a single witness, even if contradicted by the defendant, is sufficient to convict a defendant." *People v. Sauls*, 2022 IL 127732, ¶ 52. An eyewitness's testimony is insufficient "only where the record evidence compels the conclusion that no reasonable person could accept it beyond a reasonable doubt." *People v. Cunningham*, 212 Ill. 2d 274, 280 (2004).

¶ 21 To prove AHC, the State must show that the defendant possessed a firearm after being convicted of two or more qualifying offenses. 720 ILCS 5/24-1.7(a) (West 2022). Defendant only challenges the sufficiency of the evidence establishing his possession of a firearm.

¶ 22 Possession of a firearm may be actual or constructive. *People v. Jones*, 2023 IL 127810, ¶ 30. Actual possession, at issue here, can be established by testimony showing that the defendant exercised dominion or control over the firearm, including that he had it on his person, attempted to conceal it, or was seen discarding it. *People v. Daniels*, 2025 IL App (1st) 230823, ¶ 19. Actual possession does not require "present personal touching" of the firearm. *Id.* Possession is a question of fact for the trier of fact. *People v. Miller*, 2018 IL App (1st) 152967, ¶ 11. We will not disturb a finding of possession "unless the evidence is so unbelievable that it creates a reasonable doubt as to the defendant's guilt." *Id.*

¶ 23 Here, a rational trier of fact could find that defendant possessed a firearm. Spreyne observed defendant exit the black vehicle holding in his right hand a semi-automatic firearm with a "purplish/blue type slide" and extended magazine. See *People v. Washington*, 2012 IL 107993, ¶ 36 (unequivocal testimony that witnesses observed the defendant carrying a firearm was sufficient evidence of possession although no firearm was recovered). In the body-worn camera footage, Spreyne contemporaneously radioed that he had seen an individual holding a firearm while fleeing from the vehicle, and he identified that person in court as defendant.

¶ 24 A firearm resembling the one that Spreyne described as seeing in defendant's hand was recovered from a vehicle's rear wheel well one block from where defendant was placed into custody. The trial court found Spreyne's testimony credible and corroborated by body-worn camera footage. See *People v. Thomas*, 2025 IL App (1st) 232035, ¶ 51 (the credible testimony of

a single witness is sufficient to convict). The evidence and reasonable inferences therefrom, reviewed as a whole and in the light most favorable to the State, sufficed to establish that defendant possessed a firearm.

¶ 25 Nevertheless, defendant contends that Spreyne's testimony was undermined by his failure to mention defendant's possession of a firearm in the traffic pursuit report, "vague" radio communications that a vehicle occupant had a firearm, and limited vantage point to observe defendant with the firearm. Defendant also argues that no firearm was found on his person, no one saw him place the firearm in the wheel well, he was arrested a block from where that firearm was recovered, and no forensic evidence connected him to the firearm.

¶ 26 These considerations were before the trial court, which found Spreyne credible despite the somewhat "impeaching" failure of his traffic pursuit report to mention defendant's possession of a firearm. Moreover, forensic evidence was not required to establish defendant's possession of the firearm. *People v. Bobo*, 2020 IL App (1st) 182628, ¶ 43. We decline defendant's request to reassess Spreyne's credibility and reweigh the evidence. See *id.* ¶ 59 (the reviewing court will not retry the defendant or reweigh the evidence).

¶ 27 In conclusion, the trial court's finding that defendant possessed a firearm was not so unreasonable, improbable, or unsatisfactory as to justify reasonable doubt of his guilt. *Miller*, 2018 IL App (1st) 152967, ¶ 8. Therefore, the evidence was sufficient to convict defendant of AHC.

¶ 28 Defendant next argues that the AHC statute is unconstitutional both facially and as applied to him under the second amendment of the United States Constitution (U.S. Const., amend. II) and *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17 (2022).

¶ 29 A defendant may challenge the facial constitutionality of a statute at any time. *Daniels*, 2025 IL App (1st) 230823, ¶ 29. This court has a duty to vacate a conviction premised on a void statute. *People v. Thompson*, 2015 IL 118151, ¶ 32. Accordingly, we will address the merits of defendant's constitutional challenge to the AHC statute, although he did not raise the issue in the trial court. *People v. Kelley*, 2024 IL App (1st) 230569, ¶ 12.

¶ 30 All statutes carry a strong presumption of constitutionality and the party challenging the statute must clearly establish its invalidity to overcome this presumption. *People v. Mosley*, 2015 IL 115872, ¶ 22. "Courts have a duty to uphold the constitutionality of a statute whenever reasonably possible, resolving any doubts in favor of the statute's validity." *People v. Rizzo*, 2016 IL 118599, ¶ 23. A facially unconstitutional statute is void *ab initio*, and therefore unenforceable. *Thompson*, 2015 IL 118151, ¶ 32. A facial challenge to a statute is the most difficult challenge to raise as it requires the defendant to show that the statute is unconstitutional under any set of facts. *People v. Thompson*, 2025 IL 129965 ¶ 14. We review the constitutionality of a statute *de novo*. *Id.* ¶ 13.

¶ 31 The second amendment of the United States Constitution (U.S. Const., amend. II) provides that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

¶ 32 The United States Supreme Court in *Bruen* set forth a new framework to evaluate Second Amendment claims. Under *Bruen*, a court must first determine whether "the Second Amendment's plain text covers the individual's conduct." *Bruen*, 597 U.S. at 17. If the court finds that it covers regulated conduct, then "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id.*

¶ 33 Under the challenged AHC statute, a person is barred from possessing a firearm if he has been previously convicted of two or more qualifying felonies. 720 ILCS 5/24-1.7(a) (West 2022).

¶ 34 Defendant argues that the AHC statute is facially unconstitutional because he is a member of "the people" as used by the plain text of the Second Amendment. He contends the relevant inquiry considers an individual's conduct and not an individual's status, such as being a felon or "law-abiding citizen," and that the State cannot show any historical analogue for a categorical and permanent ban of firearm possession by felons.

¶ 35 Illinois courts have rejected a facial challenge to the AHC statute under *Bruen*. Some opinions reject a facial challenge under the first step of *Bruen*, finding the Second Amendment does not protect a felon's possession of a firearm. See *Kelley*, 2024 IL App (1st) 230569, ¶ 16 (the repeated use of the phrase "law-abiding" in *Bruen*, as well as prior Second Amendment decisions, demonstrate that *Bruen* "does not indicate any intent to expand the protection [of the Second Amendment] to citizens who are not law-abiding"); *People v. Gray*, 2025 IL App (1st) 191086, ¶ 20 ("statutes that prohibit felons from possessing firearms, like AHC, generally fall outside of [the Second Amendment's] scope").

¶ 36 Other opinions have found that possession of a firearm is protected conduct and proceed to the second step of the *Bruen* analysis, concluding that the statute is facially constitutional because our country has a historical tradition of disarming felons. See *People v. Brooks*, 2023 IL App (1st) 200435, ¶¶ 90-98 (noting a historical tradition of legislatures exercising the right to impose status-based restrictions on persons "who, based on their past conduct, were presumed unwilling to obey the law"); *People v. Travis*, 2024 IL App (3d) 230113, ¶ 33 (finding "a history and tradition dating back to the founding era of identifying dangerous individuals and disarming

them"). Accordingly, this court has uniformly found the AHC statute facially constitutional regardless of the analytical approach and we will not depart from those holdings.

¶ 37 Defendant further maintains that the AHC statute is unconstitutional as applied to him, because his qualifying felonies are nonviolent. Defendant concedes that he did not raise this claim below but asserts that the record is sufficiently developed for this court's review.

¶ 38 An as-applied challenge to a statute's constitutionality requires a defendant to show that the statute violates the constitution as it applies to his particular facts and circumstances. *People v. Williams*, 2024 IL 127304, ¶ 25. Thus, the defendant generally must present his as-applied constitutional challenge at trial to develop the record relating to the specific facts and circumstances of his claim. *Thompson*, 2015 IL 118151, ¶ 37. However, "where the evidentiary record developed below is sufficient, the constitutionality of a statute may be challenged on appeal." *People v. Martin*, 2018 IL App (1st) 152249, ¶¶ 12-13; see *People v. Robinson*, 2011 IL App (1st) 100078, ¶¶ 12, 17, 29 (considering an as-applied constitutional challenge raised for the first time on appeal).

¶ 39 Even assuming that the record on appeal is sufficient to reach defendant's argument, his "as-applied constitutional challenge would fail because Illinois courts have repeatedly rejected" the claim that prohibiting felons from possessing firearms under the AHC statute "as applied to either violent or nonviolent felons, violates the Second Amendment." See *People v. Garcia*, 2026 IL App (2d) 240676-U, ¶ 90 (collecting cases); Ill. S. Ct. R. 23(e)(1) (eff. June 3, 2025) (nonprecedential orders entered under Illinois Supreme Court Rule 23(b), on or after January 1, 2021, may be cited as persuasive authority). Similar to defendant's facial challenge to the AHC statute, courts have already considered and rejected defendant's as-applied constitutional

challenge. He has not advanced any argument for this court to depart from our previous holdings. Accordingly, the AHC statute is not unconstitutional as applied to defendant.

¶ 40 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 41 Affirmed.