Corrected Brief Filed by Order of 1/6/2025

THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 604(h)

No. 130946

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, -vs- TYRELL DERRIOUS COOPER, Defendant-Appellee.	))))))))))	Appeal from the Appellate Court of Illinois, No. 4-24-0589. There on appeal from the Circuit Court of the Fourteenth Judicial Circuit, Rock Island County, Illinois, No. 24 CF 244. Honorable Frank R. Fuhr, Judge Presiding.

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLEE IN SUPPORT OF RULE 604(h) APPEAL

JAMES E. CHADD
State Appellate Defender

CAROLYN R. KLARQUIST
Director of Pretrial Fairness Unit

JONATHAN KRIEGER
Assistant Appellate Defender
Office of the State Appellate Defender
Pretrial Fairness Unit
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
PFA.eserve@osad.state.il.us

COUNSEL FOR DEFENDANT-APPELLEE

ORAL ARGUMENT REQUESTED

E-FILED
12/27/2024 4:13 PM
CYNTHIA A. GRANT
SUPREME COURT CLERK

TABLE OF CONTENTS AND POINTS AND AUTHORITIES

ISSUE PRESENTED FOR REVIEW

Whether, given the legislature's interest in protecting an accused person's liberty, the requirement that a hearing on a State's petition to detain be timely held is mandatory and thus has a remedy when violated.

STATUTE INVOLVED

725 ILCS 5/110-6.1 (West 2022)

5/110-6.1. Denial of pretrial release

* * *

(c) Timing of petition.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while such petition is pending before the court, the defendant if previously released shall not be detained.

(2) Upon filing, the court shall immediately hold a hearing on the petition unless a continuance is requested. If a continuance is requested and granted, the hearing shall be held within 48 hours of the defendant's first appearance if the defendant is charged with first degree murder or a Class X, Class 1, Class 2, or Class 3 felony, and within 24 hours if the defendant is charged with a Class 4 or misdemeanor offense. The Court may deny or grant the request for continuance. If the court decides to grant the continuance, the Court retains the discretion to detain or release the defendant in the time between the filing of the petition and the hearing.

STATEMENT OF FACTS

On March 28, 2024, Tyrell Cooper was arrested by Rock Island police officers and taken into custody. (CI. 4.) He was charged with aggravated battery and two weapons offenses. (C. 5–6.)

On March 30, the State filed a petition to deny Cooper pretrial release, alleging he posed a safety threat. (C. 13–14.) The court held the first appearance the same day, a Saturday, at 10:58 a.m. (A. 12.)[1] The circuit court read the charges and appointed Cooper defense counsel. (A. 12–14.) The State asked for the case to be continued until the following Monday, April 1, at 1:30 p.m. (See A. 15.) Defense counsel told the court, "we'd ask for immediate, but did receive notice of the hearing for Monday." (A. 15.) The proceedings adjourned at 11:01 a.m. (A. 16.)

The court held a hearing on the State's petition on the afternoon of April 1. (A. 17, 22.) On that date, Cooper argued that the State's petition should be stricken since the hearing was held over 48 hours from filing of the petition, and was thus untimely. (A. 22–23.) Defense counsel acknowledged the circuit court's position that *People v. McCarthy-Nelson*, 2024 IL App (4th) 231582-U, does not apply to weekends and holidays. (A. 22.) The court denied the motion to strike without making any findings. (A. 23.) After a hearing, the court denied Cooper pretrial release. (A. 28–29.)

---

[1] Appellate counsel cites the appendix to the State's brief, containing most of the documents relevant to this appeal, as "A."

On appeal, Cooper reprised his claim that the detention hearing was untimely under section 110-6.1(c)(2) of the pretrial release statute. (A. 37, 42–44.) The remedy for the violation was release. (A. 43–44.) In its response memorandum, the State conceded that the hearing "took place shortly after the 48-hour timeframe passed" but argued that Cooper was not prejudiced by the delay. (A. 48–49.)

The Fourth District appellate court reversed. It found that the hearing in Cooper's case occurred after the expiration of the 48-hour deadline. *People v. Cooper*, 2024 IL App (4th) 240589-U, ¶¶ 12–13, (A. 4–5). And under *McCarthy-Nelson*, the remedy for an untimely hearing was to release the defendant. (A. 6–7.) The court found the State's cited authorities concerned other statutes and were thus distinguishable. (A. 5–6.)

A dissenting justice found the timing provision "was not strictly complied with," but would nonetheless affirm the detention order. *Cooper*, 2024 IL App (4th) 240589-U, ¶ 22 (Doherty, J., dissenting), (A. 7). Under the dissent's analysis, section 110-6.1(c)(2) was directory, not mandatory, in nature, since it was directed at a government official and lacked language specifying a consequence for an untimely hearing. (A. 8–9.) The dissent found a directory reading would generally "inure to the benefit of those in the class to which defendant belongs," but that Cooper himself lost no rights. (A. 9.) Finding the statute mandatory "would defeat the community's expectation that public safety will be considered before a defendant is released." (A. 10.)

The State filed a petition for leave to appeal, which this Court allowed.

In its petition, the State argued that section 110-6.1(c)(2) was directory not mandatory, that the appellate court's holdings conflicted with the statute, and that trial counsel had acquiesced in setting the untimely hearing. Pet. for Leave to Appeal 7–14. One of the issues raised, the State claimed, was "the appropriate remedy for an untimely hearing." Pet. for Leave to Appeal 1.[2]

ARGUMENT

Given the plain language and purpose of the statute requiring a timely hearing on a State's petition to detain, that requirement is mandatory.

The pretrial release statute presumes that recently arrested persons will be released and mandates a quick hearing when the State seeks their detention. Under section 110-6.1(c)(2) of the statute, a hearing must be held at the first appearance or, if a continuance is sought, within 48 hours. Because any delay beyond this deadline would thwart the liberty interests of defendants, the timely-hearing requirement of section 110-6.1(c)(2) is mandatory. Given the untimely hearing in Tyrell Cooper's case, the appellate court was correct to order Cooper released. The State's arguments to the contrary are unconvincing, and the appellate court judgment should be affirmed.

---

[2] On December 19, 2024, Cooper entered a guilty plea in the case. Sentencing is set for February 14, 2025, with Cooper remaining on release until then. Since Cooper remains on pretrial release, the appeal is currently not moot.

This appeal turns on the interpretation of statutes and caselaw, which presents purely legal questions, subject to *de novo* review. *Townsend v. Sears, Roebuck & Co.*, 227 Ill. 2d 147, 154 (2007) (issues involving "the selection, interpretation, and application of legal precepts" are reviewed *de novo*); see also *People v. Geiler*, 2016 IL 119095, ¶ 17 ("Whether an obligation is mandatory or directory is a question of construction subject to *de novo* review.").

A. The hearing in this case was not held immediately and not held within 48 hours of the first appearance and thus violated the pretrial release statute.

The detention hearing in Cooper's case was untimely under the pretrial release statute. The State's claim that the actual deadline is longer, if accepted, would inject uncertainty into a broad swath of Illinois statutes setting deadlines.

Section 110-6.1(c)(2) provides the deadline for hearings on State petitions to deny pretrial release: "the court shall immediately hold a hearing on the petition unless a continuance is requested." 725 ILCS 5/110-6.1(c)(2) (West 2022). For cases charging a Class 3 felony or higher, "[i]f a continuance is requested and granted, the hearing shall be held within 48 hours of the defendant's first appearance." *Id.*

It should be beyond dispute that section 110-6.1(c)(2) was violated in Cooper's case. Though defense counsel requested an immediate hearing, the circuit court granted the State's motion to continue the case. (A. 12, 14–17, 22.) Since Cooper was charged with Class 3 or higher felonies, the court could

continue the case for up to 48 hours. (C. 5–6); 725 ILCS 5/110-6.1(c)(2). The continuance in Cooper's case—from the first appearance on the morning on March 30 to the afternoon of April 1—was clearly beyond the 48 hours set as the outer limit by section 110-6.1(c)(2). (A. 15–17, 22.)

Turning from this language, though, the State claims that the hearing was in fact timely. It cites the Statute on Statutes, which provides a set of rules that apply unless they are "inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute." 5 ILCS 70/1. Under the timing provision of this statute,

> The time within which any act provided by law is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then it shall also be excluded.

Id. 70/1.11. By the State's calculation, the day of the first appearance in Cooper's case, March 30, should be excluded, as should March 31, a Sunday. St. Br. 12–13 & n.3.

Applying the Statute on Statutes would be inconsistent with the legislature's intent in crafting the pretrial release statute. "The most reliable indicator of legislative intent is the language of the statute, given its plain and ordinary meaning." *In re Appointment of Special Prosecutor*, 2019 IL 122949, ¶ 23. Section 110-6.1(c)(2) reflects the legislature's intent that State petitions to deny release be decided quickly. By default, a hearing is immediate and the outer limit is set in terms of hours, a much smaller unit of time than days. See 725 ILCS 5/110-6.1(c)(2). By setting the limit at 48

hours, the legislature rejected a prior approach based on days. See 725 ILCS 5/110-6.1(a)(2) (West 2018) (previous version limiting defense continuances to five days and State continuances to three days). Not counting the initial day would delay the permissible hearing date automatically, in every case. Here, under the State's position, 13 hours of delay on March 30 would not count. (See A. 16 (first appearance ended around 11:00 a.m.)) This outcome would thwart the legislature's specific purpose in ensuring a quick hearing. The general timing provision of the Statute of Statutes thus does not apply. See *Browning v. Gorman*, 261 Ill. 617, 622 (1914) (not applying Statute on Statute's rule on single and plural terms where applying rule would, *inter alia*, "be inconsistent with the manifest intent of the Legislature"); *Mierswa v. Kusper*, 121 Ill. App. 3d 430, 432–33 (1st Dist. 1984) (not applying timing provision of Statute of Statutes where election statute expressed legislature's desire to have objections filed on a Saturday).

Accepting the State's argument would have widespread consequences outside the pretrial release statute. Dozens of other statutes across a broad range of subjects set deadlines in terms of hours. See, *e.g.*, 10 ILCS 5/1-9.2 (West 2022) (requiring election authorities to publicly post number of uncounted ballots "[n]o later than 48 hours after the closing of polling locations on election day"); 70 ILCS 1005/8 (requiring mosquito abatement districts to report positive tests for vector-born diseases to public health department "within 24 hours after receiving a positive report"); 215 ILCS 134/45.1(b)(3) (requiring a health carrier to either approve or deny the

request for expedited coverage "within 24 hours after receipt of the request"); 325 ILCS 5/7 (requiring Department of Children and Family Services to report death or serious injury of child to law enforcement "within 24 hours"); 750 ILCS 50/9(D) (making consent to adoption irrevocable if not revoked "within 72 hours after the birth of the child"). Under these statutes, the remainder of the starting day (the one counted from) would be a nullity, and the clock would start at midnight. This cannot be squared with the legislative intent in setting short deadlines.

The exclusion of weekends and holidays would also undermine legislative intent by potentially doubling or tripling the amount of time a person can be detained between the first appearance and hearing. If the legislature had intended this outcome, it would have done so explicitly, as it has in other statutes. See, *e.g.*, 405 ILCS 5/3-205.5 (requiring examination and investigation begin "within 72 hours [of admission], excluding Saturdays, Sundays, and holidays"); 705 ILCS 405/3-11(1) (requiring shelter care hearing "within 48 hours, exclusive of Saturdays, Sundays and court-designated holidays"). Reviewing courts "are not free to ignore the language the legislature chose." *Prate Roofing & Installations, LLC v. Liberty Mut. Ins. Corp.*, 2022 IL 127140, ¶ 37. Under the plain meaning of section 110-6.1(c)(2), the hearing in Cooper's case was untimely.

Faced with this fact, the State attempts to graft onto section 110-6.1(c)(2) language found in section 109-1(a) of the Code of Criminal Procedure, which governs first appearances. See 725 ILCS 5/109-1(a). Section

109-1(a) requires an arrested person be brought before a judge "without unnecessary delay," a phrase entirely absent from section 110-6.1(c)(2). See 725 ILCS 5/109-1(a); *id.* 5/110-6.1(c)(2). As one of the State's cited authorities finds, section 110-6.1(c)(2) "includes no exceptions" to the hearing deadline. *People v. Garduno*, 2024 IL App (1st) 240405-U, ¶ 16. "[B]y employing certain language in one instance, and entirely different language in another, the legislature indicated that different results were intended." *People v. Ousley*, 235 Ill. 2d 299, 313–14 (2009).

The State also contends that requiring hearings on weekends would conflict with the ability of courts to set their own schedules. St. Br. 13, 15–16. In support it offers only an administrative order from Champaign County excluding weekends and holidays from the 48-hour rule. (A. 50.) It fails to present evidence that *any* circuit court is incapable of holding hearings on weekends. As this case shows, in Rock Island County the court is open for first appearances on Saturdays. (A. 11.) The pretrial investigation report was prepared the same day, before the hearing. (CI. 4.) With no actual conflict identified, there is no separation-of-powers violation. *Cf. Murthy v. Missouri*, 603 U.S. 43, 69 (2024) (refusing to reach First Amendment claim based on "entirely speculative" scenario); *People v. Keene*, 169 Ill. 2d 1, 20 (1995) (rejecting due process claim as a "chimera" based on "pure speculation").

In any event, applying the weekend-and-holidays provision of the Statute on Statutes would not make the untimely hearing in Cooper's case timely. Under that statute, a deadline is pushed back if "the last day

[containing a deadline] is Saturday or Sunday or is a holiday." 5 ILCS 70/1.11. Forty-eight hours from Saturday, March 30, is Monday, April 1, a non-holiday weekday. The State's argument that the last day would be a Sunday appears to be based on a miscalculation. See St. Br. 13 n.3.

Finally, the State has forfeited its argument on timeliness. In the appellate court and its petition for leave to appeal, the State conceded that the hearing in Cooper's case was untimely. (See A. 48–49) (in appellate court response memorandum, contending the hearing "took place shortly after the 48-hour timeframe passed"); Pet. for Leave to Appeal 1 (arguing that the appeal raises the "appropriate remedy for an untimely hearing"). The argument now presented is thus forfeited. See *People v. Hartfield*, 2022 IL 126729, 66 ¶ n.1 (finding issue forfeited when petition for leave to appeal "essentially conceded" contrary position).

The State cites the general principle that this Court can affirm on any basis favoring an appellee, even if it was not raised in the appellate court. St. Br. 9–10. Doing so, though, would undermine the requirement of Rule 315(c) that a petition for leave to appeal must provide the bases for review. Ill. S. Ct. R. 315(c)(3), (5) (eff. Dec. 7, 2023). When the State, as it has done of late, shifts positions before of this Court, it circumvents the Rule. See *People v. Gray*, 2024 IL 127815, ¶ 19 (State raising issue not included in PLA); *People v. Urzua*, 2023 IL 127789, ¶ 67 (same); *People v. Wells*, 2023 IL 127169, ¶¶ 29–30 (same); see also *People v. Quezada*, 2024 IL 128805, ¶ 69 (Holder White, J., specially concurring) (State's argument in reply brief was

"inconsistent with the arguments the State made in its opening brief and petition for leave to appeal"). This Court's rules "are not mere suggestion"; "[t]hey have the force of law, and they should be followed." *People v. Glasper*, 234 Ill. 2d 173, 189 (2009). In this case, as noted, the State does not merely add a new claim but presents a contradictory position to the one used to obtain this Court's review.

Even if the State's claim about timeliness were preserved, both the plain language of the statute and the statute's purpose in ensuring a quick detention hearing show the hearing was untimely.

B. Since a directory reading of section 110-6.1(c)(2) would generally injure those sought to be protected by the provision, section 110-6.1(c)(2) is mandatory in nature.

As the appellate court below found, the remedy for a violation of section 110-6.1(c)(2) is release on conditions. *People v. Cooper*, 2024 IL App (4th) 240589-U, ¶ 17. Because allowing a delay in holding a hearing would generally harm accused persons in custody—those whose rights the statute is designed to protect—the provision is mandatory in nature. The State's response overlooks a key part of the mandatory-directory test and asks this Court to approve delay upon delay.

"The mandatory-directory dichotomy determines the consequences of noncompliance with [a statutory] command." *People v. Grant*, 2022 IL 126824, ¶ 30. A statutory requirement is mandatory "if the right it is designed to protect would generally be injured under a directory reading, or if there is negative language prohibiting further action in case of

noncompliance." *People v. Robinson*, 217 Ill. 2d 43, 58 (2005). When a requirement is mandatory, courts remedy the violation in a way that vindicates the protected right. See *People v. Ramirez*, 214 Ill. 2d 176, 180–83 (2005). If the requirement does not meet either of the two criteria, it is considered directory and there is no particular consequence for noncompliance. *Grant*, 2022 IL 126824, ¶ 30.

In this case, though section 110-6.1(c)(2) does not explicitly outline negative consequences for its violation, failure to remedy violations runs contrary to the purpose of the pretrial release statute. See *Robinson*, 217 Ill. 2d at 56 (considering the purpose of the statute in mandatory-directory analysis). Under the statute, "[i]t is presumed that a defendant is entitled to release on personal recognizance" on conditions. 725 ILCS 5/110-2(a) (West 2022). In most cases, the State gets only one shot at detaining a defendant and must make several showings to do so, including clear and convincing proof that "no condition or combination of conditions [of release]" can mitigate any safety threat. 725 ILCS 5/110-6.1(e)(3); see *id.* 5/110-6.1(d)(2) (only allowing successive petitions to detain based on "new facts not known or obtainable at the time of the filing of the previous petition"). If pretrial release is denied, the issue of detention must be reconsidered at every hearing, a requirement not imposed when a defendant has been released. *Id.* 5/110-6.1(i-5). And the statute must be "liberally construed to effectuate the purpose of relying on pretrial release by nonmonetary means" to promote the statute's goals. *Id.* 5/110-2(e). The statute thus tilts strongly in favor of a

defendant's release.

Moreover, because noncompliance with the statute would generally injure those in custody following an arrest, the 48-hour-hearing requirement is mandatory in nature.

Initially, the right protected by section 110-6.1(c)(2) is the liberty right of those in custody after an arrest. Because that provision sets the timing for a hearing on a defendant's release status, and because any delays in holding the hearing further the ongoing detention, only the defendant's rights are at issue. This Court's precedent in *Lakewood Nursing & Rehab. Ctr., LLC v. Dep't of Pub. Health* confirms this conclusion. In that case, this Court addressed whether the timing requirement for a hearing on involuntary discharge from a nursing home was mandatory or directory. 2019 IL 124019, ¶¶ 14–15. The nursing home claimed that the timely-hearing requirement "affect[ed] the private contract rights and property interests of nursing home facilities as well as public interests." *Id.*, ¶ 42. This Court rejected this argument, finding that "[u]nder our established analytical framework, courts do not look to whether *any* right of *any* person or entity will be adversely affected by a directory interpretation." *Id.*, ¶ 44 (emphasis in original). Instead, courts look to "whether the right the statute is designed to protect will be injured by a directory construction." *Id*. The timely-hearing requirement sought to protect nursing home residents, not any other interests. *Id*. The timely-hearing requirement of section 110-6.1(c)(2), similarly, only protects the liberty interest of the accused.

On this point, the State's brief goes a different way. Echoing the appellate court dissent, the State claims a directory reading (*i.e.*, forgiving all violations however lengthy) would balance the interests of the defendants and those of public safety. St. Br. 20; (A. 9–10). But, as *Lakewood Nursing & Rehab. Ctr.* shows, the requirement of a timely hearing does not involve a general balancing of all interests, but instead considers only the interest of those who "the statute is designed to protect." 2019 IL 124019, ¶ 44. The timing requirement of section 110-6.1(c)(2)—an immediate hearing or, failing that, one within 48 hours—is designed to protect the defendant's rights. The right to public safety, by contrast, would not be affected by delays. Without a protected right, the State's arguments are missing a key ingredient.

Defendants' liberty interests "would generally be injured under a directory reading." See *Robinson*, 217 Ill. 2d at 58. Every minute spent awaiting a hearing beyond 48 hours is a minute the person in custody might be free. As this Court's Commission on Pretrial Practices found, pretrial detention risks an array of adverse consequences for defendants: losing custody of a child, being fired from a job, being evicted, and being denied benefits or medical treatment. Ill. S. Ct. Comm'n on Pretrial Practices, Final Report, 19–20 (2020), *short URL* at https://bit.ly/3T7R5yR. Even the dissent in the appellate court conceded the general nature of the injury: "a trial court's *general* compliance with the 48-hour requirement will inure to the benefit of those in the class to which defendant belongs." *Cooper*, 2024 IL App (4th) 240589-U, ¶ 22 (Doherty, J., dissenting), (A. 9) (emphasis in original).

This general injury shows compliance is mandatory. See *Robinson*, 217 Ill. 2d at 58; *cf. People v. Delvillar*, 235 Ill. 2d 507, 518–19 (2009) (requirement to admonish defendants about immigration consequences was directory because noncompliance would affect only the small set of defendants who were non-citizens).

As the appellate court has found, the only consequence for a section 110-6.1(c)(2) violation that would vindicate the defendant's rights is release from custody:

> [I]f we were to allow the State to again petition the court to deny defendant pretrial release on remand, it would have little incentive to comply with the timing requirements of the statute in other cases. There would be no consequence for its failure to comply with the unambiguous language of the statute, and thus would render nugatory the statute's timing requirement.

People v. McCarthy-Nelson, 2024 IL App (4th) 231582-U, ¶ 18 (cited in *Cooper*, 2024 IL App (4th) 240589-U, ¶ 17; A. 6–7).

The State's analogy to the revocation-of-release statute, section 110-6(a), is comparing apples to oranges. St. Br. 20 (citing *People v. Green*, 2024 IL App (1st) 240211, ¶ 21). As the appellate court below found, section 110-6(a) contains language of flexibility concerning the deadline (requiring a defendant be brought "without unnecessary delay") completely absent in section 110-6.1(c)(2). *Cooper*, 2024 IL App (4th) 240589-U, ¶¶ 15–16, (A. 5–6).

The State's claim that "minor delays" are not accommodated by following the statute as written is false. See St. Br. 20. After arrest, the State has 48 hours (or more) to bring the defendant to a first appearance. 725 ILCS 5/109-1(a). During this time, the State can file a petition to detain, which lays

out "the grounds upon which it contends the defendant should be denied pretrial release." *Id.* 5/110-6.1(d)(1). By the time of the first appearance, the State should have all that it needs to proceed. In many cases, like this one, the State already has a pretrial report. (See CI. 4) (report prepared at 7:09 a.m. on March 30). The circuit court should then, by default, conduct a hearing at the first appearance. 725 ILCS 5/110-6.1(c)(2). When a party is not prepared to proceed, section 110-6.1(c)(2) allows a 48-hour delay. *Id*. The State is asking this Court to tolerate delay upon a delay.

And there is nothing absurd about enforcing the timely-hearing requirement. See St. Br. 20–22 (contending a mandatory reading would be absurd). Releasing defendants whose rights to have a timely hearing *on the issue of release* have been violated is a reasonable outcome, one perfectly in line with the legislature's intent in passing section 110-6.1(c)(2). See *Grant*, 2022 IL 126824, ¶ 40 (remedy for violation must be "involve . . . procedural step to which a governmental action relates").

None of the State's cited authorities show any absurdity in remedying section 110-6.1(c)(2) violations. The State's two foreign cases address different provisions than the Illinois pretrial release statute, and they apply approaches distinct from our state's mandatory-directory analysis. In *United States v. Montalvo-Murillo*, the Supreme Court found no remedy for an untimely bond hearing based on concern for public safety and a lack of "proportional relation" between the delay and release. 495 U.S. 711, 718–22 (1990). But, as applied here, the only protected interest is the defendant's

liberty interest. See *Lakewood Nursing & Rehab. Ctr.*, 2019 IL 124019, ¶ 44; *supra* pp. 13–14. Proportionality is not a consideration in mandatory-directory cases. The State also cites *State v. Heredia*, which addressed the meaning of "such probable cause" in a state practice book by conducting a "genealogy" of the term and (similarly inaptly) citing public safety. 81 A.3d 1163, 1171–76 (Conn. 2013). Since the State's cases apply different approaches than Illinois's mandatory-directory doctrine, they shed no light.

Similarly off-point are Illinois cases citing the holding that violations of the prompt-presentment rule do not warrant suppression of a confession. See *People v. Ballard*, 206 Ill. 2d 151, 176–77 (2002); *People v. Soloman*, 116 Ill. App. 3d 481, 485 (5th Dist. 1983). This holding was not based on the mandatory-directory test. See *People v. Hall*, 413 Ill. 615, 623–24 (1953) (finding, without reference to either criteria of the mandatory-directory rule, lack of prompt presentment is an element in deciding the issue of voluntariness). In addition, the remedy of release is intimately tied to delay in holding a hearing in a way that suppression of evidence is not.

Lastly, the State claims, without basis, that Cooper's challenge has been forfeited. St. Br. 22–24. To preserve an issue, there must be an objection and the issue must be included in a post-judgment filing. See *People v. Sebby*, 2017 IL 119445, ¶ 48. In the trial court, defense counsel requested an immediate hearing, argued at the hearing that it was untimely, and included the issue in the notice of appeal. (A. 15, 22–23, 37); see Ill. S. Ct. 604(h)(2) (eff. Oct. 19, 2023) (at the time of Cooper's appeal, requiring the notice of

appeal in pretrial release cases include "the grounds for the relief requested"). As the State concedes, "Defendant objected to *any* continuance." St. Br. 23–24 (emphasis in original). Everyone understood this; the circuit court just apparently (though erroneously) believed an intervening weekend somehow excused the delay. (See A. 22 (defense counsel noting "the position of the Circuit Court" that weekends would be excluded)). Defense counsel's conduct is not the "sit[ting] idly by" imagined by the State's brief. See St. Br. 23. And it is certainly not "obstruct[ing] the ends of justice," a charge the State's brief recklessly makes. St. Br. 23. The issue is preserved.

In sum, faithful application of this Court's precedent requires a finding that the requirement of section 110-6.1(c)(2) is mandatory. The appellate court judgment, ordering Cooper released on conditions to be imposed by the circuit court, should be affirmed.

CONCLUSION

For the above reasons, Tyrell Cooper respectfully requests that this Court affirm the judgment of the appellate court vacating the detention order and ordering Cooper be released on conditions.

Respectfully submitted,

CAROLYN R. KLARQUIST
Director of Pretrial Fairness Unit

JONATHAN KRIEGER
Assistant Appellate Defender
Office of the State Appellate Defender
Pretrial Fairness Unit
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
PFA.eserve@osad.state.il.us

COUNSEL FOR DEFENDANT-APPELLEE

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, the certificate of service, and those matters to be appended to the brief under Rule 342, is 19 pages.

/s/ Jonathan Krieger
JONATHAN KRIEGER
Assistant Appellate Defender

No. 130946

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, -vs- TYRELL DERRIOUS COOPER, Defendant-Appellee.	))))))))))	Appeal from the Appellate Court of Illinois, No. 4-24-0589. There on appeal from the Circuit Court of the Fourteenth Judicial Circuit, Rock Island County, Illinois, No. 24 CF 244. Honorable Frank R. Fuhr, Judge Presiding.

NOTICE AND PROOF OF SERVICE

Mr. Kwame Raoul, Attorney General, 115 S. LaSalle St., Chicago, IL 60603, eserve.criminalappeals@ilag.gov;

Mr. David J. Robinson, Chief Deputy Director - PTFA, State's Attorneys Appellate Prosecutor, 725 South Second Street, Springfield, IL 62704, Safe-T@ilsaap.org;

Dora Villarreal, Rock Island County State's Attorney, 1317 3rd Ave, 2nd Floor, Rock Island, IL 61201, statesattorneysoffice@rockislandcounty.il.gov;

Mr. Tyrell Derrious Cooper, 3021 W. 72nd St., Unit 2, Davenport, IA 52806

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 December 27, 2024, the Brief and Argument for Defendant-Appellee in Support of Rule 604(h) Appeal 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 Chicago, 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 for Defendant-Appellee in Support of Rule 604(h) Appeal to the Clerk of the above Court.

/s/Christopher Moy-Lopez
LEGAL SECRETARY
Office of the State Appellate Defender
Pretrial Fairness Unit
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
Service via email is accepted at
PFA.eserve@osad.state.il.us