

No. 132234

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 2-24-0609.
	)	
Respondent-Appellee,	)	There on appeal from the Circuit
	)	Court of the Sixteenth Judicial
-vs-	)	Circuit, Kane County, Illinois, No.
	)	20 CF 1481.
	)	
NALIANA VARGAS,	)	Honorable
	)	David P. Kliment,
Petitioner-Appellant.	)	Judge Presiding.

BRIEF AND ARGUMENT FOR PETITIONER-APPELLANT

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NATURE OF THE CASE

Naliana Vargas appeals from a judgment revoking her probation for domestic battery and terminating her probation unsatisfactorily.

No issue is raised challenging the pleadings.

ISSUE PRESENTED FOR REVIEW

Whether a probation violation is presumed to carry collateral consequences, and, if not, whether Naliana Vargas's case presents sufficient proof of collateral consequences where the record indicates that she is not a United States citizen and the probation violation may make her ineligible to become a citizen through naturalization.

STATEMENT OF FACTS

On August 9, 2020, Naliana Vargas was charged with two counts of domestic battery. (C. 8–9). At a pretrial hearing in November 2021, trial counsel mentioned that they had spoken to Vargas’s immigration attorney and they were hoping to continue plea negotiations with the State. (R. 40). Two months later, on January 5, 2022, Vargas pled guilty to misdemeanor domestic battery. (C. 66–67). At the plea hearing, trial counsel confirmed that Vargas had asylum status in the United States and that they had discussed the immigration consequences of her plea. (Supp. R. 17).

Pursuant to her plea agreement, Vargas was sentenced to a 24-month term of probation, including a condition that she complete drug treatment. (C. 62, 67). The trial court waived her criminal assessments, but she was still required to pay a \$20 monthly probation fee. (C. 63-65); (Supp. R. 24). After two months, Vargas’s probation was transferred to Cook County. (C. 71). Thus, by the end of her term of probation, she would owe \$40 in probation fees to Kane County.

The State filed multiple petitions to adjudicate probation violations, first in December 2023, just before the probation term expired, and then in April 2024. (C. 74–75, 77–78). Vargas was initially given more time to comply with her drug treatment, but then failed to appear at a subsequent hearing. (C. 80, 85). In September 2024, the State filed an amended petition, alleging that Vargas had: (1) failed to pay the \$40 probation fee, (2) failed to complete substance abuse treatment, and (3) tested positive for various substances on several dates. (C. 93).

The revocation hearing on the amended petition took place on September 13, 2024. The State was proceeding on probation violations both in this case and another case in which Vargas had been sentenced to probation, 21 CM 2153. (R.

81-82, 98). The State first called Renee Buchman, Vargas's probation officer. The State attempted to introduce evidence that Vargas had tested positive for various illicit substances, but, after a number of objections and a short recess, no such evidence was admitted. (R. 86-95). Although the State had alleged Vargas failed to complete drug treatment, her probation officer possessed a certificate of completion for the treatment program. (R. 95).

The State then called Naliana Vargas. (R. 96). Vargas admitted that she had not paid \$750 in fees owed on the 21 CM 2153 case. (R. 98). She likewise had not paid the fees owed in this case, 20 CF 1481. (R. 100). She stated that she had not paid because she lost her job. (R. 99). Her work permit expired and was no longer valid, so she did not file a tax return in 2023 and did not receive a refund. (R. 99-100). She last worked in September 2023, making approximately \$500–530 per paycheck. (R. 99). At that time, she was paying rent and transportation costs and supporting her children. (R. 99). At the time of the hearing, Vargas had been unemployed for a year, and she was living with somebody else, without her children. (R. 100-101).

In arguing to the court, the State asked the court find a probation violation only for the failure to pay required fees, abandoning the other violations alleged in the amended petition. (R. 102). The State argued that Vargas had been employed when she pled guilty and up until September 2023, that she was making approximately \$2000 per month, and that she had failed to pay the fees. (R. 102). Defense counsel responded that it was unknown how long Vargas had been employed, and that she had been paying rent, transportation costs, and supporting her children; the limited testimony presented did not support a willful failure to pay. (R. 103).

The court made its findings on the matter:

The defendant testified that she was working and making at least \$2,000 a month for whatever period of time, and while that's uncertain, there is an indication that she was making that sum of money for some period of time.

There's no indication that she's unable to work now, just that she's not working, and from what I gather of the testimony, she has not paid any money on the 21 CM 1253 or on the felony matter. She certainly had the ability to pay something, but she's made no effort to do that at all.

(R. 104). The court found that the State had met its burden by a preponderance of the evidence that Naliana Vargas violated her probation in both cases by failing to pay the fines, costs, and fees. (R. 104). The court proceeded to resentence Vargas, terminating both terms of probation unsatisfactorily and sending the remaining costs owed to collections. (C. 95); (R. 104–105). Notice of appeal was filed October 10, 2024, and an amended notice of appeal was filed November 4, 2024. (C. 97, 105).

On appeal, Vargas argued that the State failed to meet its burden to show by a preponderance of the evidence that she failed to pay the probation fees, because the State had not adequately established that she ever had the ability to pay those fees. In the opening brief, Vargas addressed the question of mootness, arguing that the case presented a live legal controversy because it carried collateral consequences for future sentencing, citing to *Minnesota v. Dickerson*, 508 U.S. 366 (1993), *People v. Monick*, 51 Ill.App.3d 783 (2nd Dist. 1977), and *In Re Sturdivant*, 44 Ill.App.3d 410 (1st Dist. 1976). (Opening Br. at 12).

The State argued in response that the case was moot, citing to recent decisions by the First and Fourth District Appellate Courts that held that any consequences for future sentencing hearings were too speculative to keep the case live. (St. Br.

at 3–7). Those decisions adopted the United States Supreme Court’s reasoning in *Spencer v. Kemna*, 523 U.S. 1 (1998), which held that, under Article III, federal courts should not presume the existence of collateral consequences for parole revocation proceedings. In reply, Vargas further argued why the case was not moot, explaining that *Spencer* was not binding authority and relied on faulty rationale. (Reply Br. 2–3). Even if the appellate court adopted *Spencer*’s rationale, the record supported that Vargas was in the United States on asylum status, and the probation revocation could affect her prospects for citizenship. (Reply Br. 4–5).

The appellate court held that the case was moot. *People v. Vargas*, 2025 IL App (2d) 240609. The court agreed with the State that collateral consequences could not be presumed to flow from probation violations, adopting the reasoning of *Spencer v. Kemna*, 523 U.S. 1 (1998). *Vargas*, 2025 IL App (2d) 240609, ¶ 35. The court held that any alleged immigration consequence was too speculative, as the court would not infer that Vargas is or would seek U.S. citizenship through naturalization. *Id.* at ¶ 40. Further, the court held that, even if the court could infer that Vargas would decide to apply for naturalization, the probation violation would not create a concrete injury-in-fact, because the violation would be only one factor used in determining whether she could establish good moral character. *Id.* at ¶ 39, 44. The court determined no other exception to the mootness doctrine applied and dismissed the appeal as moot. *Id.* at ¶ 45–47. This Court granted leave to appeal on November 26, 2025.

ARGUMENT

Naliana Vargas's appeal of the unsatisfactory termination of her probation is not moot, because the judgment carries collateral consequences, some generalizable to all probation revocations and others specific to her case, and reversal of that judgment would afford Vargas effectual relief.

Naliana Vargas's probation was revoked and terminated unsatisfactorily for failure to pay probation fees, despite scant evidence that Vargas, who had lost her job and was homeless, had willfully refused to pay. Contrary to the appellate court's holding, the fact that Vargas is not in custody does not render her case moot.

An appeal is moot when the controversy in the trial court ceases to exist. *In re A Minor*, 127 Ill. 2d 247, 255 (1989). When a defendant's sentence expires, any appeal from that sentence is moot, because the sentence no longer exists. But the expiration of a sentence will not moot a challenge to the underlying judgment, which may yet be reversed. *People v. Lynn*, 102 Ill. 2d 267, 272–73 (1984). A defendant has the same stake in challenging a probation revocation as she would in a criminal conviction; regardless of whether she is in custody, the judgment may present adverse consequences. Because a probation revocation could affect future prosecutions, the Illinois appellate courts consistently held from 1977 until 2020 that a defendant's challenge to her probation revocation was not mooted by the expiration of her sentence, as is the case with convictions and terminations of supervision. *E.g.*, *People v. Halterman*, 45 Ill. App. 3d 605, 608 (4th Dist. 1977); *see also People v. Jordan*, 218 Ill. 2d 255, 263 (2006). A defendant was not required to prove the case presented a live controversy, and it was presumed some collateral consequence could flow from the judgment. Doing away with this presumption would, in effect, discontinue appellate review of probation revocation proceedings.

Moreover, it is inconsistent with Illinois' justiciability doctrine to require the appellant affirmatively prove her case presents a live controversy. *See Wexler v. Wirtz Corp.*, 211 Ill. 2d 18, 22 (2004) (plaintiff bears no burden to establish standing). Therefore, this Court should hold that a probation revocation is presumed to carry collateral consequences and that a defendant's challenge to a revocation judgment is not mooted by the expiration of any revocation sentence.

Even if this Court holds that, in general, a defendant has no interest in challenging a probation revocation once out of custody, Vargas has a unique stake in the outcome of her probation revocation proceeding. Vargas is not a U.S. citizen, and the probation violation would affect her ability to become citizen through naturalization. (Supp. R. 17). As Vargas is not in custody and is not presenting a new claim or defense, the appellate process is her only means of challenging the unsatisfactory termination of probation. *See* 725 ILCS 5/122-1 (2025); 735 ILCS 5/2-1401 (2025). She should not be deprived of her sole remedy to contest the trial court's judgment. This Court should find that Vargas's appeal is not moot and reverse the probation revocation outright.

A. There has been no change in circumstances that would render Vargas's appeal moot.

A case is moot if no actual controversy exists. *Wheatley v. Bd. of Educ. of Twp. High Sch. Dist.* 205, 99 Ill. 2d 481, 484 (1984). The determination of whether an appeal is moot presents a question of law, which this Court reviews *de novo*. *Waukegan Potawatomi Casino, LLC v. Illinois Gaming Bd.*, 2025 IL 130036, ¶ 20. A case on appeal becomes moot "where the occurrence of events since filing of the appeal makes it impossible for the reviewing court to render effectual relief." *People v. Jackson*, 199 Ill. 2d 286, 294 (2002). In other words, an appeal is moot

once “the issues involved in the trial court no longer exist,” *In re A Minor*, 127 Ill. 2d 247, 255 (1989), and there is “no actual controversy and a reviewing court’s decision could have no practical effect on the parties.” *In re V.S.*, 2025 IL 129755, ¶ 55. The mootness doctrine stems from the concern that parties to a now-resolved dispute lack a sufficient personal stake in the outcome to retain the adversarial quality that sharpens the presentation of issues for review. *In re Marriage of Peters-Farrell*, 216 Ill. 2d 287, 291 (2005). Vargas’s case is not moot, because there is an active controversy, and this Court can provide effectual relief by reversing the unsatisfactory termination of her probation, thereby removing the probation violation from her record. Contrary to the appellate court’s holding, Vargas’s challenge to the trial court’s judgment was not mooted by the termination of her probation. *Vargas*, 2025 IL App (2d) 240609, ¶ 18.

Vargas’s appeal is not moot, because there has been no change in circumstances, and the dispute has not been resolved. The court entered its judgment terminating Vargas’s probation unsatisfactorily. (C. 95). That judgment has not been vacated or modified while the case was pending on direct appeal. Vargas was not challenging her placement on probation or the conditions of that sentence, so the termination of her probation did not resolve the dispute. *Cf. People v. Caldwell*, 259 Ill. App. 3d 646, 649 (2nd Dist. 1994) (defendant’s challenge to condition of restitution became moot once probation was terminated). The fact that Vargas’s probation was terminated does not amount to a change in circumstances mooting the appeal; the termination itself is the subject of the appeal.

A reviewing court could grant Vargas relief by reversing the trial court’s judgment that found a violation and terminated her probation unsatisfactorily. *See People v. Harder*, 59 Ill. 2d 563, 568 (1975) (reversing probation revocation

outright where State failed to meet burden to prove violation); *People v. Moore*, 335 Ill. App. 3d 616, 623 (1st Dist. 2002) (same). Recent cases finding probation revocation appeals moot determined that there was no effectual relief to be granted once the defendant was no longer in custody, but those decisions relied on a faulty definition of “effectual” relief. In *People v. Musawwir*, the First District reasoned that the defendant, who sought to reverse his probation revocation but had already served the revocation sentence, could receive no effectual relief from the appellate court, because he would be returned to probation with the obligation to pay \$5,666.55. 2022 IL App (1st) 211546-U¹, ¶ 13. That, the court concluded, “cannot realistically be called effectual relief.” *Id.* The First District again followed the same reasoning in *People v. Cousins*, where the only relief available to the defendant would have been a new revocation hearing; the defendant would either have his probation revoked, or he would be returned to probationary status, despite having served the revocation sentence in full. 2023 IL App (1st) 230234, ¶ 11. The court concluded that a new hearing would not be effectual relief. *Id.* In both *Musawwir* and *Cousins*, the appellate court reasoned that, although there was some relief to be granted, that relief would be undesirable or incomplete.

These decisions distort the meaning of “effectual relief.” The mootness doctrine applies where intervening events make it “impossible” for the reviewing court to grant relief. *Commonwealth Edison Co. v. Illinois Com. Comm’n*, 2016 IL 118129, ¶ 10. That occurs where the conditions contested by the parties have since resolved or expired, such that there is no relief to be granted, and any judgment would be “wholly ineffectual for want of a subject matter on which it could operate.” *People*

¹Unpublished decisions are cited as persuasive authority in accordance with Illinois Supreme Court Rule 23.

ex rel. Black v. Dukes, 96 Ill. 2d 273, 276 (1983); *see also Jackson v. Bd. of Election Comm'rs of City of Chicago*, 2012 IL 111928, ¶ 28 (candidate's challenge to election procedures mooted once election date had passed); *Felzak v. Hruby*, 226 Ill. 2d 382, 392 (2007) (parent's challenge to visitation order was moot once the child became an adult and was no longer subject to the order). For example, a defendant's challenge to his fully-served sentence is moot, because the appellate court cannot wind back the clock and undo the amount of the time the defendant spent in custody. *See People v. Roberson*, 212 Ill. 2d 430, 435 (2004) (request for sentence credit mooted once entire sentence was complete). The question is whether the court's judgment could have "any practical legal effect" on the parties. *Tully v. McLean*, 2013 IL App (1st) 113663, ¶ 16.

If relief is available, the case is not moot. That is true even though the relief sought may appear undesirable or impractical to the court. A defendant who has served his sentence may still challenge his conviction and seek a new trial, even though that relief would put him back in the same position as when he was first charged. *See People v. Grant*, 2020 IL App (3d) 160758, ¶ 15, *rev'd on other grounds*, 2022 IL 126824. A defendant seeking to withdraw her guilty plea is asking for effectual relief, despite the fact that the withdrawal could result in a harsher sentence. *See People v. Dickerson*, 216 Ill. App. 3d 561, 565 (4th Dist. 1991). Whether relief is "effectual" does not depend on whether the court believes the litigant's best interests would better be served by dismissal, or whether the relief sought fully resolves the party's legal troubles. Even though reversal here would result in a return to probation, it is effectual relief, because reversal of the trial court's judgment would remove the unsatisfactory termination from Vargas's record. *See State v. Sokolosky*, 721 S.W.3d 215, 222 (Tenn. 2025) (holding challenge to probation

violation was not moot because court could grant relief of removing the violation from defendant's record); *Adkins v. State*, 324 Md. 641, 651 (1991) (finding the same); *Bennett v. State*, 119 N.E.3d 1057, 1059 (Ind. 2019) (remanding to remove violation from defendant's record, despite his release from custody).

A reversal would also provide effectual relief to Vargas in that it would pull back her fees owed from collections, which was part of the trial court's judgment. (C. 95); (R. 105). The fees in collections pose a continuing financial burden that will negatively impact her credit, and this Court can redress that harm by reversing the trial court's judgment. The trial court would then be able to waive the probation fees based on Vargas's inability to pay and terminate her probation satisfactorily. *See* 730 ILCS 5/5-6-3 (i) (2026).

This Court has never held that a case can be moot while the judgment below remains in effect and relief is available. *See cf. In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009) (appeal moot where commitment order expired); *In re V.S.*, 2025 IL 129755, ¶ 58 (appeal moot where judgment below could not be reversed even if party's challenge was successful); *In re Marriage of Peters-Farrell*, 216 Ill. 2d at 291 (appeal moot where dissolution judgment resolved challenge to subpoenas). Because the order that Vargas challenges remains in effect, and this Court has the power to grant effectual relief by reversing the unsatisfactory termination of probation, Vargas's case is not moot.

B. This Court should presume that probation violations carry collateral consequences and that Vargas has a stake in challenging her probation violation.

In spite of the fact that Vargas challenges a judgment that remains in effect, the appellate court below held that the case was moot because Vargas lacked a sufficient stake in her probation violation once her sentence was complete. *Vargas*,

2025 IL App (2d) 240609, ¶ 18. The appellate court chose to borrow the rationale of a 1998 United States Supreme Court case, *Spencer v. Kemna*, 523 U.S. 1, where the Court held that a probation revocation is not presumed to carry collateral consequences because it is not like a criminal conviction and any adverse consequence would be contingent on the defendant choosing to again violate the law. Eschewing decades of appellate court decisions to the contrary, the appellate court held that, unlike a criminal conviction, a probation revocation is not presumed to carry any collateral consequences, and thus the case is generally not justiciable once any sentence is discharged. *Vargas*, 2025 IL App (2d) 240609, ¶ 35.

A criminal defendant's challenge to her conviction presents a justiciable controversy even after the sentence has expired. Although the risk of incarceration is the most pressing interest at stake in a criminal proceeding, a conviction also carries other consequences for a defendant that will outlast her sentence. In *Sibron v. New York*, 392 U.S. 40 (1968), the United States Supreme Court held that a defendant's challenge to his misdemeanor conviction was not moot even though he had completed his six-month sentence. The conviction carried other meaningful consequences beyond the sentence itself. *Id.* at 55. Specifically, the Court noted that if the defendant were to be prosecuted for another crime, his misdemeanor conviction could be used to impeach him, and it would likely result in a harsher sentence in any future criminal case. *Id.* at 56. Even though the defendant had other prior convictions, he still had a stake in challenging this particular conviction, because every additional conviction did incremental damage to his reputation; though reversing one conviction might not eliminate the consequences of the others, it would lessen the overall effect. *Id.* The Court concluded, "[A] criminal case is moot only if it is shown that there is no possibility that any collateral legal

consequences will be imposed on the basis of the challenged conviction.” *Id.* at 57.

Several decades later, the Supreme Court heard *Spencer v. Kemna*, 523 U.S. 1 (1998), considering whether a defendant could challenge his parole revocation via a habeas petition after his revocation sentence had been completed. Because the defendant had been released from custody, his sentence was no longer a concrete injury cognizable under Article III’s case-and-controversy requirement. *Id.* at 7. To maintain his cause of action, there had to be some other concrete and continuing injury. *Id.* at 8. The Court recognized that, in appeals from convictions, that injury is present in the form of collateral consequences. *Id.* at 14. However, the Court held that the same cannot apply to parole revocations. *Id.* The Court held that parole revocations are not like criminal convictions, because “it is an obvious fact of life that most criminal convictions do in fact entail adverse collateral legal consequences,” while parole revocations do not. *Id.* at 12. The Court rejected the petitioner’s argument that he would be affected by the revocation in future criminal proceedings, because those consequences were contingent on the petitioner violating the law, which he could choose to avoid: “We assume that respondents will conduct their activities within the law and so avoid prosecution and conviction.” *Id.* at 15. Thus, *Spencer* held that the petitioner’s parole revocation carried no collateral consequences sufficient to satisfy Article III’s case or controversy requirement. *Id.*

Illinois courts first began to consider the justiciability of probation revocation proceedings in the 1970’s. Although a few earlier decisions held that a challenge to a probation revocation was moot once the sentence was discharged, *People v. North*, 3 Ill. App. 3d 428, 429 (2nd Dist. 1972); *People v. Yackle*, 42 Ill. App. 3d

695, 696 (5th Dist. 1976), the courts soon reached a unanimous consensus that a probation revocation is not mooted by the expiration of the defendant's sentence, because the revocation judgment itself may carry collateral consequences. *See In Int. of Sturdivant*, 44 Ill. App. 3d 410, 412 (1st Dist. 1976); *People v. Monick*, 51 Ill. App. 3d 783, 785 (2nd Dist. 1977); *People v. Halterman*, 45 Ill. App. 3d 605, 608 (4th Dist. 1977); *People v. Seymour*, 53 Ill. App. 3d 367, 370 (5th Dist. 1977). Thus, the appellate court applied *Sibron*'s reasoning to find that probation revocations present a live controversy even after the completion of the sentence. Many subsequent decisions in appeals from probation revocations do not discuss issue of mootness, because the appeal was presumed justiciable. *See People v. Susberry*, 68 Ill. App. 3d 555, 557 (1st Dist. 1979) (reversing revocation of probation entered four years prior, long after six-month revocation sentence would have expired).

Spencer was decided in 1998. But the Illinois appellate courts continued to presume that probation revocations carried collateral consequences. *See In re Jessie B.*, 327 Ill. App. 3d 1084, 1088 (3rd Dist. 2002). Since 1976, not a single appellate court decision, published or unpublished, found that a probation revocation case was mooted by the completion of the defendant's sentence. With no clear catalyst, the appellate courts shifted course in 2020, starting with *People v. Dawson*, 2020 IL App (4th) 170872. Ruling on an *Anders* motion, the *Dawson* court *sua sponte* chose to follow *Spencer* and held that probation violations are not presumed to carry collateral consequences. 2020 IL App (4th) 170872, ¶ 8, 19. The First District later followed suit, as did the Second District in this case. *People v. Cousins*, 2023 IL App (1st) 230234, ¶ 15; *People v. Vargas*, 2025 IL App (2d) 240609, ¶ 35.

As explained below, this Court should not follow the United States Supreme

Court's decision in *Spencer*. Illinois courts are not bound by Article III or federal justiciability doctrine. *Spencer's* rationale is incompatible with other decisions by the United States Supreme Court and this Court. And probation violations do, in fact, carry collateral consequences. Moreover, in most cases, defendants will not be able to prove the existence of collateral consequences from the limited trial court record, and probation revocation cases generally result in non-custodial terminations or sentences too short to survive the appeal process. The presumption of collateral consequences is necessary to retain appellate review over these proceedings and safeguard the constitutional rights of defendants.

1. Illinois' mootness doctrine is distinct from federal mootness doctrine.

The decision in *Spencer* was borne out of Article III's constraints on jurisdiction and the interrelated federal concepts of standing and mootness—that the defendant must be suffering a concrete and continuing injury in order to invoke the jurisdiction of the court. *Spencer*, 523 U.S. at 7. Illinois courts are not bound by Article III, and Illinois' Constitution contains no analogue to the case-or-controversy requirement. *See* Art. VI, Sect. 4, 6, 9. Unlike the limited jurisdiction of federal courts, Illinois courts possess general jurisdiction. *Fausett v. Walgreen Co.*, 2025 IL 131444, ¶ 22. Though the jurisdiction of the trial courts is limited to “all justiciable matters,” the appellate jurisdiction of the appellate courts and this Court contain no such qualification. Art VI. Sect. 4, 6, 9. Illinois' own justiciability doctrines often differ significantly from the federal doctrines; for example, unlike federal standing, standing under state law is an affirmative defense, meaning that the party challenging standing has the burden to prove there is no concrete injury in fact. *See Fausett*, 2025 IL 131444, ¶ 46. Under state law,

“[m]ootness is a doctrine which the court imposes for its own protection,” not an external limitation on the authority of the courts. *Kern v. Chicago & E. I. R. Co.*, 44 Ill. App. 2d 468, 477 (3rd Dist. 1963). This Court is not bound to adopt federal definitions of mootness or the exceptions thereto. Therefore, this Court has no reason to follow *Spencer*, which was premised on the fact that, in federal court, a criminal defendant must prove the existence of a concrete, continuing injury in order to maintain his habeas petition through appeal.

2. Probation violations carry collateral consequences.

A probation violation carries collateral consequences, because it can be used against the defendant in any future criminal case. The prospect of future prosecution was the only collateral consequence considered in *Spencer*, but a probation violation also carries a variety of other consequences, including reputational harm and damage to the defendant’s employment prospects. But, with respect to *Spencer*, its logic on collateral consequences is at odds with other decisions by both the United States Supreme Court and this Court, which have held that the possibility of harsher penalties in a future prosecution will by itself preclude a criminal case from becoming moot, even if the adjudication imposes no statutory disabilities.

Spencer held that future criminal proceedings are not a cognizable collateral consequence, because the defendant is expected to follow the law. 523 U.S. at 15. Further, *Spencer* held that collateral consequences are limited to non-discretionary penalties or disabilities imposed under state or federal law. *Id.* at 13. In contrast, *Sibron* held that a criminal conviction is presumed to present a justiciable controversy on appeal, in part because the conviction could be used against the defendant in any future criminal proceeding. 392 U.S. at 56. Subsequently, in

Minnesota v. Dickerson, 508 U.S. 366 (1993), the Court held that the possibility that the present judgment would affect a future criminal prosecution was, by itself, sufficient to maintain a criminal appeal. In *Dickerson*, the defendant challenged the trial court's finding of guilt that resulted in his placement in a diversionary sentencing program. *Id.* at 371, n.2. By law, this finding was not a conviction, and it could not result in any disqualification or civil disability. *Id.* Nevertheless, the Court held that the adjudication still presented the specter of collateral consequences, because "the department of public safety would retain a record of the charges that could be used against the defendant in any future criminal proceedings." *Id.* That collateral consequence precluded a finding of mootness. *Id.* Thus, *Spencer* directly conflicts with *Sibron* and *Dickerson*.

Illinois courts have held, consistent with *Sibron* and *Dickerson*, that the possibility of future criminal prosecution is sufficient for a criminal defendant to maintain a stake in his present criminal case. *See People v. Lynn*, 102 Ill. 2d 267, 272–73 (1984) (holding that challenge to conviction was not mooted by expiration of sentence, citing *Sibron*); *People v. Wagner*, 89 Ill. 2d 308, 312 (1982) (holding appeal not moot because conviction could result in an extended-term sentence in a future case); *People v. Vanhooose*, 2020 IL App (5th) 170247, ¶ 21 ("[W]here the offense of which the defendant is found guilty may be considered in future proceedings or sentencing as an enhancement or aggravating factor, then there is an interest in being able to challenge that finding of guilt."). As a result, collateral consequences are presumed to flow from a criminal judgment, and a defendant need not prove that his particular case presents any specific consequence. *See In re Christopher K.*, 217 Ill. 2d 348, 359 (2005) ("Nullification of a conviction may have important consequences for a defendant."). This

presumption applies even to a disposition of supervision, which is not a conviction, and where the only foreseeable consequence is its use in future prosecutions. *See People v. Jordan*, 218 Ill. 2d 255, 263 (2006) (although the disposition of supervision was not a conviction, the defendant's challenge was not moot, because the disposition could be used as aggravating evidence at sentencing in a future criminal case); *see also People v. Saleh*, 2013 IL App (1st) 121195, ¶ 2 (challenge to revocation of supervision heard on the merits even though defendant's 364-day sentence imposed in 2011 would have already expired). Even if the defendant is not presently in custody, the possibility of future incarceration is sufficiently grave that the defendant has an interest in challenging the instant judgment.

A probation violation presents the same potential harm: that the violation will be used against the defendant in any future criminal proceeding. In any subsequent criminal case, a probation violation will directly affect the defendant's prospects of detention and punishment. Once charged, the probation violation would weigh against a defendant's chances of pre-trial release. *See, e.g., People v. Earnest*, 2024 IL App (2d) 230390, ¶ 9 (prior probation violation supported denial of pretrial release); *People v. Ballard*, 2025 IL App (4th) 241524-U², ¶ 10 (trial court considered prior probation revocations in denying pretrial release). If convicted, the prior probation violation would make the trial court less likely to impose probation and more likely to sentence the defendant to incarceration. The violation would also likely result in a longer term of incarceration. *See People v. Bender*, 226 Ill. App. 3d 940, 944 (3rd Dist. 1992) (affirming defendant's sentencing, noting that prior probation violations indicated little rehabilitative potential). Thus, like

² Unpublished decisions are cited as persuasive authority in accordance with Illinois Supreme Court Rule 23.

a conviction or termination of court supervision, a probation violation presents collateral consequences in any future criminal prosecution.

It is for this reason that, from 1977 through 2019, the appellate courts consistently held that a probation revocation presented a live controversy despite the expiration of the sentence. *In Int. of Sturdivant*, 44 Ill. App. 3d 410, 412 (1st Dist. 1976) (“[W]e recognize the effect the instant improper probation revocation could have at any future sentencing hearing.”); *People v. Seymour*, 53 Ill. App. 3d 367, 370 (5th Dist 1977) (“[T]he results of the probation revocation may persist. Subsequent convictions may carry greater penalties; civil rights may be affected.”); *People v. Halterman*, 45 Ill. App. 3d 605, 608 (4th Dist. 1977) (Noting that the probation revocation could be used against the defendant in sentencing if he were ever convicted of another crime). Because this Court has held that the risk of harsher criminal penalties in the future is a sufficient collateral consequence to preclude mootness, *Jordan*, 218 Ill. 2d at 263, and probation violations present the same risk of harm, this Court should presume that probation violations carry collateral consequences, as the appellate courts previously did for over four decades.

Aside from the fact that *Spencer* clashes with decades of precedent from the United States Supreme Court, this Court, and the Illinois appellate courts, *Spencer*’s reasoning is also fundamentally flawed. *Spencer* held that any effect on future criminal proceedings was not a cognizable consequence, because a defendant could avoid that consequence by choosing to live a law-abiding life. This incorrectly assumes that a defendant will be subject to future prosecution only if he chooses to commit another crime. Moreover, *Spencer* ignores the real possibility that if a defendant *does* find herself involved in future criminal proceedings, she will be wrongfully punished without recourse for the errant

probation violation on her record.

First, *Spencer* assumes that an individual can avoid future criminal prosecution by following the law. In other words, the decision posits that all criminal defendants are actually guilty of a crime. That claim does violence to the constitutional presumption of innocence. It is also untrue. Our criminal legal system is not perfectly accurate at determining guilt, and many individuals are charged with and convicted of crimes they did not commit. Experts estimate that 6% of state prisoners have been wrongfully convicted.³ Presumably, defendants are wrongfully charged at an even greater rate.

Additionally, *Spencer's* premise—that an individual can avoid prosecution by *choosing* to follow the law—ignores the fact that a person making reasonable efforts to comply with the law may nevertheless accidentally commit an offense due to imperfect knowledge. For example, a driver who is unaware that his insurance has lapsed or that his license was suspended may be convicted for illegally operating a vehicle. *See People v. O'Brien*, 197 Ill. 2d 88, 98 (2001) (operating an uninsured motor vehicle is an absolute liability offense and unknowing or unintentional violations are punishable); *People v. Hayes*, 177 Ill. App. 3d 126, 127 (4th Dist. 1988) (defendant convicted of driving on a suspended license where defendant unknowingly underpaid insurance premiums, the lapse in insurance resulted in suspension of his license, and he did not receive notice of either the suspension or lapse in coverage). Because a defendant may be wrongfully convicted or convicted for a crime she did not intend to commit, a defendant's good intentions will not shield her from future prosecution.

³<https://innocenceproject.org/research-resources/> (Last accessed January 7, 2026).

The second flaw in *Spencer*'s reasoning is that, even assuming a defendant *could* avoid any collateral consequence by choosing to live a law-abiding life, the reality is that many defendants re-offend. The majority of defendants charged with a felony have at least one prior conviction, and nearly 30% of those defendants have five or more prior convictions. Brian A. Reaves, Bureau of Just. Stat., *Felony Defendants in Large Urban Counties, 2009—Statistical Tables*, 12 (2013) (citing table 9). While recidivism rates are somewhat lower amongst defendants sentenced to probation, there is still a significant chance that a person placed on probation will be arrested or convicted in the future. See United States Sentencing Commission, *Recidivism Among Federal Offenders: A Comprehensive Overview*, 49 (2015) (Appendix A-2, Reconviction Rates Across Selected Variables) (21.6% of defendants sentenced to probation and 34.1% of defendants sentenced to incarceration were re-convicted within eight years).

Spencer ignores the real possibility of injustice it creates: that if a defendant *is* subject to further criminal prosecution, she will suffer harsher punishment due to a judgment that should not exist on her record. *Spencer* would deprive most defendants of the right to appeal a probation revocation, and wrongful probation violations would go uncorrected. Some of those defendants whose probation was wrongfully revoked would later be subject to future prosecution. Thus, following *Spencer*, it is inevitable that some defendants would be wrongfully punished. Defendants like Vargas, whose violations were not supported by sufficient evidence, might be punished for a violation they did not commit. In some circumstances, the defendant may be twice wrongly incarcerated: first, serving a revocation sentence after probation was revoked without due process, and then serving additional time in custody on a future case as a result of the prior violation. While the first

sentence cannot be undone on appeal, the second is preventable. This Court can ensure defendants will not be wrongly punished in the future by allowing defendants to challenge probation revocation judgments on direct review.

Because a probation violation is likely to follow a defendant in any future criminal proceeding, several other states hold that probation violations are presumed to carry collateral consequences. Some have explicitly rejected *Spencer*. See *State v. Sokolosky*, 721 S.W.3d 215, 220 (Tenn. 2025) (holding that challenges to probation violations present a live controversy because the violation could be used for future sentencing enhancement); *State v. McElveen*, 261 Conn. 198, 207 (2002) (stating that *Spencer* was not particularly compelling, noting the inconsistent application of the federal mootness doctrine). Other states implicitly reject *Spencer* by holding that the probation revocation's consequences for future criminal cases preclude a finding of mootness. See *Commonwealth v. Foster*, 654 Pa. 266, 276 (2019); *Commonwealth v. Bain*, 93 Mass. App. Ct. 724, 725 (2018); *State v. Callahan*, 441 Md. 220, 225 n.4 (2015); *State v. Black*, 197 N.C. App. 373, 377 (2009).

Apart from the effects on future criminal proceedings, a probation violation carries a host of potential other consequences for the defendant. A probation violation does harm to a defendant's reputation, as it is a matter of public record. That reputational harm is itself a cognizable injury, as evidenced by the existence of defamation actions. See *Spencer v. Kemna*, 523 U.S. 1, 24–25, n.5, 6 (1998) (Stevens, J., dissenting) (“In light of the fact that we have held that an interest in one's reputation is sufficient to confer standing [in defamation suits], it necessarily follows that such an interest is sufficient to defeat a claim of mootness.”); *Winters v. Greeley*, 189 Ill. App. 3d 590, 598 (1st Dist. 1989) (“The law nevertheless recognizes the impairment of reputation and standing in the community ... as actual injuries.”);

People v. Shambley, 4 Ill. 2d 38, 40 (1954), *overruled on other grounds by People v. Nunn*, 55 Ill. 2d 344 (1973) (“[T]he erroneous judgment was of itself an injury from which the law will presume damage.”). In sentencing a defendant to probation, the court has extended leniency and trust in recognition of the defendant’s rehabilitative potential. The probation violation represents a betrayal of that trust through the violation of the court’s orders. The violation thus signals, to the court and to the general public, that the defendant is untrustworthy, irresponsible, and incorrigible. That label is a cognizable legal harm. In this vein, Illinois courts have previously held that the reputational harm of a finding of guilt on conditional supervision created a collateral consequence, despite the fact that the conditional supervision was not technically a conviction. *See Vanhooose*, 2020 IL App (5th) 170247, ¶ 21 (“The impact of a finding of guilt, whether it qualifies as a conviction or not, has practical, real world consequences. It can affect one’s ability to obtain work and can negatively affect one’s reputation in the community.”).

The stain of a probation violation has practical consequences. A probation violation will show up on any criminal background check, and it can affect a defendant’s prospects for employment and housing. Likewise, colleges and universities regularly require applicants to disclose the outcome of any criminal convictions, which would include a revocation or unsatisfactory termination of probation. A defendant might be excluded from consideration for a job, an apartment, or a degree program, because the defendant’s probation violation suggests she is less trustworthy or responsible than other applicants. Even amongst similar applicants who were both sentenced to probation, a defendant who successfully completed probation will be viewed more favorably than a defendant who failed to comply with the court’s orders. Similarly, financial institutions may be less

likely to loan money to a defendant with a prior probation violation, because the violation represents a broken promise. *See* SOP 50 10 5(K), United States Small Business Administration⁴, 111 (eligibility for a 7(a) Loan from the U.S. Small Business Administration is contingent on successful completion of probation). Thus, a probation violation is likely to impact a defendant's efforts to financially support herself and contribute to society.

Courts in Illinois and other states have recognized these extra-legal discretionary effects as sufficient collateral consequences. Illinois courts have acknowledged that potential downstream employment effects should preclude findings of mootness in challenges to conditional discharge violations, *People v. Brown*, 2023 IL App (1st) 220801-U,⁵ ¶ 21, suspensions of driving privileges, *People v. McNally*, 2022 IL App (2d) 180270, ¶ 18, and findings of habitual truancy, *Chicago Bd. of Ed. v. Kouba*, 41 Ill. App. 3d 858, 866 (1st Dist. 1976). This Court has specifically contemplated that potential effects on employment might present a cognizable collateral consequence of involuntary commitment. *In re Alfred H.H.*, 233 Ill. 2d at 362. And courts in other states have applied this same rationale to probation violations. In *State v. McElveen*, 261 Conn. 198, 215–216 (2002), the Supreme Court of Connecticut recognized that probation violations affect a defendant's standing in the community and influence their employment prospects, noting that it was probable a potential employer would treat unfavorably an applicant who chose to disregard a court order and violate probation.

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<https://www.sba.gov/document/sop-50-10-lender-development-company-loan-programs> (Last accessed January 27, 2026).

⁵Unpublished decisions are cited as persuasive authority in accordance with Illinois Supreme Court Rule 23.

A probation violation can also affect a defendant's legal rights and the outcome of other non-criminal legal proceedings. A probation violation can affect the defendant in proceedings to terminate parental rights. *See In re J'America B.*, 346 Ill. App. 3d 1034, 1049 (2nd Dist. 2004) (upholding circuit court's finding of depravity, noting that respondent had numerous probation violations); *In re A.P.*, 2013 IL App (3d) 120672, ¶ 9 (recounting respondent's criminal history, including two probation violations). Federal regulation also suggests that the finding of a probation violation may result in temporary suspension from certain benefit programs under state and federal law, though the duration of that suspension is unclear. *See* 20 C.F.R. § 425.1339 (b)(1)(ii) (2026) (an individual's Supplemental Security Income payments will be suspended as of the month of a court's finding that the individual has violated a condition of his probation or parole). Additionally, where a defendant is sentenced to qualified probation for a first-time drug offense, the finding of a violation results in a conviction, which may then disqualify the defendant from holding a professional license. *See* 720 ILCS 570/410 (2026) (first-time offenders charged with possessory drug offenses are eligible for a term of probation that would not result in conviction unless probation were violated); 105 ILCS 5/21B-80 (a), (b) (2026) (teacher's license will be suspended if such probation is not successfully completed).

A probation violation carries a variety of practical consequences for the defendant, affecting their reputation, their employment opportunities, and other legal rights and proceedings. Because a probation violation can do real harm to a defendant in the future, she should have the opportunity to challenge the propriety of the court's judgment even while she is not in custody.

3. This Court should not burden defendants with proving that their probation revocation presents a live controversy.

This Court should find that probation revocations are presumed to carry collateral consequences, because the alternative—requiring the defendant prove there are collateral consequences—is untenable.

It is reasonably likely that a probation violation will have negative consequences. But defendants typically will not be able to point the appellate court to particular consequences, because they cannot anticipate how the violation will specifically affect them in the future. Defendants cannot know how a probation violation will affect them until it actually does. That might occur months or years down the line. By then, it is impossible to remedy the judgment. A defendant has one opportunity to ensure that she will not be harmed by a wrongful finding of a probation violation: on direct review. It is patently unfair to suggest that a defendant should forever lose that opportunity because she could not, at the time of her appeal, predict the specific consequence she would suffer.

Even where the collateral consequences are apparent to the defendant, the defendant will rarely, if ever, be able to prove those consequences exist on appeal. On direct appeal, a reviewing court is limited to considering the information contained in the trial court record, *People v. Jackson*, 28 Ill. 2d 37, 39 (1963), but collateral consequences generally will not be apparent from the trial record. That is particularly true of probation revocation proceedings. Probation revocations produce limited records, short in duration and narrow in scope. The purpose of the proceeding is to determine whether the defendant committed a particular act or omission that violated the terms of probation. Information about other legal proceedings, plans for employment, immigration, or other prospects that could

be affected by the court's judgment, are irrelevant to the court's ultimate finding on whether the defendant committed the specific alleged violation. Any collateral consequence is thus unlikely to warrant mention in the evidence put on by either the State or the defense. Even if the defendant were called to testify, her testimony would be limited to the alleged violation, and it would be inadvisable to volunteer any extraneous information that could be used against her. Thus, the record in a probation revocation proceeding is likely to contain little information about the defendant beyond that necessary to adjudicate the probation violation.

Indeed, in Vargas's case, the record does not even contain a presentence investigation report, because the underlying conviction was a misdemeanor. (R. 104); 730 ILCS 5/5-3-1 (2024) (presentence investigation reports are not required for non-felony convictions). The only reason Vargas's proceedings contain any evidence of a specific collateral consequence is that the court asked whether Vargas understood the potential immigration consequences of her plea, and trial counsel responded that Vargas has asylum status. (Supp. R. 17). Most probation revocation proceedings will contain little to no information from which the appellate court could glean the existence of collateral consequences. This problem has already begun to play out in other cases following the appellate court's decision. *See People v. Piehl*, 2025 IL App (5th) 230478-U⁶, ¶ 16 ("[T]he record contains insufficient information for this court to find a collateral consequences exception."). Defendants cannot reasonably be expected to prove the existence of collateral consequences on such a limited record. This Court should not impose upon defendants the near-impossible task of using the trial court record to prove the existence of consequences

⁶Unpublished decisions are cited as persuasive authority in accordance with Illinois Supreme Court Rule 23.

that will not appear in that record.⁷

According to the appellate court's ruling below, a defendant appealing a probation revocation must prove the existence of collateral consequences, unless they are still in custody when the appeal is decided. *Vargas*, 2025 IL App (2d) 240609, ¶ 18. That presents a serious problem for the continued appellate review of probation revocation proceedings, because most defendants will not be in custody for long, or at all. As a result, the vast majority of probation revocation proceedings will fall outside the scope of appellate review.

Most probation revocation cases result in no incarceration or short terms of incarceration. In 2022, there were 90,000 cases on active probation in Illinois, and probation violations occurred in 11,000 cases. 2022 Probation Services Data, Administrative Office of the Illinois Courts.⁸ In 57% of the cases where a defendant was found to have violated probation, the trial court chose to terminate probation unsatisfactorily. *Id.* That means, in most probation revocation cases, the defendant serves no revocation sentence. If the court's decision below is to be followed, those unsatisfactory terminations would be almost universally unchallengeable.

Even in the minority of cases where the court chooses to impose a sentence

⁷ If this Court declines to apply a presumption of collateral consequences, this Court should permit defendants to submit facts outside the record to prove those consequences exist. Currently, a reviewing court may rely on facts outside the record, submitted by affidavit or other documentation, to make a finding of mootness. *Dixon v. Chicago & N. W. Transp. Co.*, 151 Ill. 2d 108, 117 (1992). It stands to reason that the appellate courts could likewise rely on facts outside the record to find there are collateral consequences that preclude mootness. That solution is less desirable than applying a presumption, as the facts may be contested, and the appellate court would have to regularly engage in fact-finding on this issue. But it is fairer than limiting the defendant to the trial record.

⁸<https://sites.google.com/probation.illinoiscourts.gov/aggregatedata/data-home/2022-data> (Last accessed January 21, 2025).

of incarceration, many revocation sentences are too short in duration to survive the length of the appeal process. Because a revocation sentence is limited to the range for the underlying conviction, 730 ILCS 5/5-6-4 (e), revocation sentences in misdemeanor and Class 4 felony cases are almost certain to expire before the appeal could be heard, especially where sentencing credits apply. *See People v. Musawwir*, 2022 IL App (1st) 211546-U, ¶ 2 (expiration of 60-day revocation sentence mooted appeal). Further, the length of the appeal process is highly variable, such that defendants sentenced to the same amount of time in custody may or may not be able to have their appeal determined on the merits. *Compare People v. Piehl*, 2025 IL App (5th) 230478-U, ¶ 14 (defendant's challenge to revocation was moot where appeal decided several months after two-year revocation sentence had expired) with *People v. Beck*, 2024 IL App (4th) 240133-U, ¶ 14 (challenge to revocation not moot where appeal decided within 10 months of judgment date and two-year revocation sentence had not yet expired).

Because most probation revocations result in no time in custody or sentences too short to survive the appeal process, the vast majority of probation revocations would be unchallengeable and unreviewable. The purpose of appellate review is to ensure due process, and a defendant is owed a variety of due process protections in probation revocation proceedings. The defendant is entitled to written notice of the violation, disclosure of evidence against her, the opportunity to be heard and present evidence before a neutral arbiter, the right to confront and cross-examine witnesses, and a written statement of the decision. *Gagnon v. Scarpelli*, 411 U.S. 778, 786 (1973). The State has the burden to prove the violation by a preponderance of the evidence, and the defendant has the right to counsel. 730 ILCS 5/5-6-4 (2026). Those protections are meaningless if they are unenforceable.

The appellate courts heard these cases for forty years without issue, and they should continue to do so, to protect the rights of defendants.

Nearly half a century ago, the Fifth District Appellate Court held that a defendant's challenge to his probation revocation was not moot despite the expiration of his sentence, declaring:

Many deep and abiding problems are encountered primarily at a low level of visibility in the criminal process in the contest of prosecutions for minor offenses which carry only short sentences. People deprived of constitutional rights at this level should not be left remediless and defenseless against repetitions of such improper conduct.

People v. Seymour, 53 Ill. App. 3d 367, 369 (5th Dist. 1977). As probation becomes increasingly more popular than imprisonment,⁹ the courts must remain vigilant to ensure that defendants continue to receive the due process they are owed in revocation proceedings. Accordingly, this Court should apply a presumption of collateral consequences so that probation revocation proceedings remain subject to appellate review. *See In re Sciara*, 21 Ill. App. 3d 889, 893 (1st Dist. 1974) (A case should not be found moot where such holding would “eliminate an entire class of cases from appellate review.”).

In sum, this Court should decline to follow *Spencer* and presume that probation violations carry collateral consequences. A probation violation has real consequences for a defendant. A probation violation will be used against the defendant in any future criminal proceeding, resulting in denial of pre-trial release or a longer term of incarceration. Contrary to *Spencer*, that harm is a sufficient

⁹ Between 2010 and 2023, the proportion of defendants with class 1-4 felony convictions sentenced to probation increased from 53% to 69%. Dave Olson, “Statewide Shifts in the Use of Prison and Probation Sentences,” July 11, 2024, <https://loyolaccj.org/blog/statewide-shifts> (Last accessed December 30, 2025).

collateral consequence to preclude a finding of mootness—it is the principal reason we permit defendants to challenge a conviction or termination of conditional supervision after release from custody, under both federal and state law. *See Sibron*, 392 U.S. at 56; *Dickerson*, 508 U.S. at 371, n.2; *Lynn*, 102 Ill. at 272–73; *Jordan*, 218 Ill. 2d at 263. A probation violation also weighs on a defendant’s reputation, a cognizable harm under state law, and it may affect employment prospects. Vargas, and other defendants like her, should not be required to prove they will suffer some harm in the future, based on a limited record, where that burden will create a nearly impenetrable barrier to appellate review. As the appellate courts did for over forty years, this Court should hold that probation violations are presumed to carry collateral consequences.

C. Vargas’s probation violation presents unique collateral consequences for her immigration status, such that even if collateral consequences are not presumed, her case presents a live controversy.

Even if this Court will not presume that probation violations carry collateral consequences, the record sufficiently demonstrates that this particular case presents consequences that make the appeal worthy of adjudication. Vargas is not a citizen of the United States. She resides here legally on asylum status, as her trial counsel represented to the trial court. (Supp. R. 17). Because Vargas is not a U.S. citizen, her probation violation could have significant consequences for her immigration status, particularly for her prospects at naturalization. Therefore, Vargas has a stake in challenging the judgment of the probation violation.

The appellate court acknowledged that the unsatisfactory termination would “undoubtedly factor in the [good moral character] equation” were Vargas to apply for naturalization. *Vargas*, 2025 IL App (2d) 240609, ¶ 44. The appellate court held, however, that this was not a sufficiently concrete collateral consequence,

because the unsatisfactory termination would not “automatically” render her ineligible for naturalization. *Id.* The appellate court’s decision was loosely based on this Court’s precedent on the collateral consequences exception to mootness, promulgated in involuntary commitment appeals.

In *In re Alfred H.H.*, 233 Ill. 2d 245, 363 (2009), this Court held that, in order for a respondent to appeal an involuntary commitment order after its expiration, the respondent must prove the existence of some collateral consequence. This is considered an exception to the mootness doctrine, and its application is decided on a case-by-case basis. *Id.* at 362. To satisfy the exception, it is insufficient for the respondent to make “a vague, unsupported statement that collateral consequences might plague the respondent in the future.” *In re Rita P.*, 2014 IL 115798, ¶ 34. The collateral consequence identified must stem “solely” from the challenged judgment—such that reversal of the judgment could actually prevent the feared consequence. *Alfred H.H.*, 233 Ill. 2d at 362.

At the outset, it is not a given that the *Alfred H.H.* rules should apply to Vargas’s case. This Court has rarely applied *Alfred H.H.* outside of involuntary commitment proceedings, and it should not do so here. The rules promulgated in *Alfred H.H.* were created in response to a problem that is unique to involuntary commitment cases: that a 90-day involuntary commitment order will always expire before the case can be heard on appeal. Those rules have been applied almost exclusively in involuntary commitment cases. *But see In re V.S.*, 2025 IL 129755, ¶ 58 (applying *Alfred H.H.* rules to appeal of wardship adjudication where respondent appealed only one of the trial court’s findings such that the judgment was not reversible). Involuntary commitment orders are the only type of final judgment where mootness is the default, and where the appellant is required to

prove his case presents a live controversy. This high burden is antithetical to the general purposes of the mootness doctrine, and it should not be extended to other contexts such that appellants are routinely required to prove their cases are not moot.

The purpose of the mootness doctrine is to avoid advisory opinions on hypothetical or abstract cases. *Barth v. Reagan*, 139 Ill. 2d 399, 419 (1990). A final judgment entered in a case presents a real controversy, not a hypothetical or abstract one. Only in rare cases does some intervening event—an agreement between the parties, the passage of time, or an external occurrence—resolve the disputed judgment or make it impossible to remedy. *See Commonwealth Edison Co. v. Illinois Com. Comm’n*, 2016 IL 118129, ¶ 11 (case moot where sourcing agreements that were the subject of the appeal were terminated). Mootness is unusual. It is not the default. For that reason, even in the federal system an appellate court is entitled to presume that jurisdiction continues on appeal, and the appellant is not required to prove the court’s judgment is worth challenging. *See Cardinal Chem. Co. v. Morton Int’l, Inc.*, 508 U.S. 83, 98 (1993) (once standing is established, “courts are entitled to presume, absent further information, that jurisdiction continues”). And, under state law, a party is not required to affirmatively prove the existence of an actual controversy, not even at the inception of a lawsuit. *See Rowe v. Raoul*, 2023 IL 129248, ¶ 22 (defendant bore burden to prove a lack of an actual controversy to dismiss declaratory judgment action). If a party is not required to affirmatively prove an actual controversy exists in the trial court, it follows that a party should not be required to prove a controversy continues to exist on appeal unless the circumstances between the parties have materially changed following the judgment. The burden imposed on appellants by *Alfred*

H.H. should not extend to probation revocation appeals, lest it undermine all state justiciability doctrine.

Assuming the *Alfred H.H.* rules would apply here, the appellate court misconstrued those rules in Vargas’s case. The appellate court wrongly held that any immigration consequence was insufficient to satisfy the exception, because the consequence would not “automatically” render her ineligible for naturalization. *Vargas*, 2025 IL App (2d) 240609, ¶ 44. However, this Court has never held that collateral consequences must be automatic. To the contrary, *Alfred H.H.* specifically contemplated that collateral consequences may include discretionary decisions. *See* 233 Ill. 2d at 362 (acknowledging that judgement could affect employment opportunities, citing statute that provides optometry license may be revoked or refused based on mental illness); *see also In re V.S.*, 2025 IL 129755, ¶ 64 (contemplating that neglect finding could weigh against respondent in some future proceeding). This is consistent with the use of the same term in the context of guilty pleas, where a collateral consequence of a plea is, by definition, uncertain: it “results from an action that may or may not be taken by an agency that the trial court does not control.” *People v. Delvillar*, 235 Ill. 2d 507, 520 (2009). Thus, the appellate court erred in holding that a collateral consequence must be automatic to satisfy the exception to mootness.

The consequences of Vargas’s probation violation satisfy the requirements of *Alfred H.H.* Her probation violation would be a factor in determining whether she was of good moral character eligible for naturalization, and it could solely result in the rejection of her application. U.S. Citizenship and Immigration Services

Policy Manual¹⁰, Volume 12, Chapter 2 (factors considered in considering determining an applicant's moral character include "compliance with probation," and satisfactory completion of probation will not automatically render an applicant ineligible to establish good moral character); 8 C.F.R. § 316.10 (c) (2026) (explaining that periods of probation may be considered in determining good moral character).¹¹ Whether an applicant possesses good moral character is entirely at the discretion of the agency. *See Portillo-Rendon v. Holder*, 662 F.3d 815, 817 (7th Cir. 2011) (agency's determination that applicant did not possess good moral character, based on multiple driving infractions, was discretionary and not subject to judicial review). Good moral character is not an objective measure. Any one component of an individual's record could be outcome-determinative. The agency could decide that, while satisfactory completion of probation would have demonstrated good moral character, the purported probation violations betrayed the court's trust and showed inadequate effort at rehabilitation. Thus, the probation violation could, by itself, render Vargas ineligible for naturalization. Therefore, the trial court's judgment could, solely, disqualify Vargas from U.S. citizenship.

The appellate court was also wrong to suggest that the immigration consequences of Vargas's appeal were nothing more than "a vague, unsupported statement that collateral consequences might plague the respondent in the future." *Vargas*, 2025 IL App (2d) 240609, ¶ 39. Vargas's probation violation presents specific

¹⁰ <https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-2> (Last accessed January 13, 2025).

¹¹ A recent policy memorandum places further emphasis on this factor, stating the agency will focus "greater attention" on an applicant's wrongdoing and their efforts at rehabilitation, including compliance with probation. United States Citizenship and Immigration Services, PM-602-0188, August 15, 2025.

consequences that set her case apart from other appeals. Vargas is not a United States citizen or legal permanent resident. That means her probation violation presents consequences unique from that of other defendants. As long as Vargas remains in the United States as a non-citizen, she is at risk of removal. In order to guarantee her continued residence in the United States, Vargas would need to apply for permanent residence, and to avail herself of the rights of citizenship, she would need to apply for naturalization. The probation violation may affect Vargas's eligibility to receive a green card and reside in the United States permanently. *See* 8 U.S.C. § 1159 (b) (2026) (stating that an alien with asylum status "may" be adjusted to legal permanent resident status if eligible, at the discretion of the Secretary of Homeland Security or Attorney General). And, as stated above, the probation violation would certainly affect her eligibility for naturalization. If Vargas lost her asylum status and were subject to removal proceedings, her probation violation could affect whether she was eligible for voluntary departure, which also requires a finding of good moral character. *See* 8 U.S.C. § 1229c (b)(1)(B) (2026). Those effects are not generic or vague. They are unique, identifiable, and supported by the record. Vargas's probation violation presents real consequences for her ability to live permanently in the United States and become a citizen.

The appellate court held that any effect on Vargas's immigration status was too speculative to present a cognizable collateral consequence, because Vargas had not claimed any effect on her asylum status, and Vargas failed to establish that she had applied or planned to apply for U.S. citizenship. *Vargas*, 2025 IL App (2d) 240609, ¶¶ 39–40. The appellate court's holding suggests a party must prove that collateral consequences are immediate or certain. However, this Court

has never held that collateral consequences must be definite, only that they cannot be “vague,” “unsupported,” or “remote.” *In re Rita P.*, 2014 IL 115798, ¶ 34; *In re V.S.*, 2025 IL 129755, ¶ 62. The reality is, whether Vargas has already applied for naturalization, if she decides to apply tomorrow, or if she decides to apply two years from now, the probation violation will have the same effect and cause the same harm to her. That harm is not so improbable that she should forever lose the opportunity to challenge the trial court’s judgment.

In conclusion, Vargas’s status as a non-citizen demonstrates that her probation revocation presents unique, severe consequences for her immigration status. If the *Alfred H.H.* rules apply, these consequences should suffice, as the probation violation could determine whether Vargas possesses the good moral character necessary to be a naturalized citizen, a wholly subjective determination. Yet, there is good reason not to apply the *Alfred H.H.* rules here. Mootness is not the default. While the *Alfred H.H.* rules may make sense in the context of involuntary commitment orders, it strains Illinois’ justiciability doctrine to suggest that some types of final judgments could become moot at the moment they are issued, and that appellants should have to prove the existence of a live controversy. Ultimately, regardless of whether the *Alfred H.H.* rules apply here, justice requires that Vargas’s case be heard. The potential consequence of the trial courts judgment is paramount—exclusion from citizenship. Her only opportunity to prevent that harm lies in appellate review of her probation violation. She deserves to have her case heard on the merits.

D. The State failed to meet its burden to prove that Vargas willfully failed to pay her probation fees.

In the interest of preserving judicial resources, this Court should also find

that the State failed to meet its burden to prove that Vargas willfully failed to pay her probation fees and reverse the trial court's judgment outright.

The State alleged that Vargas violated the terms of her probation when she failed to pay a total of \$790 in probation fees owed across two cases. Probation shall not be revoked for failure to pay fees unless that failure is due to willful refusal to pay. 730 ILCS 5/5-6-4 (d) (2023). "Willful failure to pay means a voluntary, conscious and intentional failure," *People v. Davis*, 216 Ill. App. 3d 884, 888 (2nd Dist. 1991), and the State has the burden to prove that the defendant's failure to pay was a willful refusal. *People v. Harder*, 59 Ill. 2d 563, 567 (1975). Where the State failed to meet its burden to prove a probation violation, the appropriate remedy is outright reversal of the trial court's revocation. *Harder*, 59 Ill. 2d at 568.

The revocation hearing had to be delayed by a day, because Vargas had been in the hospital, and she missed the bus to make her court date. (R. 74). During the revocation hearing, Vargas admitted that she had not paid the probation fees in either case, but she explained that she could not pay the fees because she lost her job, and her work permit had expired. (R. 98–99, 100). When she had previously been employed, she was making \$500–530 per week as a forklift driver. (R. 99). During that period, she was paying rent and transportation costs and providing for her children. (R. 99). At the time of the hearing, she had been unemployed for a year, and she was living with someone else, without her children. (R. 99). Because her work permit was expired, she could not file a tax return for 2023 and did not receive a tax refund. (R. 100). In sum, Vargas had no job, no income, and no stable housing.

The State failed to demonstrate that Vargas had the ability to pay the

probation fees. It was clear she lacked the resources to pay the fees at the time of the hearing, and there was insufficient information to determine whether she had ever previously had the means to pay. The fact that Vargas had, at some point, been earning \$500–530 per week did not demonstrate she was financially solvent. Even assuming she was working regularly until September 2023 (which the State did not prove), her income for that year would have been below the poverty line for a family of three. *See Annual Update to the HSS Poverty Guidelines*, Jan. 12, 2023.¹² The fact that Vargas previously had a modest income does not demonstrate a willful refusal to pay, because defendants are not expected to prioritize their court-ordered financial obligations over on their own necessary living expenses. *See People v. Bullard*, 52 Ill.App.3d 712, 714–715 (2nd Dist. 1977) (finding State failed to prove willful refusal to pay where record showed that defendant was intermittently employed, and that he spent his income paying hospital bills, rent, child support, and buying a used car, which he purchased to travel to and from work). That is consistent with the Illinois Constitution’s design that criminal punishment be fashioned with the objective of “restoring the offender to useful citizenship.” Ill. Const. art. I, § 11. A defendant on probation will not be able to succeed in free society if forced to pay court-ordered fees first and then use whatever funds they have leftover to pay for daily necessities.

The State presented evidence that Vargas had previously had some income that she used to support herself and her children; this is insufficient to prove a willful refusal to pay. The State did not ask Vargas how much she had been spending on living expenses each month or whether she had any savings or debts. Vargas

¹²<https://www.federalregister.gov/documents/2023/01/19/2023-00885/annual-update-of-the-hhs-poverty-guidelines> (Last accessed January 8, 2025).

may well have been living paycheck-to-paycheck to survive. The State presented no evidence indicating that Vargas ever had any discretionary income, that she had other resources to use to pay the fees, or that she had squandered away her money and neglected to pay the probation fees. *Cf. People v. Nemec*, 2019 IL App (2d) 170382, ¶ 8 (trial court found willful refusal to pay where defendant spent \$2000 on his mayoral campaign). The limited information offered by the State did not provide sufficient evidence that Vargas willfully refused to pay the probation fees.

In sum, the State presented insufficient evidence that Vargas willfully refused to pay. The fact that Vargas served no time in custody does not render her case moot. The revocation judgment has not been vacated or modified, and reversal would afford relief by purging the violation from her record.

In general, a defendant has an interest in preventing the potential consequences of a probation violation. Just like a criminal conviction or termination of supervision, a probation violation may result in harsher penalties in any future legal proceeding. The violation may also have other practical consequences, like loss of employment opportunities. Though it is reasonably likely a probation revocation will affect a defendant over her lifetime, these consequences may not be immediate or apparent at the time of appeal. A defendant would be hard-pressed to prove such consequences exist, because even imminent consequences are unlikely to be evident in the trial record. The presumption of collateral consequences is consistent with Illinois' concepts of standing and mootness, as a final judgment is typically presumed to present a live controversy on appeal. Moreover, in ensuring that revocation proceedings are regularly subject to appellate review, the presumption protects the due process rights of defendants in those proceedings.

Though *Spencer* held that this presumption of collateral consequences should not apply to parole revocations, this Court has good reason not to follow that decision: *Spencer* is a 28-year-old decision on Article III jurisdiction that directly conflicts with long-standing precedent of the United States Supreme Court and this Court. This Court should hold that probation revocations are presumed to carry collateral consequences.

If this Court holds that a defendant generally has no interest in challenging a probation revocation beyond her time in custody, this Court should nevertheless find that Vargas's case presents an exception to that rule. Even if probation revocations would not normally present any consequences to warrant appellate review, Vargas's probation revocation carries unique legal significance. Vargas is not a U.S. citizen, and the probation revocation could render her ineligible for naturalization since the probation violation would weigh against her moral character. Vargas's only opportunity to prevent that harm is to challenge the wrongful probation revocation on direct review. The trial court wrongfully terminated Vargas's probation unsatisfactorily, as there was insufficient evidence that Vargas willfully refused to pay the probation fees. This Court should reverse the revocation outright.

CONCLUSION

For the foregoing reasons, Naliana Vargas, petitioner-appellant, respectfully requests that this Court reverse the probation revocation outright.

Respectfully submitted,

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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 contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the certificate of service, and those matters to be appended to the brief under Rule 342, is 42 pages.

/s/ Dominique Estes
DOMINIQUE ESTES
Assistant Appellate Defender

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KANE COUNTY, ILLINOIS

People of the State of Illinois

Plaintiff/Petitioner

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Trial Judge/Hearing Officer: HONORABLE DAVID
KLIMENT

v.

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Defendant/Respondent

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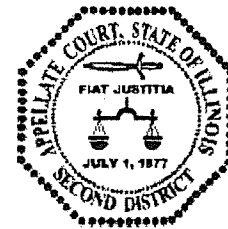
Nalania Vargas

Defendant/Respondent

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SECOND JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS

People of the State of Illinois

Plaintiff/Petitioner

Reviewing Court No: 2-24-0609

Circuit Court/Agency No: 2020CF001481

Trial Judge/Hearing Officer: HONORABLE DAVID
KLIMENT

v.

Nalania Vargas

Defendant/Respondent

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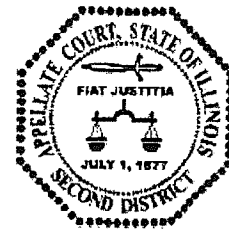
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KLIMENT

Nalania Vargas

Defendant/Respondent

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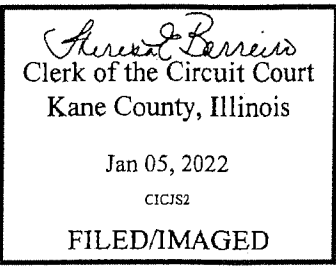
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IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT KANE COUNTY, ILLINOIS

Case No. 20CF1481

People of State of Illinois		Naliana Vargas		 Clerk of the Circuit Court Kane County, Illinois Jan 05, 2022 CICJS2 FILED/IMAGED
Plaintiff(s)		Defendant(s)		
Merkel		Kelly		
Plaintiff(s) Atty.		Defendant(s) Atty.		
LoPiccolo Judge	Tina Court Reporter	Marissa Deputy Clerk		
A copy of this order ☒ should be sent ☐ has been sent				File Stamp
☒ Plaintiff Atty. ☒ Defense Atty. ☐ Other _____				

JUDGMENT ORDER (JGMTO)

- ☒ The Court/Jury having found the defendant guilty of: Domestic Battery Class A - insulting or provoking
- ☐ Original ☐ Lesser/Incl. ☒ Amended Statute: 720 ILCS 5/12-3.2 (a)(2)
- ☐ A motor vehicle was involved in the commission of the felony
- ☒ This is an Illinois Domestic Violence Related Case (ILDVCR)
- ☒ Judgment entered on conviction and sentence
- ☒ Defendant must surrender FOID/Concealed Carry Card and/or firearm and ammunition
- ☒ Nolle Prosequi Count(s) any remaining

UPON THE DEFENDANT'S PLEA/VERDICT OF GUILTY THE FOLLOWING SENTENCE IS HEREBY IMPOSED

- The Defendant is placed on the below through....Date 1-3-24 Time 5PM Months _____ Days _____
- ☐ 208 - Withhold Judgment - Court Supervision _____
- ☐ 215 - Withhold Judgment - 720 ILCS 550/710 Probation _____
- ☐ 216 - Withhold Judgment - 720 ILCS 570/410 Probation _____
- ☒ 204 - Probation 24 _____
- ☐ 206 - Conditional Discharge _____
- ☐ 213 - Electronic Monitoring _____
- ☐ 209 - Perform public service _____ hours, to be completed by _____

The Defendant is to report to: ☐ Judge ☒ Court Services ☐ Judge and Court Services ☐ Non-Reporting

- ☐ Complete a 26 week ILDHS approved Domestic Violence Counseling Program, and follow all treatment recommendations at:
ILDHS Provider Name: _____ Phone Number: _____

- THE DEFENDANT TO SERVE THE FOLLOWING PERIODS OF INCARCERATION** Years _____ Months _____ Days _____
- ☐ 201 - Department of Corrections _____
- ☒ 202 - Kane County Jail ☒ Good time to apply ☐ No good time to apply _____ 116 _____
- ☐ 203 - Periodic Imprisonment (weekend equals 3 days) _____
- ☒ 250 - Credit for time served 58 Actual days _____
- ☐ The sentence of _____ shall run ☐ consecutive ☐ concurrent to the term imposed by the
Circuit Court of _____ County, case number _____
- ☐ Defendant to begin incarceration on _____ Release Instantly on this file only

THE DEFENDANT TO COMPLY WITH THE FOLLOWING CONDITIONS:

- ☒ All conditions of the Financial Sentencing Order
- ☒ Follow all rules of ☒ Probation ☐ Conditional Discharge ☐ Electronic Home Monitoring ☐ Community Service ☐ TASC
- ☒ Alcohol/Drug Evaluation (OPAO) ☒ KCDC Evaluation/Treatment (OPKC) ☒ No further criminal violations (NOCO)
- ☒ Waives personal service of Petition to Revoke (WPSOP) ☒ No Contact with No abusive contact with Minors A.I. 9/11/12 and A.I. 7/30/15
- ☐ Refrain from entering the premises of (NEASA) _____
- ☒ Other: Defendant is to follow all recommendations of 12/20/22 KCDC evaluation.
- ☐ Cause continued to _____ at _____ m. in room _____ for _____

IN MATTERS OF DOMESTIC VIOLENCE THE DEFENDANT MUST SIGN THE BELOW WAIVER

I hereby waive any confidentiality and authorize the counseling agency (previously stated) to release to the Court and the Kane County State's Atty. Office copies of any and all evaluations and reports concerning my counseling.

Date: 1/5/2022 | 1:15 PM CST

Defendant's Signature: _____

Date: 1/5/2022 | 2:16 PM CST

Judge: _____

P1-CF-005 (06/19)

White - Clerk

Green - Probation

Yellow - SAO

Pink - Defendant

Gold - Defendant Attorney

2025 IL App (2d) 240609
 No. 2-24-0609
 Opinion filed August 8, 2025

IN THE
 APPELLATE COURT OF ILLINOIS
 SECOND DISTRICT

THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Kane County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 20-CF-1481
	)	
NALANIA VARGAS,	)	Honorable
	)	David P. Kliment,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE SCHOSTOK delivered the judgment of the court, with opinion.
 Justices Birkett and Mullen concurred in the judgment and opinion.

OPINION

¶ 1 Defendant, Nalania Vargas, appeals from an order of the circuit court of Kane County that terminated her probation unsatisfactorily based on her failure to pay a court-ordered probation fee. Defendant contends that the State failed to prove that her failure to pay was willful. The State contends that the appeal is moot and, alternatively, that the evidence was sufficient to justify revoking defendant's probation. We agree that the appeal is moot. Accordingly, we dismiss the appeal.

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¶ 2

I. BACKGROUND

¶ 3 On April 8, 2021, defendant was indicted on two counts of aggravated battery (720 ILCS 5/12-3.05(b)(2) (West 2018)), both Class 3 felonies (*id.* § 12-3.05(h)), for allegedly striking her son with a belt and causing him bodily harm.

¶ 4 On January 5, 2022, the State amended the indictment to add a count of domestic battery (*id.* § 12-3.2(a)(2)), a Class A misdemeanor (*id.* § 12-3.2(b)). That day, defendant pleaded guilty to that count, and the State nol-prossed the other two counts. According to the factual basis of the plea, on August 15, 2020, defendant struck her son on his body, which insulted and provoked him. When the trial court admonished defendant as to the possible consequences of pleading guilty, defense counsel stated: “[Defendant] has asylum status here in the United States, and I have discussed that with her and just wanted to make a record of that.” The court sentenced defendant to 116 days in jail, with good time to apply, and awarded her 58 days’ credit for time served. Additionally, the court placed defendant on 24 months’ probation. As a condition of probation, defendant was to comply by January 3, 2024, with “[a]ll conditions of the Financial Sentencing Order,” which required defendant to pay a \$480 probation fee (\$20 per month for 24 months).

¶ 5 On February 28, 2022, a “Notification of Changes to the Probation Fee Schedule” was filed, which provided as follows:

“[D]efendant’s probation supervision has been transferred from Kane County, and accepted by Cook County as of 2/24/22. *** [D]efendant has been assessed a probation fee of \$20/month for 2 months, and has paid a total of \$0 prior to acceptance of transfer.

*** [D]efendant is *** in arrears \$40 to Kane County.”

It provided further that “[f]uture probation fee payments will be paid to the Clerk of the Circuit Court in the receiving county of Cook in the amount of \$20/month for 22 months.”

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¶ 6 In December 2023, the State filed two petitions to revoke probation, alleging, among other things, that defendant failed to pay the \$40 probation fee still due and failed to comply with specific drug treatment requirements. At a hearing on January 29, 2024, the trial court addressed only the issue of drug treatment. It continued the matter to allow defendant time to complete the required treatment. In April 2024, the State filed an additional petition to revoke probation, alleging that defendant failed to report to her probation officer. The matter was set for a hearing on May 10, 2024. On that date, defendant failed to appear, and the court issued a warrant for her arrest. Defendant was eventually taken into custody and released. The pending petitions were initially set for a hearing on September 12, 2024, but were rescheduled for the following day. On September 12, the State filed an amended petition to revoke probation, alleging that defendant (1) failed to pay the remaining \$40 probation fee; (2) failed to complete substance abuse treatment; (3) tested positive for hydrocodone, hydromorphone, morphine, and cocaine on August 6, 2024; and (4) tested positive for cocaine on August 22, 2024.

¶ 7 The revocation hearing took place on September 13, 2024. The State clarified that it was proceeding not only on the amended petition filed on September 12 in the present case, but also on a petition to revoke that had been filed in case No. 21-CM-2153.¹ At the outset of the hearing, the State asked the trial court to take judicial notice of documents filed in case No. 21-CM-2153 on March 3, 2023: (1) a “[p]lea of [g]uilty,” and (2) a “sentencing order, *** contained on an ECO order, which indicate[d] a fine owed of \$750.” The State also asked the court to consider the documents filed in the present case on January 5, 2022: (1) the “Judgment Order,” (2) the “Plea of Guilty,” and (3) the “Rules and Conditions of Probation.” Finally, the State requested that the court

¹The common-law record does not contain any documents from case No. 21-CM-2153.

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take judicial notice that, among other things, (1) there was a balance of \$750 due in case No. 21-CM-2153 and (2) a balance of \$40 due in the present case.

¶ 8 The State presented testimony from two witnesses: defendant's probation officer, Renee Buchman, and defendant. The State attempted to elicit testimony from Buchman concerning drug testing results, but the trial court barred such testimony. Buchman testified that her file for defendant contained a certificate that she completed substance abuse treatment.

¶ 9 Defendant testified (with the assistance of an interpreter) that she recalled pleading guilty on March 3, 2023, to unlawful possession of drug paraphernalia in case No. 21-CM-2153 and being told that she would owe a \$750 fine. She further testified that she recalled pleading guilty on January 5, 2022, to domestic battery in this case and being told that she would have to pay fines in this case. When asked whether she had made any payments toward either amount, she testified, "I have not. I have not paid. I lost my job." Defendant testified that she did not receive any government assistance. Defendant last worked in September 2023 as a forklift driver. When asked approximately how much she made per paycheck, she stated: "It depended on the hours. 500 to 530." She was paid "[e]very week, but [she] had to pay for rent and for the children, transportation." She testified that she (1) was unable to file a tax return or receive a refund because "[her] work permit [was] not valid," but was "expired"; (2) was living with someone and did not pay rent; (3) stopped paying rent in October 2023; (4) had two sons, ages 9 and 12, who did not live with her; and (5) "ha[d] not been providing for [her] children during this time."

¶ 10 In closing, the State indicated that it was "only arguing as to the money owed," and it asked the trial court to find that defendant's failure to pay was willful.

¶ 11 The trial court found that the State proved by a preponderance of the evidence that defendant's failure to pay the fine and fee constituted a willful refusal to pay. The court stated:

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“The defendant testified that she was working and making at least \$2,000 a month for whatever period of time, and while that’s uncertain, there is an indication that she was making that sum of money for some period of time.

There’s no indication that she’s unable to work now, just that she’s not working, and from what I gather of the testimony, she has not paid any money on 21[-]CM[-]1253 or on [this case]. She certainly had the ability to pay something, but she’s made no effort to do that at all.”

The court concluded: “I will terminate the court supervision unsatisfactorily and the probation unsatisfactorily and send the fines, costs[,], and fees to collections.”

¶ 12 Although the trial court revoked the probation terms in this case and No. 21-CM-1253, defendant filed a notice of appeal in this case only.

¶ 13 II. ANALYSIS

¶ 14 Defendant contends that the State failed to prove by a preponderance of the evidence that her failure to pay the probation fee constituted a willful refusal to pay. See 730 ILCS 5/5-6-4(d) (West 2022) (“Probation, conditional discharge, periodic imprisonment and supervision shall not be revoked for failure to comply with conditions of a sentence or supervision, which imposes financial obligations upon the offender unless such failure is due to his willful refusal to pay.”). Anticipating a mootness argument from the State, she claims that the matter “presents a live legal controversy because of [the] attendant consequences” of a probation revocation.

¶ 15 In response, the State contends that the matter is moot because defendant’s sentence has been fully served and she has failed to identify any injuries to support application of the “collateral consequences” exception to mootness (see *In re V.S.*, 2025 IL 129755, ¶ 54). Mootness aside, the

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State argues that it proved by a preponderance of the evidence that defendant willfully refused to pay the probation fee.

¶ 16 In reply, defendant argues for the first time that she suffered collateral consequences in that “[t]he unsatisfactory termination of probation can affect immigration proceedings.”

¶ 17 We first consider whether the matter is moot. “As a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided.” *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009); *People v. Cousins*, 2023 IL App (1st) 230234, ¶ 8. “An appeal is moot when there is no actual controversy and a reviewing court’s decision could have no practical effect on the parties, rendering it ‘impossible for the reviewing court to grant effectual relief.’ ” *V.S.*, 2025 IL 129755, ¶ 54 (quoting *In re J.T.*, 221 Ill. 2d 338, 349-50 (2006)). However, a reviewing court will decide a moot question if one of the following exceptions apply: “(1) when resolution is in the public’s interest, (2) where the issue is capable of repetition yet evading review, and (3) where collateral consequences to the appellant arise from the judgment.” *Id.* The parties here address only the collateral consequences exception. “The collateral consequences exception to mootness allows for appellate review, even though a court order or incarceration has ceased, because a plaintiff has ‘suffered, or [is] threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.’ ” *Alfred H.H.*, 233 Ill. 2d at 361 (quoting *Spencer v. Kemna*, 523 U.S. 1, 7 (1998), quoting *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477 (1990)).

¶ 18 Here, the question of mootness arises because defendant’s sentence has been fully served. Nothing we do can have any effect on her sentence or the probation fee that defendant is required to pay. When the trial court accepted defendant’s guilty plea, it imposed a 116-day jail sentence, with good time to apply, and awarded her credit for 58 days’ already served. Thus, her jail sentence

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was satisfied upon entry of the judgment, leaving only her probation term to be served. By the time the court terminated defendant's probation (albeit, as unsatisfactory), the 24-month probation term had already expired and the \$40 probation fee remained due. If we were to reverse the court's order terminating probation, there would be no effect on defendant's sentence, and she would still owe \$40. To be sure, a reversal would remove the probation revocation from defendant's record. The question is whether this warrants application of an exception to mootness.

¶ 19 In a single-paragraph argument in her opening brief, defendant cites *Cousins*, 2023 IL App (1st) 230234, ¶ 13, for the proposition that "Illinois appellate courts are split on the question of whether a defendant can challenge their probation revocation after the revocation sentence has been served." *Cousins* held that the defendant's appeal from his probation revocation was moot because he had completed his sentence and no exception to mootness applied. *Id.* ¶¶ 15-17. Without discussing the facts or holding of *Cousins*—the most recent authority on the issue—or the "split" referenced therein, defendant cites our 1977 decision in *People v. Monick*, 51 Ill. App. 3d 783, 785 (1977), to support her contention that she can challenge her probation revocation because "the revocation may affect any future sentencing hearings involving the same defendant." Thus, we begin our discussion with *Monick*.

¶ 20 In *Monick*, the defendant was placed on probation for burglary. *Id.* His probation was subsequently revoked for a violation, and the trial court sentenced him to 20 to 60 months in prison. *Id.* The defendant appealed, alleging due process violations in the revocation process and challenging the sufficiency of the evidence supporting the violation. *Id.* By the time his appeal was heard, he had been placed on parole. *Id.* We rejected the State's argument that, because the defendant was on parole, the matter was moot. *Id.* We declined to adhere to our prior decision in *People v. North*, 3 Ill. App. 3d 428, 429 (1972), wherein we held that the defendant's appeal from

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his probation revocation was moot because he was “presently on parole.” See *Monick*, 51 Ill. App. 3d at 785. Instead, we concluded in *Monick*: “Adverse consequences which may result even if the defendant is not confined prevent mootness since he may be subject to re-sentencing.” *Id.* In support, we cited cases from the First and Fourth Districts—*In re Sturdivant*, 44 Ill. App. 3d 410, 412-13 (1976), and *People v. Halterman*, 45 Ill. App. 3d 605, 608 (1977), respectively. We turn to those decisions.

¶ 21 In *Sturdivant*, the juvenile defendant was found delinquent and placed on three years’ probation. *Sturdivant*, 44 Ill. App. 3d at 411. He later admitted that he violated probation by committing attempted robbery, and he was imprisoned. *Id.* He appealed, arguing that a due process violation occurred at the probation revocation hearing. *Id.* The State argued that the appeal should be dismissed as moot because the defendant had fully served his sentence. *Id.* at 412. In rejecting that argument, the First District noted foremost that there was no evidence in the record of the defendant’s release. *Id.* Alternatively, the court reasoned: “[W]e recognize the effect the instant improper probation revocation could have at any future sentencing hearing in a case involving this juvenile should this appeal be dismissed.” *Id.*

¶ 22 In *Halterman*, the defendant was placed on two years’ probation after pleading guilty to deceptive practices. *Halterman*, 45 Ill. App. 3d at 606. His probation was later revoked on the ground that he had committed theft, and he was sentenced to 364 days in prison. *Id.* The State argued that, because the defendant had fully served his sentence, the appeal was moot. *Id.* at 608. The Fourth District disagreed, stating:

“[D]isabilities and adverse collateral consequences automatically flow from entry of the court’s judgment which foreclose an allegation of mootness even though the defendant has served his sentence. [Citations.] Here, the fact that the defendant has had his probation

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revoked might be submitted to another judge for his consideration in sentencing the defendant if he has the misfortune of again being convicted of some crime.” *Id.*

¶ 23 *Monick*, *Sturdivant*, and *Halterman* each stand for applying the collateral consequences exception to revocation appeals that would otherwise be deemed moot because the sentence imposed upon revocation was fully served.² Those decisions agree that a probation revocation satisfies the exception because it may be considered as an aggravating factor in future sentencing.

¶ 24 The Fifth District, in *People v. Yackle*, 42 Ill. App. 3d 695, 696 (1976)—a decision that predated *Monick*, *Sturdivant*, and *Halterman*—agreed with our decision in *North* and held that the defendant’s appeal from the revocation of his probation was moot:

“Since the scope of review on appeal from revocation of probation is restricted to issues arising from the revocation proceedings, the maximum relief here would be the vacation of the order of revocation and sentence and the consequent return of [the] defendant to

²Notably, because the defendant in *Monick* was on parole (subject to resentencing) and thus could be granted effectual relief on appeal, the matter was clearly *not* moot and we had no need to rely on cases where, in contrast, the sentences were fully served when the question of mootness arose, and the courts’ consideration centered on whether a probation revocation poses sufficient detriment to satisfy the collateral consequences exception (see *Halterman*, 45 Ill. App. 3d at 608; *Sturdivant*, 44 Ill. App. 3d at 412). Nonetheless, because of *Monick*’s citations to *Sturdivant* and *Halterman*, *Monick* has been construed as agreeing with those decisions that a probation revocation is sufficiently injurious to meet the exception. See *People v. Dawson*, 2020 IL App (4th) 170872, ¶ 12. Likewise, cases disagreeing with *Monick* on similar facts (where the defendant had finished the prison sentence imposed upon revocation and was released on parole) have been construed as taking a contrary position on the impact of a probation revocation. *Id.* ¶¶ 12-13 (contrasting *Monick*, with *People v. Yackle*, 42 Ill. App. 3d 695 (1976)).

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probationary status. Because, however, [the] defendant has been released on parole from the sentence imposed on the revocation, he could thus obtain no effective relief.”

And less than a year after *Yackle*, the Fifth District reached the opposite conclusion in *People v. Seymour*, 53 Ill. App. 3d 367, 370 (1977): “Although the [prison] term has been served, the results of the probation revocation may persist. Subsequent convictions may carry greater penalties; civil rights may be affected. The instant case involves parole status dependent upon close supervision ***.”

¶ 25 Over 40 years later, in *People v. Dawson*, 2020 IL App (4th) 170872, the Fourth District again confronted the issue of whether the collateral consequences exception applies to an appeal from an order revoking a defendant’s probation if the defendant had fully served the sentence. In *Dawson*, the defendant entered a negotiated guilty plea to aggravated battery and was sentenced to 30 months’ probation. *Id.* ¶ 3. Subsequently, her probation was revoked, and she was resentenced to two years in prison. *Id.* ¶¶ 1, 5-6. She appealed, and the Office of the State Appellate Defender (OSAD) was appointed to represent her. *Id.* ¶ 1. OSAD later moved to withdraw, asserting that the matter was moot because the defendant had completed her sentence. *Id.* ¶¶ 1, 6, 8. The court agreed. *Id.* ¶ 22.

¶ 26 The *Dawson* court began its analysis by noting that the defendant’s sentence was “completely discharged” and that, as a “general rule,” an appeal in such cases is moot because “[i]t would be impossible to grant effectual relief from a sentence that the defendant already has served.” *Id.* ¶¶ 8-9. But the court then considered whether the collateral consequences exception applied under the circumstances. *Id.* ¶ 9. The court recognized that, in the context of a felony conviction, it was “easy to prove or presume collateral consequences”—for instance, “[f]elons lose the right to possess firearms [citation], *** and to take the oath of office for a municipal position.”

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Id. ¶ 10. Thus, because “[a] felony conviction probably will continue to inflict actual harm upon a defendant after the defendant has fully served the sentence,” the collateral consequences exception would allow a defendant to challenge that conviction. *Id.* The court queried whether “the same logic appl[ies] to a revocation of probation if the defendant has fully served the new or revised sentence.” *Id.* ¶ 11.

¶ 27 The court acknowledged that its *Halterman* decision would answer that question in the affirmative, as would *Monick* and *Sturdivant* (and *Seymour*). *Id.* ¶¶ 11-12. The court noted, however, that *Yackle* and *North* would disagree. *Id.* ¶ 13. To resolve the conflict among our appellate districts, the Fourth District turned to the United States Supreme Court’s decision in *Spencer*, which was decided after the aforementioned cases. *Id.* ¶ 14.

¶ 28 In *Spencer*, the petitioner sought a writ of *habeas corpus*, seeking to invalidate an order revoking his parole. *Spencer*, 523 U.S. at 3, 5-6. He challenged only the “wrongful termination of his parole status.” *Id.* at 8. At issue before the Court was whether the petitioner’s subsequent release from prison “caused the petition to be moot because it no longer presented a case or controversy under Article III, § 2, of the Constitution [(U.S. Const., art. III, § 2)].” *Id.* at 7. The Court noted that “‘[t]he parties must continue to have a “personal stake in the outcome” of the lawsuit.’ ” *Id.* (quoting *Lewis*, 494 U.S. at 478). “This means that, throughout the litigation, the plaintiff ‘must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.’ ” *Id.* (quoting *Lewis*, 494 U.S. at 477).

¶ 29 The Court recognized that “[a]n incarcerated convict’s *** challenge to the validity of his conviction always satisfies the case-or-controversy requirement, because the incarceration *** constitutes a concrete injury, caused by the conviction and redressable by invalidation of the conviction.” *Id.* “Once the convict’s sentence has expired, however, some *concrete and continuing*

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injury other than the now-ended incarceration or parole—some ‘collateral consequence’ of the conviction—must exist if the suit is to be maintained.” (Emphasis added.) *Id.* The Court held that, although it might have been willing to presume the existence of collateral consequences stemming from a criminal conviction, it would not extend that presumption to a parole revocation once the sentence for the violation ends. *Id.* at 8-14. Instead, the defendant must demonstrate that the parole revocation he is challenging has ongoing collateral consequences. *Id.* at 14.

¶ 30 The petitioner in *Spencer* alleged “four concrete injuries-in-fact attributable to his parole revocation.” *Id.* The petitioner claimed that his parole revocation could be used (1) to his detriment in a future parole proceeding, (2) to increase his sentence in a future sentencing proceeding, (3) to impeach him should he appear as a witness or litigant in a future criminal or civil proceeding, or (4) as direct evidence of guilt should he appear as a defendant in a criminal proceeding. *Id.* at 14-16.

¶ 31 The Court rejected all the proffered circumstances as too speculative to constitute injuries-in-fact. As to the first alleged injury—that the revocation could be used to the petitioner’s detriment in a future parole proceeding—the Court noted that it was “a possibility rather than a certainty or even a probability.” *Id.* at 14. In addition, the Court emphasized that a prior parole violation would not render the petitioner ineligible for parole; instead, it would be “ ‘simply one factor, among many, that may be considered by the parole authority.’ ” *Id.* (quoting *Lane v. Williams*, 455 U.S. 624, 633 n.13 (1982)). The Court rejected the petitioner’s second alleged injury—that the parole revocation could be used to increase his sentence in a future sentencing proceeding—finding that it was contingent upon the petitioner “violating the law, getting caught, and being convicted,” which the petitioner had the power to prevent from occurring. *Id.* at 15. The Court rejected the petitioner’s third and fourth alleged injuries—that the parole revocation could be used as

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impeachment or as evidence of guilt in future proceedings—for similar reasons, noting that the petitioner’s claims were “purely *** matter[s] of speculation.” *Id.* at 16.

¶ 32 The *Dawson* court concluded that *Spencer* “tend[ed] to vindicate *Yackle* and *North*.” *Dawson*, 2020 IL App (4th) 170872, ¶ 14. Relying on *Spencer*, the *Dawson* court disagreed with its holding in *Halterman*, stating: “[I]t should have been taken for granted in *Halterman* that there would be no future occasion for a judge to frown on the defendant’s parole revocation.” *Id.* ¶ 18. It concluded: “We assume and expect the same of [the] defendant in the present case. We take it as a given that she will never again find herself in a sentencing hearing. Thus, she lacks a personal stake in the question of the probation revocation, and this appeal is moot.” *Id.* ¶ 19. Accordingly, the court granted OSAD’s motion to withdraw and dismissed the appeal. *Id.* ¶ 22.

¶ 33 Later, the First District followed suit in *Cousins*, 2023 IL App (1st) 230234, ¶ 15. There, the defendant was convicted of aggravated criminal sexual abuse and sentenced to 30 months’ probation. *Id.* ¶ 3. The State petitioned to revoke the defendant’s probation for failing to attend sex offender treatment as required under the terms of his probation. *Id.* Following a hearing, the trial court revoked the defendant’s probation and sentenced him to four and a half years in prison. *Id.* ¶ 4. On appeal, the defendant argued that he was deprived of a fair revocation hearing because the court relied on improper hearsay evidence over his objection. *Id.* ¶ 8. The State argued that the appeal was moot because the defendant had completed his sentence. *Id.*

¶ 34 The First District agreed with *Dawson*’s conclusion that, under *Spencer*, “[the defendant] must identify concrete injuries-in-fact deriving from his probation revocation.” *Id.* ¶ 15. The *Cousins* defendant argued that collateral consequences existed in that (1) he could never challenge the trial court’s revocation determination and (2) he was subject to lifetime sex offender registration and reporting requirements. *Id.* The court rejected his argument. *Id.* The court found

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that neither consequence was a result of the probation revocation. *Id.* The fact that his legal remedies were exhausted was because he completed his sentence. *Id.* And his lifetime registration and reporting requirements were due to the underlying conviction. *Id.* Accordingly, the court dismissed the matter as moot. *Id.* ¶ 19.³

¶ 35 We agree with both *Dawson* and *Cousins* and hold that, under the reasoning espoused in *Spencer*, (1) defendant's challenge to her probation revocation is moot because she has completed her sentence and (2) to warrant application of the collateral consequences exception to mootness, defendant must establish concrete injuries-in-fact resulting from her probation revocation. We decline to follow *Monick*, *Halterman*, *Sturdivant*, and *Seymour* because they predate *Spencer*.

¶ 36 We now consider whether defendant has established collateral consequences sufficient to warrant finding an exception to mootness. As already noted, defendant's opening brief addresses this issue in a single paragraph. She cites *Cousins* solely to note the split of authority among districts, but she does not address that split or discuss *Cousins*'s applicability here. Instead, relying on *Monick*, she argues she can challenge her probation revocation because "the revocation may affect any future sentencing hearings involving [her]." However, because this argument is premised entirely on what might happen in a future criminal case that might never arise, it does not warrant application of the collateral consequences exception. See *Dawson*, 2020 IL App (4th) 170872, ¶ 19. We presume that defendant will never again find herself in a sentencing hearing.

³We note, too, that, prior to its *Cousins* decision, the First District, in *People v. Musawwir*, 2022 IL App (1st) 211546-U, ¶ 17, also agreed with *Dawson*. In *Musawwir*, the court dismissed the defendant's appeal challenging the revocation of his probation for failing to pay restitution. *Id.* ¶ 2. The court found that all the defendant's claimed collateral consequences were "premised entirely on what might happen in future criminal cases that do not yet exist and that may never exist." *Id.* ¶ 21.

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¶ 37 Nevertheless, defendant presents an entirely new argument in her reply brief. She contends that the unsatisfactory termination of her probation “carries consequences for ongoing immigration proceedings.” She claims that “[t]hroughout the pre-trial period and at the time of her guilty plea, [she] was involved in immigration proceedings, applying for asylum status.” Further, she asserts that the record does not indicate that “those immigration proceedings have concluded or that [she] has become a U.S. citizen.” According to defendant, “[t]he unsatisfactory termination of probation can affect immigration proceedings, as it is a factor considered in determining whether an applicant is eligible for naturalization.”

¶ 38 First, we find that, because this argument was not raised in her initial brief on appeal, it is forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (The argument in the appellant’s initial brief on appeal “shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. *** Points not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.”); *Franciscan Communities, Inc. v. Hamer*, 2012 IL App (2d) 110431, ¶ 19. To be sure, defendant argued generally in her opening brief that the issue was not moot. However, she based her argument on only the assertion that the probation revocation might affect future sentencing proceedings. That was the argument to which the State responded. Nowhere in her opening brief did defendant argue the existence of any collateral consequences relating to ongoing or future immigration proceedings. Nor can it be said that the argument was properly raised in response to an argument raised in the State’s brief. See *G.I.S. Venture v. Novak*, 388 Ill. App. 3d 184, 187 (2009) (“Issues raised for the first time in an appellant’s reply brief are considered forfeited unless they are responsive to an argument raised in the appellee’s brief.”). The State made no mention of any immigration issues. Accordingly, we find the argument forfeited.

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¶ 39 Forfeiture notwithstanding, defendant has failed to meet her burden to establish concrete injuries-in-fact resulting from her probation revocation to warrant application of the collateral consequences exception to mootness. First, putting aside initially the merits of her claim that the unsatisfactory termination of probation “is a factor considered in determining whether an applicant is eligible for naturalization,” defendant has failed to establish that she has applied or will apply for naturalization. “[C]ollateral consequences cannot be based on ‘vague, unsupported’ statements about the future.” *V.S.*, 2025 IL 129755, ¶ 61 (quoting *In re Rita P.*, 2014 IL 115798, ¶ 34).

¶ 40 According to defendant, throughout the case below, “[she] was involved in immigration proceedings, applying for asylum status.” In support of this assertion, defendant cites two instances in the record. In the first instance, on November 18, 2021, defense counsel referenced having had “a conversation with [defendant’s] [i]mmigration [a]ttorney,” but there is no indication as to the substance of that conversation. In the second instance, during the January 2022 plea hearing, defense counsel stated: “[Defendant] has asylum status here in the United States, and I have discussed that with her and just wanted to make a record of that.” Even if we were willing to find, based on this scant evidence, that defendant has asylum status in the United States, we are not willing to infer, based on that same evidence, that defendant is or will be seeking to obtain United States citizenship through naturalization. Defendant does not claim that any collateral consequences are affecting her asylum status.

¶ 41 Second, even if we were to conclude that the record allowed for a reasonable inference that defendant may, at some point in the future, decide to apply for naturalization, we cannot conclude that she would suffer a concrete injury-in-fact from her probation revocation that would warrant application of the collateral consequences exception. “Application of the collateral consequences exception is determined on a case-by-case basis.” *Id.*

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¶ 42 To support her claim that a probation revocation is “a factor considered in determining whether an applicant is eligible for naturalization,” defendant cites two sources. The first is a provision of the United States Citizenship and Immigration Services Policy Manual (USCIS Manual), which addresses the “[e]ffect of [p]robation” on the determination as to whether an applicant has demonstrated “Good Moral Character” (GMC) as required for naturalization. *Policy Manual*, U.S. Dep’t of Homeland Sec., U.S. Citizenship & Immigr. Servs., vol. 12, pt. F, ch. 2, § D (updated June 24, 2025), <https://www.uscis.gov/policy-manual/volume-12-part-f-chapter-2> [<https://perma.cc/NV9X-4EW7>]. The provision states in full:

“An officer may not approve a naturalization application while the applicant is on probation, parole, or under a suspended sentence. However, an applicant who has satisfactorily completed probation, parole, or a suspended sentence during the relevant statutory period⁴ is not automatically precluded from establishing GMC. The fact that an applicant was on probation, parole, or under a suspended sentence during the statutory period, however, may affect the overall GMC determination.” *Id.*

¶ 43 The second source defendant cites is section 316.10(c)(1) of Title 8 of the Code of Federal Regulations (8 C.F.R. § 316.10(c)(1) (1993)), which was cited in the above provision from the USCIS Manual. Section 316.10(a)(1) addresses the requirement that “[a]n applicant for naturalization bears the burden of demonstrating that, during the statutorily prescribed period, he or she has been and continues to be a person of [GMC].” *Id.* § 316.10(a)(1). Section 316.10(c)(1) concerns the “[e]ffect of probation or parole” on GMC and states:

“An applicant who has been on probation, parole, or suspended sentence during all or part of the statutory period is not thereby precluded from establishing [GMC], but such

⁴The “statutory period” is the period during which the applicant must show GMC.

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probation, parole, or suspended sentence may be considered by the Service in determining [GMC]. An application will not be approved until after the probation, parole, or suspended sentence has been completed.” *Id.* § 316.10(c)(1).

¶ 44 To be sure, defendant is correct that, should she apply for naturalization, her probation can be considered a factor in determining GMC. The unsatisfactory termination of her probation would undoubtedly factor in the GMC equation. However, “collateral consequences must be identified that ‘could stem *solely* from the present adjudication.’ ” (Emphasis in original.) *V.S.*, 2025 IL 129755, ¶ 61 (quoting *Alfred H.H.*, 233 Ill. 2d at 363). Here, defendant has not directed us to any authority establishing that the unsatisfactory termination of her probation would automatically render her ineligible for naturalization. Instead, it would be “ ‘simply one factor, among many, that may be considered.’ ” *Spencer*, 523 U.S. at 14 (quoting *Lane*, 455 U.S. at 633 n.13). And, as noted, defendant does not claim any adverse consequences related to her alleged asylum status. Based on the facts of this case, no collateral consequences exist.

¶ 45 Although not addressed by the parties, we also conclude that the remaining two exceptions to mootness do not apply. Under the public-interest exception, defendant must show that “(1) the question presented is of a public nature, (2) there is a need for an authoritative determination for the future guidance of public officers, and (3) there is a likelihood of future recurrence of the question.” *Cousins*, 2023 IL App (1st) 230234, ¶ 16. Here, the issue raised by this appeal—whether the evidence was sufficient to establish that defendant willfully failed to pay her \$40 probation fee—is not a question of a public nature. See *id.* (noting that “inherently case-specific reviews typically do not present broad public interest issues” and concluding that the issue of whether two reports admitted during revocation hearings were inadmissible lacked broad public interest).

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¶ 46 To satisfy the capable-of-repetition-yet-evading-review exception, “(1) the challenged action must be of a duration too short to be fully litigated prior to its cessation and (2) there must be a reasonable expectation that the same complaining party would be subjected to the same action.” (Internal quotation marks omitted.) *Id.* ¶ 17. Here, we find no reason to expect that defendant will be subjected to a probation revocation hearing in the future. Indeed, this would depend on defendant “committing a criminal offense, being convicted, and sentenced to probation for the offense, and violating the probation imposed on the offense.” *Id.*

¶ 47 Accordingly, based on the foregoing, we find that defendant has failed to establish any exception to mootness. Thus, the appeal is moot.

¶ 48 III. CONCLUSION

¶ 49 For the reasons stated, we dismiss this appeal as moot.

¶ 50 Appeal dismissed.

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People v. Vargas, 2025 IL App (2d) 240609

Decision Under Review: Appeal from the Circuit Court of Kane County, No. 20-CF-1481; the Hon. David P. Kliment, Judge, presiding.

**Attorneys
for
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**Attorneys
for
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**IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS**

Case No. **2020-CF-001481**

People of Illinois Plaintiff(s)		Vargas, Naliana Defendant(s)		 Clerk of the Circuit Court Kane County, Illinois 9/13/2024 2:53:41 PM FILED/IMAGED File Stamp
Sadler Plaintiff(s) Atty.		willett Defendant(s) Atty.		
Kliment, David Judge	Joyce, Jennifer Court Reporter	SLM Deputy Clerk		
A copy of this order ☐ should be sent ☐ has been sent ☐ Plaintiff Atty. ☐ Defense Atty. ☐ Other _____				

ORDER

- * Spanish Interpreter present in court
- * Defendant present in open court
- * Send any outstanding fines and costs to collections
- * The Court makes an indigency finding
- * Appeal Rights Explained
- * Terminated Unsatisfied

Plea: **No Plea Entered** Count(s) (Required Field): :

* Hearing held:

people's petition to revoke

* Other:

The court finds the people have proven a willful failure to pay the fines and costs in this case and terminates both sentences unsatisfactorily and sends the remaining balance to collections.

Anything written below this line with the exception of the Judges signature is not considered part of the official court order



Judge Kliment, David
Dated: 9/13/2024 2:53 PM

No. 132234

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 2-24-0609.
	)	
Respondent-Appellee,	)	There on appeal from the Circuit
	)	Court of the Sixteenth Judicial
-vs-	)	Circuit, Kane County, Illinois, No.
	)	20 CF 1481.
	)	
NALIANA VARGAS,	)	Honorable
	)	David P. Kliment,
Petitioner-Appellant.	)	Judge Presiding.

NOTICE AND PROOF OF SERVICE

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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 February 2, 2026, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the petitioner-appellant in an envelope deposited in a U.S. mail box in Elgin, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

/s/Kimberly Maloney
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