2026 IL App (2d) 250402-U
Nos. 2-25-0402, 2-25-0403 cons.
Order filed September 14, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

DEMONSHEA T. DAVIDSON, Defendant-Appellant.

Appeal from the Circuit Court of Lake County.
Honorable George D. Strickland, Judge, Presiding.
Nos. 19-CF-2741, 23-CF-20,

JUSTICE McLAREN delivered the judgment of the court.
Justices Jorgensen and Schostok concurred in the judgment.

ORDER

¶ 1 *Held*: (1) the trial court conducted a proper pre-*Krankel* hearing and (2) the armed habitual criminal statute does not violate the Second Amendment on its face.

¶ 2 After separate jury trials, defendant, Demonshea T. Davidson, was found guilty of being an armed habitual criminal (AHC) (720 ILCS 5/24-1.7(a) (West 2022)) for gun-related incidents in 2019 and 2022. Defendant now appeals, contending that (1) the trial court failed to adequately inquire into his posttrial claim under *People v. Krankel*, 102 Ill. 2d 181 (1984) in case no. 19-CF-2471; and (2) his conviction for AHC in both case no. 19-CF-2471 and 23-CF-20 violated the Second Amendment on its face. We consolidate these appeals. For the reasons that follow, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Defendant has an extensive criminal record prior to the events relating to these appeals. He stipulated in both cases that his prior felony convictions met the first requirement for AHC. See 720 ILCS 5/24-1.7 (West 2018). In both cases, juries found that defendant was in possession of a weapon and was guilty of AHC. The background listed below is a summary of evidence presented at trial, including physical evidence, witness testimony, responding police officers, expert witnesses, videos, and stipulations.

¶ 5 A. 2019 Automobile Accident

¶ 6 Waukegan police officers were driving north on Sheridan Road in the early morning hours of December 9, 2019. Officers testified, and squad video corroborated, that a south-bound vehicle was traveling at a high rate of speed. The driver of the vehicle attempted to turn quickly onto Franklin Street but crashed into the curb and came to rest in the middle of Franklin. Officers activated their emergency lights and parked behind the vehicle.

¶ 7 Defendant, the driver of the vehicle, tried to shift the car into reverse and "revved" the engine in his attempt to move the vehicle. Officers were concerned that the driver was attempting to flee the scene and ordered both the driver and the passenger to exit the vehicle. As defendant was placed into custody, he said that "whatever you find in that car is mine, it ain't my brother's." Parrish Johnson, the passenger, was also taken into custody without incident.

¶ 8 During an inventory inspection of the disabled vehicle, officers discovered a Glock 19 9mm handgun underneath the driver's seat. An evidence technician processed the scene. DNA was collected from both defendant and Johnson. While Johnson was excluded from DNA collected from the firearm, defendant could not be excluded as a major contributor to the DNA.

¶ 9 Defendant was charged with multiple offenses, including one count of AHC (720 ILCS 5/24-1.7(a) (West 2018)), two counts of aggravated unlawful possession of a weapon in a vehicle (720 ILCS 5/24-1.6(a)(1) (West 2018)), one count of unlawful possession of a weapon by a felon, subsequent violation (720 ILCS 5/24-1.1(a) (West 2018)), and one count of unlawful use of a firearm while on parole (720 ILCS 5/24-1.1(a) (West 2018)).

¶ 10 Defendant was initially represented by attorney Gabe Conroe. At his arraignment, defendant expressed a desire to proceed *pro se*. The trial court explained that the arraignment was not the time to make that request. After a profane response from defendant, the trial court advised him that if he wished to represent himself, he was "off to a terrible start." Defendant was represented by the Lake County public defender for several hearings, including when they indicated an offer had come from the State during the June 30, 2020, hearing. On July 7, 2020, defendant requested that the public defender withdraw and attorney Robert Ritacca represent him. Ritacca acknowledged the offer from the State but stated during a hearing that it would be rejected.

¶ 11 Ritacca spent the next two years representing defendant and prepared for the jury trial scheduled to begin on Monday, October 17, 2022. That morning, Attorney Ritacca explained to the trial court that although he had answered ready for trial at a hearing the previous week, he had received a motion for a substitution of attorney and a motion to continue on defendant's behalf over the weekend. Attorney Renea Amen explained that she had filed the motion at defendant's request. She and attorney LaTonya Burton, collectively the Bur-Men Law Group, sought leave to file an appearance. The trial court noted that the jury was downstairs and he was preparing to bring them up in 30 minutes for *voir dire* and the case had been vigorously litigated by Ritacca. The court asked Amen:

"I find that although there's a strong presumption that defendants get the counsel of their choice, I find that this is a delaying tactic. I do not have to allow you to file your appearance. I have a jury downstairs. Are you ready to pick a jury and try this case today?"

Amen indicated she was not ready to proceed, and the trial court denied the motion for substitution. Ritacca then notified the court that his relationship with defendant had been "completely destroyed" and that he could no longer represent him well. The trial court countered that this was defendant's third attorney change in three years.

¶ 12 Ritacca asked to speak to defendant in private and the trial court allowed the discussion. When he returned, Ritacca filed a motion to withdraw. Ritacca stated that "I can't disclose what that conversation is, but based on it, I'm in a position now where ethically it's probably best I withdraw." After some discussion, Ritacca claimed that Bur-Men Law Group had shared with defendant that they had a pending Attorney Registration and Disciplinary Commission (ARDC) complaint against Ritacca, and his firm had counterclaimed. The trial court stated that defendant was clearly "gaming the system" but ultimately granted Ritacca's motion to withdraw.

¶ 13 Trial was set for January 17, 2023. At the December 30, 2022, hearing, defense counsel asked for a continuance until March due to a medical emergency of one of the attorneys. That evening, defendant allegedly committed the gun-related offenses charged in case no. 23-CF-20.

¶ 14 Case no. 19-CF-2471 finally proceeded to jury trial on May 1, 2023. After deliberation, the jury found defendant guilty of AHC and unlawful possession of a weapon by a felon on May 3, 2023. The charge of felon in possession of a weapon was merged into the AHC, and the remaining counts were *nolle prosequi*. Posttrial motions and sentencing were delayed by the trial court until the completion of defendant's trial for the additional, unrelated charge of AHC in case no. 23-CF-20. It is worth noting that defendant repeatedly asked to be sentenced for his AHC

conviction in 19-CF-2471 prior to his trial in 23-CF-20, despite being advised that such a conviction would have a "devastating effect" on the 23-CF-20 trial.

¶ 15 B. 2022 Shooting at Family Fun Center

¶ 16 Defendant was on pretrial release from 19-CF-2741 during most of 2022. On December 30, 2022, defendant attended a birthday party for his one-year-old daughter at the People's Choice Family Fun Center (Family Fun Center) in Waukegan. During the party, a fight apparently broke out between members of defendant's family and other patrons of the Family Fun Center. The business had considerable video surveillance coverage of both inside and outside the building, but the fight occurred in a blind spot of video coverage.

¶ 17 What videos did show, however, was defendant leaving the building and collecting a firearm from the vehicle he had driven that evening. He crouched behind another vehicle near the exit of the Family Fun Center. A few minutes later, defendant stood and fired two rounds at a woman leaving the Family Fun Center with a young man. The two people rushed back into the building. Defendant waited briefly and then entered the building himself. He could be seen looking around and then exiting. He left the parking lot in a second vehicle that had arrived shortly after the shooting. Defendant was arrested on January 6, 2023. The Grand Jury returned indictment on January 25, 2023. On May 3, 2023, bond was revoked in 7 pending cases, including 19-CF-2741.

¶ 18 In case no. 23-CF-20, defendant was charged with one count of AHC (720 ILCS 5/24-1.7(a) (West 2022)), one count of aggravated discharge of a weapon at an occupied building (720 ILCS 5/24-1.2(a) (West 2022)), one count of unlawful possession of a weapon by a felon, subsequent violation (720 ILCS 5/24-1.1(a) (West 2022)), one count of aggravated unlawful possession of a weapon without a valid Firearm Owner's Identification Card (FOID) ((720 ILCS

5/24-1.6(a)(3)(C) (West 2022)) and one count of aggravated unlawful possession of a weapon without a valid license under the Firearm Concealed Carry Act (CCA) (720 ILCS 5/24-1.6(a)(3)(A-5) (West 2022)).

¶ 19 The record reflects that defendant's relationship with Bur-Men Law Group followed a downward trajectory during pretrial. Defendant was removed from a video call during the August 15, 2024, hearing for profane outburst. The trial court expressed reluctance in holding defendant in contempt but said it would not accept such behavior. During December 2024, defendant complained about his attorneys to the trial court and said that he did not "really want them representing me no more." After speaking to their client, the Bur-Men Law Group confirmed that they were staying with the case "at this point."

¶ 20 During the March 17, 2025, hearing, defendant asked to go *pro se* and have his attorneys as standby counsel. The trial court stated it did not appoint standby counsel and asked if defendant would be ready for the March 31, 2025, trial. Defendant said he would not be ready. As he was leaving, defendant said "Fuck you, bitch. This is crazy." When asked what he had said to the trial court, defendant said "I said fuck you. You heard what I said. I ain't stuttering." The trial court held him in direct criminal contempt and ordered him be held for an additional 90 days in custody of the Lake County sheriff.

¶ 21 The trial court held a hearing on defendant's new *pro se* motion to have his attorneys removed as counsel on March 27, 2025. Defendant apologized to the court for his prior outburst. After providing a detailed history of both cases before the court from 2019 to 2025, the trial court denied the motion. The trial court rescheduled the jury trial to begin May 5, 2025. At the April 30, 2025 status hearing, attorney Mark Curran wished to file an appearance as defendant's new counsel and asked the Bur-Men Law Group to act as standby counsel for the jury trial. The trial

court noted this was defendant's third attempt to change attorneys at the 11th hour. The trial court denied Curran's motion but did allow Curran to act as co-counsel for trial. Curran did not attend the trial or appear at any subsequent hearings.

¶ 22 The cause proceeded to trial on May 5, 2025. During jury selection, the trial court advised the potential jurors that it would read them four legal propositions and then ask the jurors individually if they understood and accepted each proposition. See *People v. Zehr*, 103 Ill. 2d 472, 476-77 (1984); see also Ill. S. Ct. R. 431(b) (eff. July 1, 2012) (codifying *Zehr*'s holding that the trial court must ask prospective jurors if they accept certain propositions about the burden of proof in criminal cases and the defendant's right against self-incrimination). The court then listed the principles as follows:

> "Number one principle: The defendant is presumed to be innocent of the charges against him. Number two principle: Before the defendant could be convicted the State must prove that he is guilty beyond a reasonable doubt. Number three principle: That the defendant is not required to offer any evidence on his own behalf, and number four principle: Should the defendant not testify you may not consider that against him in any way."

¶ 23 When prompted if she understood and accepted each principle, Juror no. 206 stated that she "did not understand the last one, number four." She explained that it was hard for her to understand, as English was not her first language. The trial court rephrased the fourth principle as "should the defendant not testify from the witness stand you can't hold it against him in any way, you can't consider it." Juror no. 206 indicated she understood and accepted the principle after the discussion with the court and said that she would follow the law and be completely fair to both sides. The State asked Juror no. 206 about her background and she said that she was from Belarus,

where she had obtained a doctorate, and had moved to the Chicago area in 2013. Both parties accepted Juror no. 206.

¶ 24 Similarly, Juror no. 24 told the trial court that English was not his first language and he had understood "eighty percent" of what was being said. Juror no. 24 was originally from El Salvador and had moved into the area 24 years ago. After an inquiry by the State, Juror no. 24 explained that he hesitated to say that he could be impartial because "[s]ometimes when I am talking in front of people I get a little nervous. I am not at hundred percent sure about my answers." He reiterated that he could be fair and impartial to both sides. Both parties accepted Juror no. 24.

¶ 25 Following the jury trial, defendant was found guilty of AHC in case no. 23-CF-20 on May 8, 2025. The charge of felon in possession of a weapon was merged into this count, and the remaining three charges were *nolle prosequi*.

¶ 26 C. Posttrial Motions and Sentencing

¶ 27 Defense counsel filed a motion for a new trial in case no. 23-CF-20 on June 20, 2025. In this motion, counsel argued, *inter alia*, that the trial court erred in allowing two jurors to serve despite not being able to fully understand English, in violation of *Zehr* and Rule 431(b).

¶ 28 The trial court conducted the hearing for posttrial motions and sentencing on August 7, 2025. The trial court denied defense counsel's motion for a new trial and began the sentencing hearing. In his allocution statement, defendant noted that he had filed a "preliminary *Krankel* motion." The trial court recognized the statement and indicated that it would conduct a preliminary *Krankel* inquiry after sentencing. The State recommended a sentence of 20 years for 19-CF-2741 and 30 years for 23-CF-20, to be served consecutively. The combined sentence recommendation equaled 50 years imprisonment at 85 percent.

¶ 29 The trial court sentenced defendant to 12 years imprisonment for 19-CF-2741 and 18 years imprisonment for 23-CF-20. The sentences were to be served consecutively at 85 percent and included 18 months of mandatory supervised release afterwards.

¶ 30 D. Pre-*Krankel* Hearing

¶ 31 After granting defendant time to prepare, the trial court conducted the pre-*Krankel* hearing on September 8, 2025. The trial court explained to defendant that he would have an opportunity to address his every concern and that "you'll tell me whatever way you want to tell me, and then I'll repeat it to you so we both make sure that I understand what you're saying. Okay?" Defendant agreed and read from prepared remarks.

¶ 32 Defendant raised many issues across both cases involving alleged ineffectiveness of both Ritacca and the Bur-Men Law Group, as well as alleged "hostility and biases" from the trial court. For each claim, the trial court allowed defendant to make his full, uninterrupted argument. When he finished with one argument, Amen responded in detail. Many of the arguments involved trial strategy or defendant's discontent with motions not being decided in his favor.

¶ 33 Relevant to this appeal, defendant made the following claim:

> "Furthermore. During jury selection, Juror Number 24 [sic]; stated she did not understand all the words said in court; and another juror; who I forgot the number assigned to her; stated she [sic] only understood 80 percent of what was being said in court; were allow -- were allowed into the jury without my attorney striking or objecting to the errors and prejudicial conclusion of said jurors."

Amen responded by pointing out that they had conducted a "very thorough" *voir dire* and that Juror no. 206 had been rehabilitated through her conversation with the trial court. "She said she understood. She was a little bit nervous, but she did say that say that she understood."

¶ 34 The trial court responded in great detail to the arguments raised by defendant and the responses by Amen. The court began by stating that it had "considered the arguments of [defendant] and of the defense. The trial court noted that the Bur-Men Law Group had "extensively litigated this case, and done so very professionally." The court went on to state:

> "And this has been one of the more extensive cases I've done. And I do all serious felonies and many murders and many extensive cases. And this was highly litigated. And these cases, these series of cases have been before me now for six — almost six years, which is unprecedented."

The trial court went on to address specific complaints raised by defendant, from explaining the expression "tail wagging the dog" to the many motions defendant demanded his attorneys' file. The court noted that defendant had alleged misconduct by the police, the prosecutors, the trial court, and the defense attorneys. "Everybody in this case has been accused of one form of misconduct or another."

¶ 35 After addressing virtually every allegation made by defendant, the trial court found that there was no showing sufficient, based on the pre-*Krankel* hearing, for the court to appoint counsel and denied the motion. The court appointed the appellate defender for defendant and granted the motion of the Bur-Men Law Group to withdraw from the case.

¶ 36 This timely appeal followed.

¶ 37 II. ANALYSIS

¶ 38 On appeal, defendant argues that: (1) the trial court failed to properly inquire into his claim that his trial counsel failed to challenge two jurors in case no. 23-CF-20; and (2) his AHC convictions in both cases should be vacated because the statute is facially unconstitutional. The State counters that the trial court's pre-*Krankel* inquiry was appropriate and that constitutionality

of the statute has been repeatedly upheld by the Illinois Appellate Court. We will address each argument separately.

¶ 39 A. *Krankel* Inquiry

¶ 40 Defendant first argues that we should remand for a new preliminary *Krankel* inquiry because the trial court failed to adequately inquire into his claim that his attorneys were ineffective for failing to strike two jurors during *voir dire* who "expressed difficulty understanding English." The State counters that the trial court conducted a full and appropriate preliminary *Krankel* inquiry and concluded that defendant's claim of ineffective assistance of trial counsel was without merit.

¶ 41 1. Preliminary *Krankel* Hearing

¶ 42 The right to counsel is, in effect, the right to the effective assistance of counsel. *McMann v. Richardson*, 397 U.S. 759, 771 (1970); *People v. Rogers*, 2021 IL 126163, ¶ 23. The common-law procedure developed by *Krankel* governs a *pro se* posttrial claim alleging ineffective assistance of counsel. See *People v. Roddis*, 2020 IL 124352, ¶ 34. The preliminary *Krankel* hearing "serves the narrow purpose of allowing the trial court to decide whether to appoint independent counsel to argue a defendant's *pro se* posttrial ineffective assistance claims" (*People v. Patrick*, 2011 IL 111666, ¶ 39) and "is intended to promote consideration of *pro se* ineffective assistance claims in the trial court and to limit issues on appeal" (*id*. ¶ 41). See *Roddis*, 2020 IL 124352, ¶ 34; *People v. Jolly*, 2014 IL 117142, ¶¶ 29, 38.

¶ 43 New counsel is not automatically appointed in every case involving such a *pro se* posttrial motion of ineffective assistance of counsel. *People v. Moore*, 207 Ill. 2d 68, 77 (2003). In a preliminary *Krankel* hearing, the trial court should first examine the factual basis of the defendant's claim. *Id.* at 77-78. "If the court determines that the claim lacks merit or pertains only to matters of trial strategy, then the court need not appoint new counsel and may deny the *pro se* motion."

Roddis, 2020 IL 124352, ¶ 35. New counsel can be appointed, however, if the trial court finds possible neglect of the case. *Moore*, 207 Ill. 2d 68 at 77.

¶ 44 Whether the trial court properly conducted a *Krankel* preliminary inquiry presents a legal question that we review *de novo*. *Jolly*, 2014 IL 117142, ¶ 28. During a *Krankel* inquiry, "some interchange between the trial court and trial counsel regarding the facts and circumstances surrounding the allegedly ineffective representation is permissible and usually necessary in assessing what further action, if any, is warranted on a defendant's claim." *Moore*, 207 Ill.2d at 78. A trial court may base its decision in a *Krankel* inquiry on: (1) the trial counsel's answers and explanations; (2) a "brief discussion between the trial court and the defendant"; or (3) "its knowledge of defense counsel's performance at trial and the insufficiency of the defendant's allegations on their face." *Id.* at 78–79. "This serves both the ends of justice and judicial economy. *Roddis*, 2020 IL 124352, ¶ 70. "However, if the trial court has properly conducted a *Krankel* inquiry and has reached a determination on the merits of the defendant's *Krankel* motion, we will reverse only if the trial court's action was manifestly erroneous." *People v. Jackson*, 2020 IL 124112, ¶ 98. "Manifest error is error that is clearly evident, plain, and indisputable." *Id*.

¶ 45 In the immediate matter, the trial court acknowledged that defendant raised a motion for a *Krankel* inquiry during sentencing. The trial court recognized defendant's claim and scheduled a preliminary *Krankel* hearing with sufficient time for defendant to prepare his *pro se* motions. At the hearing, the trial court allowed defendant ample opportunity to address all of his claims of ineffective assistance of counsel. The claims were wide-ranging and extensive. The State did not participate in the hearing, in alignment with *Jolly*.

¶ 46 Defendant made claims against Ritacca, the Bur-Man Law Group, and the court itself. When defendant completed an issue, the trial court gave defense counsel an opportunity to

respond. The trial court engaged in discussions with both defendant and defense counsel throughout the hearing. Based upon our review, it is clear that the trial court made every effort to ascertain the nature and substance of defendant's claim of ineffective assistance of counsel.

¶ 47 After both defendant and defense counsel finished addressing each issue, the trial court gave a lengthy discussion of virtually every claim raised be defendant. The trial court began by stating that it had "considered the arguments of [defendant] and of the defense." The trial court noted it was not in need of additional information from the State because the answers to each question "comes from the Court's minutes in this case." The court observed that case no. 19-CF-2471 had proceeded for roughly three years and Ritacca withdrew on the morning of jury selection after being threatened by defendant with being reported to ARDC. The court mentioned defendant's inappropriate conduct directed toward the Bur-Men Law Group and the court itself. Next, the court discussed defendant's repeated requests to file a motion to substitute the trial court judge for cause, noting that such motions are not favored and defense counsel could not ethically file the many motions requested by defendant. In all, the trial court specifically addressed almost a dozen separate issues of alleged ineffective assistance by his counsel.

¶ 48 In this case, the trial court satisfied the inquiry requirement set forth in *Moore*. It is true that the trial court did not explicitly address one of the issues raised by defendant, specifically the trial counsels' failure to challenge two jurors, but that is not the requirement. See *Moore*, 207 Ill.2d at 78-79. The discussion between defendant, defense counsel, and the court was far more than "some interchange between the trial court and trial counsel regarding the facts and circumstances surrounding the allegedly ineffective representation." *Id.* at 78. Here, the trial court had considered all of defendant's arguments, and its knowledge of defense counsels' performance,

before it concluded that there was no ineffective assistance of counsel. Based upon our *de novo* review, we find that the trial court properly conducted the pre-*Krankel* hearing.

¶ 49 Defendant relies upon *People v. Curry* for the proposition that the trial court failed to "ascertain the bare facts underlying the claim." *People v. Curry*, 2018 IL App (1st) 153635, ¶¶ 11-12. In *Curry*, the trial court asked one question as to the basis of the claim and "did not ask any questions underlying the claim before immediately ruling." *Id.*, ¶ 11. On appeal, the reviewing court held that this extremely limited exchange was insufficient to determine the factual basis of the claim overall. *Id.* The facts in the immediate matter couldn't be further from *Curry*. Here, the trial court gave defendant weeks to prepare and then conducted a lengthy, detailed pre-*Krankel* hearing and was able to discern the factual basis of defendant's claim. The trial court devoted significant time and energy to determining the factual basis of the *overall* claim. *Curry* is inapplicable.

¶ 50 We note that defendant appealed the adequacy of the trial court's inquiry, not the trial court's determination on the merits of the *Krankel* claim. We need not address whether the trial court's determination on the merits of defendant's *Krankel* motion was manifestly erroneous. See *Jackson*, 2020 IL 124112, ¶ 98.

¶ 51 2. Harmless Error

¶ 52 Since we found the inquiry to be adequate, we need not address harmless error. The State avers that if we were to find the trial court's pre-*Krankel* inquiry inadequate, however, we should find that any such error was harmless. It is true that a reviewing court may decline to reverse a trial court's failure to hold a preliminary *Krankel* hearing *at all* if it is found to be harmless error. *People v. Palomera*, 2022 IL App (2d) 200631, ¶¶ 61-62. To succeed in his claim of ineffective assistance, defendant must show two things: that the performance of his counsel was deficient and

that he was prejudiced by such deficiency. *Strickland v. Washington*, 466 U.S. 668, 694 (1984). In *People v. Albanese*, our supreme court adopted *Strickland* and noted specifically that a court can dispose of a claim of ineffective assistance of counsel for a lack of sufficient prejudice without determining if such counsel was deficient. *People v. Albanese*, 104 Ill. 2d 504, 527 (1984). Even if a trial strategy did not result in an outcome favorable to the defendant, we "must make every effort to eliminate 'the distorting effects of hindsight.' " *People v. Peterson*, 2017 IL 120331, ¶ 88 (quoting *Strickland*, 466 U.S. at 689). "There is a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance[.]" *People v. Miller*, 346 Ill. App. 3d 972, 982 (2004) (citing *People v. Smith*, 195 Ill. 2d 179, 188 (2000)).

¶ 53 A counsel's actions during jury selection are generally considered a matter of trial strategy. *People v. Metcalfe*, 220 Ill. 2d 544, 562 (2002). "Accordingly, counsel's strategic choices are virtually unchallengeable." *People v. Manning*, 241 Ill. 2d 319, 333 (2011) (citing *People v. Palmer*, 162 Ill.2d 465, 476 (1994)). In this case, defense counsel exercised three peremptory challenges on other members of the *venire*. The trial court spoke with both jurors who mentioned that English was not their first language, and both stated that they could be fair and impartial to both sides. Both parties questioned jurors no. 24 and no. 206. Jurors asking the court to repeat or rephrase a *Zehr* principle did not prevent them from ultimately understanding and accepting each principle. Defendant would have great difficulty in showing that the actions of his trial counsel were other than trial strategy.

¶ 54 Moreover, defendant's claim of ineffective assistance fails to meet the second prong of *Strickland*. See *Albanese*, 104 Ill. 2d at 527. Defendant stipulated two prior qualifying convictions, satisfying the first requirement of AHC. 720 ILCS 5/24-1.7 (West 2022). Thus, the State had to prove that defendant possessed a weapon on December 30, 2022. *Id*. The State

showed the jury two videos of defendant with the weapon. The jury watched two videos of defendant firing the weapon towards the entrance of the Family Fun Center, a building in which his family members and infant child were inside. Defendant testified at trial that he possessed the weapon and fired it. Defendant asserted that he was somehow prejudiced by the two bilingual jurors who joined the other 10 jurors to convict him, but this argument is specious, at best. Defendant has failed to show prejudice. Therefore, had we found that the trial court had committed error, which we did not, such error would have been harmless. See *Palomera*, 2022 IL App (2d) 200631, ¶ 63.

¶ 55 B. AHC Constitutionality

¶ 56 In both case nos. 19-CF-2471 and 23-CF-20, defendant argues that his conviction for AHC should be vacated because the statute is unconstitutional on its face as violating the Second Amendment, as described by the Supreme Court in *Bruen*. *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022). The State responds that the AHC statute is not unconstitutional under *Bruen* because "*stare decisis* requires this court to adhere to its prior precedent rejecting facial challenges" and upholding the constitutionality of the statute. The State continues that the plain text of the Second Amendment does not apply to convicted felons and, even if it did, historical analysis supports a tradition that allows for statutes dispossessing felons of firearms.

¶ 57 Although defendant raises this issue for the first time on appeal, our supreme court has previously held that a party may raise a facial challenge to the constitutionality of a statute at any time. *People v. Villareal*, 2023 IL 127318, ¶ 13 (citing *In re J.W.*, 204 Ill. 2d 50, 61 (2003)). A facial challenge requires a showing that the statute is unconstitutional under any set of facts, *i.e.*, the specific facts related to the challenging party are irrelevant. *People v. Thompson*, 2015 IL 118151, ¶ 36. If there is any situation in which a statute could be validly applied, a facial challenge

must fail. *People v. Rizzo*, 2016 IL 118599, ¶ 24. The fact that the statute could be found unconstitutional under some set of circumstances is insufficient to establish it as facially unconstitutional. *Napleton v. Village of Hinsdale*, 229 Ill. 2d 296, 305-06 (2008). Moreover, statutes are presumed constitutional "and to rebut that presumption, the party challenging a statute's constitutionality has the burden of establishing a clear violation." *People v. Bochenek*, 2021 IL 125889, ¶ 10. "If it is reasonably possible to construe the statute in a way that preserves its constitutionality, we must do so." *Id*. As a result, a "facial challenge to the constitutionality of a statute is the most difficult challenge to make successfully." *Oswald v. Hamer*, 2018 IL 122203, ¶ 40.

¶ 58 1.*Stare Decisis* Doctrine

¶ 59 The State argues that the doctrine of *stare decisis* requires this court to adhere to prior precedent. In making this argument, the State cites to our recent disposition in *People v. Garcia*, among others. See *People v. Garcia*, 2026 IL App (2d) 240676-U, ¶ 87; *People v. Price*, 2026 IL App (2d) 250047-U, ¶ 51; *People v. Miller*, 2024 IL App (2d) 230545-U, ¶ 15; *People v. Smith*, 2023 IL App (2d) 220340-U, ¶ 57.

¶ 60 However, we note that all of the cited dispositions are unpublished decisions that can be cited only for persuasive purposes pursuant to Illinois Supreme Court Rule 23(e)(1) (eff. June 3, 2025). We *may* rely on the reasoning of such decisions, but we are not required to do so by the doctrine of *stare decisis*. See *Zhao v State Farm Fire & Casualty Co.*, 2025 IL App (2d) 240723, ¶ 30. Still, there is value in this court ensuring that "the law will not change erratically," (*People v. Colon*, 225 Ill. 2d 125, 146 (2007)) even if we are not bound in this matter by the doctrine of *stare decisis*.

¶ 61 2. Second Amendment Review

¶ 62 The Second Amendment provides: "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." U.S. Const., amend II. The version of the AHC statute in effect at the time of defendant's arrests contains the following:

> "(a) A person commits the offense of unlawful possession of a firearm by a repeat felony offender if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of any combination of the following offenses:
>
> (1) a forcible felony as defined in Section 2-8 of this Code;
>
> (2) unlawful possession of a weapon by a felon; aggravated unlawful possession of a weapon; aggravated discharge of a firearm; vehicular hijacking; aggravated vehicular hijacking; aggravated battery of a child as described in Section 12-4.3 or subdivision (b)(1) of Section 12-3.05; intimidation; aggravated intimidation; gunrunning; home invasion; or aggravated battery with a firearm as described in Section 12-4.2 or subdivision (e)(1), (e)(2), (e)(3), or (e)(4) of Section 12-3.05; or
>
> (3) any violation of the Illinois Controlled Substances Act or the Cannabis Control Act that is punishable as a Class 3 felony or higher.
>
> (b) Sentence. Unlawful possession of a firearm by a repeat felony offender is a Class X felony." 720 ILCS 5/24-1.7 (West 2018).

The parties stipulated to defendant's two prior qualifying felony convictions. For defendant's facial challenge to succeed, the AHC must be unconstitutional under every conceivable set of circumstances. See *People v. Harris*, 2018 IL 121932, ¶ 38.

¶ 63 We begin with a review of the relevant Supreme Court decisions. In *District of Columbia v. Heller*, 554 U.S. 570, 595 (2008), the Supreme Court declared for the first time that the Second Amendment right to keep and bear arms is an individual right rather than a collective right. In *Heller*, the Court struck down a series of District of Columbia laws that banned handgun possession in the home and required other types of firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Id*. at 575, 635. The Court held that the laws violated the Second Amendment's protection of "the right of law-abiding, responsible citizens to use arms in defense of hearth and home." *Id*. at 635. The Court noted, however, that "the right secured by the Second Amendment is not unlimited." *Id*. at 626. The Court admonished that "nothing in [its] opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill[.]" *Id*.

¶ 64 Two years later, in *McDonald v. City of Chicago*, 561 U.S. 742, 789-91 (2010), the Court held that the Second Amendment's "right to keep and bear arms for the purpose of self-defense" applied to the States through the Fourteenth Amendment (U.S. Const. amend. XIV). Further, it struck down laws enacted by the City of Chicago and a Chicago suburb similar to those in *Heller*. *Id*. at 750. In so holding, the Court stated: "We made it clear in *Heller* that our holding did not cast doubt on such longstanding regulatory measures as 'prohibitions on the possession of firearms by felons and the mentally ill[ ] ***.' [Citation.] We repeat those assurances here." *Id*. at 786.

¶ 65 In 2022, the Supreme Court decided *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022). The issue in *Bruen* was whether "*ordinary, law-abiding citizens* have a *** right to carry handguns publicly for their self-defense." (Emphasis added.) *Id*. at 9. The Court held that, "consistent with *Heller* and *McDonald*, *** the Second and Fourteenth Amendments" protect such a right. *Id*. at 10. The Court held that *Heller* and *McDonald* did not support applying

means-end scrutiny—a test that had developed in the lower courts after *Heller*—such as intermediate or strict scrutiny, in Second Amendment cases. Instead, the Court set forth a two-step framework a court must apply in determining whether a firearm regulation violates the Second Amendment. First, a court must address the question of whether the Second Amendment's plain text covers the individual's conduct. *Id*. at 18. Second, if the court determines the conduct is covered, it must consider whether the government has affirmatively demonstrated that the regulation at issue is consistent with this country's historical tradition of firearm regulation. *Id*. at 26. This historical inquiry can take one of two forms: (1) a straightforward review of whether such regulations existed at the time of the nation's founding or (2) reasoning through analogy that a historical regulation is a proper analogue for a modern firearm regulation. *Id*. As to the latter, *Bruen* instructs that the analogue must be "relevantly similar" as judged by "at least two metrics: how and why the regulations burden a law-abiding citizen's right to armed self-defense." *Id*. at 29. In *United States v. Rahimi*, 602 U.S. 680 (2024), the Supreme Court considered the analytical framework for Second Amendment claims following its decision in *Bruen*. In applying that analytical framework, the Supreme Court upheld a firearm restriction against an individual with a domestic violence restraining order. *Id*. at 699-700. The individual subject to the restraining order was found to pose " 'a credible threat to the physical safety' " of his girlfriend and child. *Id*. at 688-89. Without examining or even mentioning the term "law-abiding citizens," the Supreme Court began its analysis as follows: "As we explained in *Bruen*, the appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition." *Id*. at 692. *Rahimi* makes clear that citizens are not excluded from Second Amendment protections just because they are not "responsible." See *id*. 701. The Supreme Court ultimately found the restriction constitutional but rejected the government's argument that the

individual was not protected under the Second Amendment because he was not " 'responsible[,]' " holding that "[a]n individual found by a court to pose a credible threat to the physical safety of another may be temporarily disarmed consistent with the Second Amendment." *Id*. at 701-02.

¶ 66 Based on these cases, we turn to a two-step *Bruen* analysis. First, we must determine whether "the Second Amendment's plain text covers an individual's conduct." *Bruen*, 597 U.S. at 17. That is, does the conduct before the court involve the keeping or bearing of arms? See *id*. at 28. If the conduct does involve the keeping or bearing of arms, "the Constitution presumptively protects that conduct" and "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Id*. at 17.

¶ 67 a. Textual Inquiry

¶ 68 Our first inquiry is whether "the Second Amendment's plain text covers an individual's conduct." *Bruen*, 597 U.S. at 17. Specifically, is the AHC's flat prohibitions of firearm possession by felons a violation of the plain text of the Second Amendment? This question has been addressed multiple times across the districts of the Illinois Appellate Court. There are a minority of dispositions holding that felons are part of "the people" to whom the Second Amendment applies. See, e.g., *People v. Travis*, 2024 IL App (3d) 230113, ¶ 33; *People v. Brooks*, 2023 IL App (1st) 200435, ¶ 89; *People v. Mobley*, 2023 IL App (1st) 221264, ¶¶ 29-30; see also *People v. Jordan*, 2026 IL App (2d) 240341-U, ¶¶ 22-35 (McLaren, J., specially concurring)[1]. However, the vast majority of the Illinois Appellate Court have held that the protections afforded by the Second Amendment apply only to 'law-abiding citizens,' and not felons like defendant. See *People v. Baker*, 2023 IL App (1st) 220328, ¶ 37 (noting that the *Bruen* majority and concurrences repeated

[1] We may rely on the reasoning of a nonprecedential decision under Illinois Supreme Court Rule 23 (eff. June 3, 2025). *Zhao*, 2025 IL App (2d) 240723, ¶ 30.

the phrase "law-abiding" 18 times); *People v. Martinez*, 2024 IL App (2d) 230305-U, ¶ 27 ("Defendant's challenge to the *** statute fails at the first step of the *Bruen* analysis because, contrary to defendant's assertion, felons are not included in 'the people' to whom the Second Amendment refers."); *People v. Burns*, 2024 IL App (4th) 230428, ¶ 21 (determining that the *Bruen* decision does not apply to felons); *People v. Stephens*, 2024 IL App (5th) 220828, ¶ 27 ("*Bruen* strongly suggests the test only applies when a regulation impacts a law-abiding citizen's ability to keep and bear arms"). Regardless of the approach to the textual inquiry, however, this court has—repeatedly and without exception—concluded that the Second Amendment permits Illinois to disarm felons.

¶ 69 b. Historical Inquiry

¶ 70 We now ask whether the Government can strip defendant of his right to keep and bear arms. To carry this burden, the government must point to "historical precedent from before, during, and even after the founding [that] evinces a comparable tradition of regulation." (Internal quotation marks omitted.) *Bruen*, 597 U.S. at 27. Noting that "when it comes to interpreting the Constitution, not all history is created equal," the Court made clear that the relevant inquiry centers on what the Founders understood the Second Amendment to mean. *Id*. at 34. In other words, the Court clarified that, in looking to historical context, "[c]onstitutional rights are enshrined with the scope they were understood to have when the people adopted them." *Heller*, 554 U.S. at 634–635.

¶ 71 While the various districts of the Illinois Appellate Court disagree as to the first *Bruen* inquiry, as noted above, all agree that the country's historical tradition of firearm regulation included prohibiting felons from possessing firearms. Since 2023, numerous cases have addressed the issue of whether the AHC is facially constitutional. See *People v. Lopez*, 2025 IL App (1st) 232120, ¶ 23, *pet. for leave to appeal pending*, No. 132054 (filed Sept. 2, 2025); *Garcia*, 2026 IL

App (2d) 240676-U, ¶ 87; *Travis*, 2024 IL App (3d) 230113, ¶¶ 32-33; *People v. Verner*, 2026 IL App (4th) 250083-U, ¶¶ 109-111; *People v. Lomax*, 2026 IL App (5th) 240889-U, ¶¶ 47-48. All have held that these sections are facially constitutional.

¶ 72 Defendant does not raise any argument that has not been previously considered and ably addressed by this court. We find no basis in the defendant's arguments in this matter to deviate from our previous decisions regarding the facial constitutionality of the AHC statute. Therefore, based upon our *de novo* review, and consistent with our previous decisions and the decisions of the numerous Illinois courts that have considered this issue, we find that section 24-1.7 is facially constitutional under the Second Amendment of the United States Constitution.

¶ 73

¶ 74 III. CONCLUSION

¶ 75 For the reasons stated, we affirm the judgment of the circuit court of Lake County.

¶ 76 Affirmed.