

No. 132312

IN THE  
SUPREME COURT OF ILLINOIS

|                                      |   |                             |
|--------------------------------------|---|-----------------------------|
| PEOPLE OF THE STATE OF ILLINOIS,     | ) |                             |
| ex rel. JAMIE L. MOSSER, State's     | ) |                             |
| Attorney of Kane County, Illinois    | ) |                             |
|                                      | ) |                             |
| Petitioner,                          | ) |                             |
|                                      | ) | Underlying Case from the    |
| v.                                   | ) | Circuit Court of the        |
|                                      | ) | Sixteenth Judicial Circuit, |
| HON. DAVID KLIMENT, Illinois Circuit | ) | Kane County, Illinois.      |
| court Judge,                         | ) | No. 22 CF 1334              |
|                                      | ) |                             |
| Respondent.                          | ) |                             |
|                                      | ) |                             |
|                                      | ) |                             |
| PHILLIP LAWSON,                      | ) | Honorable                   |
|                                      | ) | David P. Kliment,           |
| Defendant in Underlying Case.        | ) | Judge Presiding.            |

## BRIEF AND ARGUMENT FOR DEFENDANT-APPELLEE

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## ISSUES PRESENTED FOR REVIEW

1) Whether the State's Petition for Writ of *Mandamus* should be denied because the Petitioner has not established a "clear affirmative right to relief," as required for *mandamus* to issue.

2) Whether a self-insured municipality should be considered to be a "victim," "other victim," or "insurance carrier" in the restitution statute of the Unified Code of Corrections, 730 ILCS 5/5-5-6(b).

**STATUTE INVOLVED**

730 ILCS 5/5-5-6 (2025) provides in relevant part:

In all convictions for offenses in violation of the Criminal Code of 1961 or the Criminal Code of 2012 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section.

\* \* \*

(b) In fixing the amount of restitution to be paid in cash, . . . the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering.

## STATEMENT OF FACTS

Phillip Lawson entered an open guilty plea to one count of resisting a peace officer resulting in injury to the officer in violation of 720 ILCS 5/31-1(a-7) (2022) (class 4 felony). (R 16)

Evidence at the sentencing hearing showed that on July 24, 2022, while attempting to apprehend Lawson, Batavia Police Officer Larry Hill suffered a shoulder injury that required surgery and led to his disability retirement. (R 48-49)

Wendy Bednarek, human resources director for the City of Batavia, testified at the hearing that the city is self-insured, which Bednarek described as the city being responsible for paying the full cost of claims or cost expenses. (R 26-27) Officer Hill submitted a claim related to this injury, which was processed and reviewed by a third-party vendor. (R 28-29, 31-36) The City of Batavia paid \$45,193.52 in medical bills related to Officer Hill's injury. (R 37)

The Kane County prosecutor requested the sentencing court to order restitution to the City of Batavia for the \$45,193.52 in medical payments on behalf of Officer Hill under 730 ILCS 5/5-5-6(b) (2022), which requires the trial court to order restitution to the victim named in the charge, an "other victim," or an "insurance carrier" who indemnified a victim within the meaning of the statute. (R 81-82)

The trial court denied restitution after reviewing authority presented by the State and defendant, noting that the court could find no authority showing a self-insured municipality is an "other victim" or "insurance carrier" under § 5-5-6(b). The court further noted the City of Batavia could seek reimbursement

through civil court proceedings. (R 103-04).

The State filed a motion to reconsider the denial of restitution, which the trial court denied. (R 18-19, 122-23)

On September 26, 2025, the States Attorney's Appellate Prosecutor filed a motion for leave to file an original *mandamus* complaint and proposed complaint seeking to compel the circuit court to order restitution on behalf of the City of Batavia. On October 20, 2025, this Court allowed the motion for leave to file a petition for an original writ of *mandamus* and ordered briefing in this cause.

## ARGUMENT

### I.

**This Court should deny the State’s petition for writ of *mandamus* because the State has not shown it has a clear right to relief where there is no current authority that the circuit court is required to order restitution to the City of Batavia under 730 ILCS 5/5-5-6. Further, the statutory interpretation question presented by the State in this petition circumvents the normal appeals process and effectively constitutes an improper State appeal in a criminal case.**

*Mandamus* is an extraordinary remedy that compels a public officer to perform a ministerial duty and should be granted by this Court only if the petitioner establishes a clear, affirmative right to relief, a clear duty of the public officer to act, and clear authority in the public officer to comply with the writ. *People ex rel. Waller v. McKoski*, 195 Ill.2d 393, 398 (2001). The State has failed to satisfy the requirements for *mandamus* relief in this cause where there is no established clear and affirmative right under 730 ILCS 5/5-5-6 (2025) requiring a trial court to order restitution in a criminal case on behalf of a self-insured municipality. Only a new and expanded interpretation of § 5-5-6(b) of the restitution statute by this Court in this cause would establish a duty by the trial court to order restitution on behalf of the City of Batavia. Accordingly, this Court should deny the State’s petition for writ of *mandamus*.

Further, this Court has recognized that *mandamus* claims should not operate as a substitute for the regular appeals process. *People ex rel. Daley v. Laurie*, 106 Ill.2d 33, 40-41 (1985). In this cause, the State seeks, in effect, to bypass consideration by the Illinois Appellate Court and bring a question of statutory interpretation of a criminal sentencing statute directly to this Court. And, notably, Supreme Court Rule 604(a) prohibits State appeals in criminal cases except in

certain defined cases, such as the effective dismissal of charges, quashing an arrest or search warrant, or suppressing evidence. Ill. S. Ct. R. 604(a). The instant cause falls under none of these grounds for the State to bring an appeal. Therefore, not only does the instant *mandamus* claim not meet the standard requirements for relief, the issue raised in the State's claim falls outside the scope of recognized *mandamus* proceedings and relief should be denied on that basis.

The element that a *mandamus* claim establish a clear, affirmative right to relief by the petitioner is a long-standing and fundamental component of *mandamus* relief. *See People ex rel. Heydenreich et al. v. Lyons*, 374 Ill. 557, 567-68 (1940) (*mandamus* relief denied where petitioner did not show existence of right and duty of respondent to perform). Simply stated, in this cause, there presently is no established right of a self-insured unit of local government to recover for out-of-pocket expenses, losses, damages, or injuries under § 5-5-6(b). Under the statute, restitution shall be ordered on behalf of the victim named in the charge, an "other victim," or an "insurance carrier" who indemnified a victim within the meaning of the statute. But the statute does not explicitly recognize a clear right of restitution for a self-insured unit of government. And, significantly, the trial court below stated the parties identified no authority, and the court itself could not find authority showing that a self-insured municipality is an "other victim" or "insurance carrier." The State in its opening brief to this Court in this cause similarly identifies no such existing authority and instead relies on this Court to interpret the statute to establish for the first time that a self-insured municipality is an "other victim" or "insurance carrier" under § 5-5-6(b).

In a *mandamus* case where petitioners sought enforcement of provisions of the Illinois School Code, this Court stated “each statutory duty the plaintiffs seek to enforce through *mandamus* will have to be evaluated to ascertain if the elements of the writ are satisfied.” *Lewis E. v. Spagnolo*, 186 Ill.2d 198, 231 (1999), citing *Noyola v. Board of Education*, 179 Ill.2d 121, 133 (1997). This Court continued, “[A]s to each allegation, a determination must be made as to whether the particular statutory provision imposed a *clear* duty to act on a defendant and whether it granted the plaintiffs a *clear* right to the relief requested.” *Spagnolo*, 186 Ill.2d at 231. (emphasis added) This case similarly requires this Court to determine whether the restitution statute “imposed a clear duty [on the trial judge] to act” on behalf of the City of Batavia. Based on the absence of controlling authority finding the municipality is an “other victim” or “insurance carrier” under § 5-5-6(b), this Court should deny the State’s requested *mandamus* relief.

The respondent recognizes this Court has found *mandamus* may be, in some cases, an appropriate vehicle for the simultaneous determination of issues of statutory constitutionality and the enforcement of rights initially determined to exist in the proceeding awarding the writ. *People ex rel. Scott v. Kerner*, 32 Ill.2d 531, 544-46 (1979). In *Kerner*, this Court considered the constitutionality of the composition of congressional districts established by the Illinois Legislature. *Kerner*, 32 Ill.2d at 541. This Court found the districts to be unconstitutional, awarded *mandamus* relief, and entered orders regarding procedures for the upcoming congressional elections. *Kerner*, 32 Ill.2d at 549. However, relevant to the instant case, this Court said it was permissible to determine the constitutionality of the

congressional apportionment statute and grant *mandamus* relief in the same proceeding “where public issues of serious concern require speedy resolution.” *Kerner*, 32 Ill.2d at 546. The instant case, to the contrary, does not present the exigent circumstances found in *Scott* that require a speedy resolution. The State here makes no argument that the question of the interpretation of the restitution statute is so urgent as to require this Court to resolve the question in a *mandamus* action. Accordingly, this cause was improperly brought as an original *mandamus* proceeding and relief should be denied.

In addition to not requiring urgent resolution of the underlying statutory interpretation question, seeking relief through a *mandamus* petition constitutes an improper circumvention of the normal appeals and legislative process. “[T]his extraordinary writ is not to be regarded as a substitute for the ordinary channels of appeal and writ of error, and will not generally lie to correct mere judicial error in matters that the trial court had jurisdiction to decide, or to control the exercise of judicial discretion.” *People ex rel. Daley v. Laurie*, 106 Ill.2d 33, 40-41 (1985), citing *People ex rel. Bradley v. McAuliffe*, 24 Ill.2d 75, 78 (1962). The State here seeks to force the trial court to order restitution in a case in which the trial court interpreted § 5-5-6(b) in a manner contrary to the State’s request. This case should fall squarely within the rule cited in *Daley v. Laurie* that *mandamus* is not the appropriate vehicle in which to seek to reverse its contention of “mere judicial error.”

By bringing this *mandamus* action to claim that the trial court wrongly declined to order restitution for the City of Batavia under § 5-5-6(b), the State

essentially seeks to appeal the trial court's ruling and interpretation of the statute. However, State appeals in criminal cases are limited by Supreme Court Rule 604(a), which provides:

Rule 604. Appeals from Certain Judgments and Orders

(a) Appeals by the State.

(1) *When State May Appeal.* In criminal cases the State may appeal only from an order or judgment the substantive effect of which results in dismissing a charge for any of the grounds enumerated in section 114-1 of the Code of Criminal Procedure of 1963; arresting judgment because of a defective indictment, information or complaint; quashing an arrest or search warrant; suppressing evidence; from an order imposing conditions of pretrial release; from an order denying a petition to deny pretrial release; or from an order denying a petition to revoke pretrial release.

Ill. S. Ct. R. 604(a). The Rule does not authorize the State to appeal discretionary rulings of the trial court at sentencing. Under these circumstances, the State should not be permitted to avoid the restrictions of Rule 604(a) by challenging the trial court's ruling directly to this Court in a *mandamus* petition.

Finally, it must be recognized that the City of Batavia is not without a remedy outside the petition for writ of *mandamus*. As the trial court noted, the City may seek reimbursement from the defendant below through proceedings in civil court. And, this Court has found that a *mandamus* action is not appropriate where an alternative remedy is available. *Patzner v. Baise*, 133 Ill.2d 540, 545 (1990). In that case, the plaintiff filed a petition for *mandamus* to compel the Department of Transportation to institute eminent domain proceedings to compensate him for damage to his property. This Court declined to provide *mandamus* relief, finding

the Court of Claims Act provided a remedy for a property owner whose property is damaged but not taken. “Making the plaintiff’s exclusive remedy lie in the Court of Claims is fully appropriate, for this court has held that, where some other adequate remedy is available, *mandamus* will not lie.” *Baise*, 133 Ill.2d at 545.

In sum, the State has failed to establish a clear, affirmative right to relief and a petition for writ of *mandamus* is not an appropriate means of challenging the trial court’s interpretation of § 5-5-6(b). Accordingly, this Court should deny the State’s petition for writ of *mandamus*.

## II.

**The trial court correctly declined to award restitution to the City of Batavia in this cause where the self-insured municipality is not the victim named in the charge, an “other victim,” or an “insurance carrier” who indemnified a victim within the meaning of 730 ILCS 5/5-5-6(b), which governs restitution in criminal cases.**

If this Court declines to deny *mandamus* relief in this cause based on the arguments presented in Argument I of this brief, this Court should find the trial court correctly interpreted and applied the restitution statute, 730 ILCS 5/5-5-6 (2025), when it found the City of Batavia should not be awarded restitution because it is not the victim named in the charge, an “other victim,” or an “insurance carrier” who indemnified a victim within the meaning of the statute. The plain language of § 5-5-6(b) specifically identifies the foregoing as entities eligible to receive restitution. However, the Code of Corrections defines “victim” as a “natural person,” and the City of Batavia cannot be considered a “victim” eligible for restitution under § 5-5-6(b). 730 ILCS 5/5-1-22 (2025); 725 ILCS 120/3 (a) (2025). Furthermore, as the trial court correctly found, the term “insurance carrier” is commonly understood to mean a company that provides insurance policies to the public and does not include self-insured municipalities. (R 123) Reading the statute to include self-insured units of government would impermissibly expand the statute beyond those entities identified in the plain language by the Legislature. Accordingly, this Court should reject the State’s attempt to expand the scope and meaning of § 5-5-6(b).

The cardinal rule guiding a court in statutory construction, to which all other rules are subordinate, is to ascertain and give effect to the intent of the

legislature. *People v. Hanna*, 207 Ill.2d 486, 497 (2003). Ordinarily, the language of the statute is the best guide to what the legislature intended, and, if the language is unambiguous, a court must follow it without resorting to aids to statutory construction. *People v. Perry*, 224 Ill.2d 312, 323 (2007). This court will not read exceptions, conditions, or limitations into a statute which the legislature did not express if the statutory language is clear and unambiguous. *Harshman v. Phillips*, 218 Ill.2d 482, 501 (2006). The interpretation of a statute is reviewed *de novo*. *Harshman*, 218 Ill.2d at 489.

The State asks this Court in this *mandamus* action to interpret § 5-5-6(b) of the Unified Code of Corrections, which provides, in relevant part:

In all convictions for offenses in violation of the Criminal Code of 1961 or the Criminal Code of 2012 or of Section 11-501 of the Illinois Vehicle Code in which the person received any injury to his or her person or damage to his or her real or personal property as a result of the criminal act of the defendant, the court shall order restitution as provided in this Section.

\* \* \*

(b) In fixing the amount of restitution to be paid in cash, . . . the court shall assess the actual out-of-pocket expenses, losses, damages, and injuries suffered by the victim named in the charge and any other victims who may also have suffered out-of-pocket expenses, losses, damages, and injuries proximately caused by the same criminal conduct of the defendant, and insurance carriers who have indemnified the named victim or other victims for the out-of-pocket expenses, losses, damages, or injuries, provided that in no event shall restitution be ordered to be paid on account of pain and suffering. (emphasis added)

According to the State, a self-insured municipality, the City of Batavia, should be considered to be an “other victim” or “insurance carrier” under § 5-5-6(b).

Initially, the defendant recognizes § 5-5-6 creates a mandatory imposition of restitution for qualifying entities. The statute states “the court *shall* order restitution as provided in this Section.” § 5-5-6 (emphasis added). Use of the word “shall” generally indicates a legislative intent to impose a mandatory obligation. *People v. Ousley*, 235 Ill.2d 299, 311 (2009). Thus, if the City of Batavia is found to be an “other victim” or “insurance carrier” under § 5-5-6(b), the trial court would be required to order restitution in this cause.

It is notable that the State presented no authority at the sentencing proceedings in the trial court that conclusively support its interpretation of § 5-5-6(b) to include self-insured municipalities. Likewise, the trial court said it could find no authority interpreting § 5-5-6(b) to include self-insured municipalities. (R 103-04) This illustrates the point that the State is seeking a new and expanded interpretation and application of § 5-5-6(b) and amplifies the arguments raised in Argument I of this brief that a petition for writ of *mandamus* is not an appropriate procedure to resolve this issue.

In this *mandamus* proceeding, the State generally relies on the plain language of § 5-5-6(b) and asserts that a self-insured municipality falls within the meaning of “insurance carrier.” (State’s brief at 8-9) The State argues the statute does not define “insurance carrier” and thus relies on definitions of “carrier” in Merriam-Webster and Black’s Law Dictionary to conclude a “carrier” is “an organization acting as an insurer.” (State’s brief at 8) The State further argues the Legislature defined “carrier” in a statute governing insurance as “any entity which provides health insurance in this State.” 215 ILCS 93/10 (2025). (State’s brief at 8) From

these sources, the State argues that “insurance carrier” should be read in § 5-5-6(b) to mean “someone or something that provides health insurance to an individual.” (State’s brief at 8-9)

Even under these readings of § 5-5-6(b) by the State, the City of Batavia cannot be considered to be an insurance carrier. Wendy Bednarek, human resources director for the City of Batavia, testified at the sentencing hearing that the city is self-insured, which Bednarek described as the city being “fully responsible for – we pay the full cost of any of the claims or cost expenses.” (R 26-27) Bednarek presented no testimony that the City of Batavia provides insurance for its employees or offers health insurance to any individual. Paying the medical bills of municipal employees simply cannot be equated as “[providing] health insurance to an individual,” as formulated by the State.

It is significant that the Legislature used the term “insurance carrier” in § 5-5-6(b) and did not explicitly include self-insured municipalities as entities entitled to restitution in § 5-5-6(b). This specific statutory scheme should be presumed to be indicative of the limits of legislative intent. If the Legislature had intended for self-insured municipalities to be eligible for restitution, it simply could have included such specific language in § 5-5-6(b). *See generally People v. Jones*, 214 Ill.2d 187, 199 (2005) (the Legislature is presumed to act rationally and with full knowledge of prior legislation and a statute will not be construed to change the settled law of the state unless its terms clearly require such a construction).

The conclusion that a self-insured municipality is not to considered to be

an “insurance carrier” is supported by *State Farm Mutual Automobile Insurance Co. v. Du Page County*, 2011 IL App (2d) 100580. In that case, State Farm sought equitable subrogation and reimbursement from DuPage County, a self-insured municipality, after State Farm settled a lawsuit. The lawsuit alleged that an employee of DuPage County struck and injured another driver while the employee was intoxicated and driving a vehicle owned by the County. *Du Page County*, 2011 IL App (2d) 100580, ¶ 1. DuPage County argued that State Farm was not entitled to equitable subrogation, because the County is not an insurer but rather a self-insured municipality. *DuPage County*, 2011 IL App (2d) 100580, ¶¶ 32, 35. The appellate court ultimately determined that DuPage County, as a self-insured municipality, was not an insurer or insurance company, nor did it provide insurance coverage. “Accordingly, State Farm cannot establish the first requirement of equitable subrogation, which is that the defendant must be a *carrier* that is primarily liable to the insured for a loss under a policy of insurance.” *DuPage County*, 2011 IL App (2d) 100580, ¶ 40 (emphasis in original). Similarly here, the City of Batavia, as a self-insured municipality, cannot be considered to be an “insurance carrier” for purposes of the restitution statute, § 5-5-6(b).

Furthermore, this Court should find the City of Batavia is not an “other victim” eligible for restitution under § 5-5-6(b). Under the Unified Code of Corrections, of which the restitution statute is included, a “victim” is defined by the Legislature as a “natural person,” which would exclude the self-insured municipality of Batavia as an entity eligible for restitution under § 5-5-6(b). The Unified Code of Corrections defines “victim” in 730 ILCS 5/5-1-22 (2025):

“Victim” shall have the meaning ascribed to the term “crime victim” in subsection (a) of Section 3 of the Rights of Crime Victims and Witnesses Act.

730 ILCS 5/5-1-22 (2025) (citing 725 ILCS 120/3).

In turn, the Rights of Crime Victims and Witnesses Act, 725 ILCS 120/3

(a) (2025), defines “crime victim” or “victim” as a “natural person”:

(a) “Crime victim” or “victim” means: (1) any natural person determined by the prosecutor or the court to have suffered direct physical or psychological harm as a result of a violent crime perpetrated or attempted against that person or direct physical or psychological harm as a result of (i) a violation of Section 11-501 of the Illinois Vehicle Code or similar provision of a local ordinance or (ii) a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012; (2) in the case of a crime victim who is under 18 years of age or an adult victim who is incompetent or incapacitated, both parents, legal guardians, foster parents, or a single adult representative; (3) in the case of an adult deceased victim, 2 representatives who may be the spouse, parent, child or sibling of the victim, or the representative of the victim’s estate; and (4) an immediate family member of a victim under clause (1) of this paragraph (a) chosen by the victim. If the victim is 18 years of age or over, the victim may choose any person to be the victim’s representative. In no event shall the defendant or any person who aided and abetted in the commission of the crime be considered a victim, a crime victim, or a representative of the victim.

A board, agency, or other governmental entity making decisions regarding an offender’s release, sentence reduction, or clemency can determine additional persons are victims for the purpose of its proceedings.

725 ILCS 120/3(a) (2025).

When a term is defined within a statute, that term must be construed by applying the statutory definition provided by the legislature. *People v. Fiveash*, 2015 IL 117669, ¶ 13. Thus, the definition of “victim” provided in the Unified Code

of Corrections, § 5-1-22, must control and the “other victim” provision of § 5-5-6(b) must be read to be limited to a “natural person.” The City of Batavia is not, therefore, entitled to restitution as an “other victim.”

Of note, the State characterizes § 5-5-6(b) as requiring restitution be paid to “a victim’s insurance carrier or any other victim.” (State’s brief at 4) This phrasing is somewhat misleading, as it reverses the order in which the entities appear in the statute, subtly suggesting the insurance carrier itself is a “victim.” In fact, the statute requires restitution for the victim named in the charge, other victims, and insurance carriers who indemnify the foregoing. § 5-5-6(b). The correct sequence is consistent with Lawson’s contention that “victims” are limited to natural persons.

The State cites *People v. Strebin*, 209 Ill.App.3d 1078, 1085-86 (4th Dist. 1991), in support of its argument that “‘other victims’ encompasses those who pay the costs of treatment for direct victims for harms suffered at the hands of the defendant, including governmental agencies.” (State’s brief at 12) However, *Strebin*’s discussion of § 5-5-6(b) is contained in judicial *dicta* and not should not control the instant case. Furthermore, *Strebin* cannot control where, as noted, the Legislature defined “victim” in § 5-1-22 of the Code of Corrections as a “natural person.”

In *Strebin*, the defendant pled guilty to aggravated battery of a child and a charge of aggravated criminal sexual abuse was dismissed. The trial court sentenced Strebin to probation and ordered him to pay restitution for the costs of counseling for the victim and his family. *Strebin*, 209 Ill.App.3d at 1080, 1082.

The appellate court vacated the sentencing order, but addressed questions regarding restitution to guide the trial court at resentencing. *Strebin*, 209 Ill.App.3d at 1080, 1082. The Fourth District noted Ill.Rev.Stat.1989, ch. 38, par. 1005-5-6(g) required the trial court to order restitution to pay for a victim's counseling services in certain enumerated sex offense cases. *Strebin*, 209 Ill.App.3d at 1083. In response to a statutory interpretation question presented by the defendant on appeal, the court addressed whether § 5-5-6(b) allowed restitution for psychological counseling. The Fourth District determined in *dicta* that restitution may be ordered under § 5-5-6(b) of the Code for psychological counseling for victims. *Strebin*, 209 Ill.App.3d at 1085. The Fourth District further found that ordering restitution to pay governmental agencies that provide such counseling for a victim is "consistent with the legislative purpose behind § 5-5-6(b) of the Code." *Strebin*, 209 Ill.App.3d at 1086.

It is significant that *Strebin* did not affirm a restitution order finding a governmental unit to be an "other victim" under § 5-5-6(b). Rather, the court remanded the restitution order on other grounds and considered § 5-5-6(b) in judicial *dicta* in response to the defendant's challenge to Ill.Rev.Stat.1989, ch. 38, par. 1005-5-6(g). *Strebin*, 209 Ill.App.3d at 1083-86. Judicial *dicta* are comments in a judicial opinion that are unnecessary to the disposition of the case, but involve an issue briefed and argued by the parties. Judicial *dicta* have the force of a determination by a reviewing court and should receive dispositive weight in an inferior court. *People v. Williams*, 204 Ill.2d 191, 207 (2003). However, the 35-year-old case of *Strebin* is not binding on this Court and should be rejected in light

of the Code of Corrections’ definition of “victim” as a “natural person” in § 5-1-22.

The State further argues that finding the City of Batavia to be an “other victim” under § 5-5-6(b) would be consistent with the “expansive purpose” of § 5-5-6 “to make all victims whole for any injury received at the hands of the criminal to be sentenced.” citing *People v. Lowe*, 153 Ill.2d 195, 202 (1992) (State’s brief at 13) However, this “expansive” approach to reading § 5-5-6(b) invites interpretations that would regularly exceed the legislative intent as expressed in the language of the statute. Rather, courts should endeavor to ascertain the legislative intent from the plain language of the statute, and not engage in expanding the scope of § 5-5-6(b) to incorporate perceptions of public policy.

The plain language of § 5-5-6(b) provides that a trial court shall order restitution on behalf of the victim named in the charge, “other victims,” and “insurance carriers” who have indemnified the named victim and other victims. Interpreting the statute to include self-insured units of government would exceed the plain legislative language of the statute and constitute an unwarranted expansion of the scope of the statute beyond those entities specifically identified by the Legislature. Accordingly, this Court should find the City of Batavia is not entitled to restitution under § 5-5-6(b) and deny the petition for writ of *mandamus*.

## CONCLUSION

For the foregoing reasons, Phillip Lawson, defendant in the underlying case, respectfully requests that this Court deny the petition for writ of *mandamus*.

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 or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 20 pages.

/s/Jeffrey Bruce Kirkham  
**JEFFREY BRUCE KIRKHAM**  
Assistant Appellate Defender

No. 132312

IN THE

## SUPREME COURT OF ILLINOIS

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|                                      |   |                             |
|--------------------------------------|---|-----------------------------|
| PEOPLE OF THE STATE OF ILLINOIS,     | ) |                             |
| ex rel. JAMIE L. MOSSER, State's     | ) |                             |
| Attorney of Kane County, Illinois,   | ) |                             |
|                                      | ) |                             |
| Petitioner,                          | ) |                             |
|                                      | ) |                             |
| v.                                   | ) | Underlying Case from the    |
|                                      | ) | Circuit Court of the        |
| HON. DAVID KLIMENT, Illinois Circuit | ) | Sixteenth Judicial Circuit, |
| court Judge,                         | ) | Kane County, Illinois.      |
|                                      | ) | No. 22 CF 1334              |
| Respondent.                          | ) |                             |
|                                      | ) |                             |
|                                      | ) |                             |
| PHILLIP LAWSON,                      | ) | Honorable                   |
|                                      | ) | David P. Kliment,           |
| Defendant in Underlying Case.        | ) | Judge Presiding.            |

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**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 May 6, 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 defendant-appellee 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/Norma Huerta

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