E-FILED
12/4/2024 10:25 AM
CYNTHIA A. GRANT
SUPREME COURT CLERK

No. 130779

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- ISAIAH WILLIAMS, Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, No. 2-23-0268. There on appeal from the Circuit Court of the Twenty-Third Judicial Circuit, Kendall County, Illinois, No. 21 CF 122. Honorable Joseph R. Voiland, Judge Presiding.

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLANT

JAMES E. CHADD
State Appellate Defender

CHRISTOPHER MCCOY
Deputy Defender

DREW A. WALLENSTEIN
Assistant Appellate Defender
Office of the State Appellate Defender
Second Judicial District
One Douglas Avenue, Second Floor
Elgin, IL 60120
(847) 695-8822
2nddistrict.eserve@osad.state.il.us

COUNSEL FOR DEFENDANT-APPELLANT

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NATURE OF THE CASE

After a jury trial, Isaiah Williams was convicted of threatening a public official and sentenced to 18 months probation.

This is a direct appeal from the judgment of the court below. No issue is raised challenging the charging instrument.

ISSUE PRESENTED FOR REVIEW

Whether the trial court violated Isaiah Williams's right to a fair trial where it gave two jury instructions that were inconsistent – an issues instruction that included an essential element of the offense and a definition instruction that did not contain that essential element.

STATUTE INVOLVED

720 ILCS 5/12-9 (2021):

(a) A person commits threatening a public official or human service provider when:

(1) that person knowingly delivers or conveys, directly or indirectly, to a public official or human service provider by any means a communication:

(i) containing a threat that would place the public official or human service provider or a member of his or her immediate family in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint;

***; and

(2) the threat was conveyed because of the performance or nonperformance of some public duty or duty as a human service provider, because of hostility of the person making the threat toward the status or position of the public official or the human service provider, or because of any other factor related to the official's public existence.

(a-5) For purposes of a threat to a sworn law enforcement officer, the threat must contain specific facts indicative of a unique threat to the person, family or property of the officer and not a generalized threat of harm.

* * *

STATEMENT OF FACTS

On April 30, 2021, Isaiah Williams was charged with aggravated domestic battery and threatening a public official. (C. 6-7) The charges stemmed from an incident where he was alleged to have a violent altercation with his girlfriend, Teresa Sanchez, and then after arrest allegedly threatened a sworn officer, Nicholas Albarran. A jury found Williams not guilty of aggravated domestic battery but guilty of threatening a public official. The court sentenced him to 18 months probation. (C. 167-69)

On appeal, Williams argued that the trial court erred in giving the jury conflicting instructions. The appellate court affirmed, finding that the jury instructions did not conflict. *People v. Williams*, 2024 IL App (2d) 230268-U, ¶¶ 2, 28-31.

This Court granted leave to appeal on September 25, 2024.

Trial and Sentence

The jury trial commenced on April 17, 2023. The critical evidence at trial was the testimony of Sanchez, Albarran, and Williams, and video footage from the arrest and afterward.

Sanchez testified as a hostile witness subject to impeachment from her prior recorded video statement. (R. 305-75) She refused to testify or answer basic questions concerning the events of April 29, 2021, and accused the prosecution of threatening her. A video exhibit was entered into evidence where she spoke with officers and stated that Williams assaulted her. See St. Ex. 27 (videos 10-21).

Albarran testified to responding to a domestic battery call on April 29, 2021. (R. 391) Video footage from Albarran's squad car and body-worn camera ("bodycam")

was entered into evidence showing Williams being hostile to Albarran, calling him a "bitch" and a racist, stating that he would "fuck him up" if he was not handcuffed, and that he prayed Albarran would get shot. (St. Ex. 23) Albarran testified that after Williams was brought to the station, another officer, Deputy Abel, came up to him and showed him bodycam footage where Williams stated he would kill Albarran and slash his throat if he caught Albarran on the street. (R. 410) This footage was not entered into evidence. In his testimony, Williams admitted making the previous statement. (R. 478)

The court gave the jury two instructions defining the act of threatening a public official, one based on Illinois Pattern Jury Instructions, Criminal No. 11.49 and the other based on Illinois Pattern Jury Instructions, Criminal No. 11.50. (C. 118; C. 120) Because Albarran was a sworn law enforcement officer, the issues instruction, Illinois Pattern Jury Instructions, Criminal No. 11.50, included particular language that required the jury to find, "That the threat to a sworn law enforcement officer contained specific facts indicative of a unique threat to the sworn law enforcement officer and not a generalized threat of harm." (C. 118) However, the instruction defining the offense of threatening a public official did not include any language requiring "facts indicative of a unique threat[.]" (C. 120)

After deliberation, the jury found Williams not guilty of aggravated battery and guilty of threatening a public official. (C. 129-30) The court ultimately sentenced Williams to an 18-month term of probation. (C. 144-46)

Direct Appeal

On appeal, Williams argued that the trial court erred in giving conflicting instructions where the definition instruction did not contain an essential element

but the issues instruction did contain that element, requiring reversal under Illinois Supreme Court Rule 451(c), plain-error review, and ineffective assistance of counsel. *Williams*, 2024 IL App (2d) 230268-U, ¶ 18. The appellate court agreed that the definition instruction did not contain the element, but found that because the issues instruction did contain the element, there was no error because it properly informed the jury. *Id.* ¶¶ 26-27. The court further found that there was no conflict between the instructions and relied on the fact that the instructions followed Illinois Pattern Jury Instructions, Criminal Nos. 11.49 and 11.50. *Id.* ¶¶ 28-29. Finally, the court rejected the Appellate Court, Third District's holding in *People v. Warrington*, 2014 IL App (3d) 110772, which found that the same set of instructions for the same statute were in conflict concerning a different element, instead finding the issues and definition instructions "complimentary" and not conflicting. *Id.* ¶ 31.

ARGUMENT

This Court should reverse Isaiah Williams's conviction because the jury was given conflicting instructions on an essential element of the offense. The Court should further resolve the conflict between Illinois Pattern Jury Instructions, Criminal, Nos. 11.49 and 11.50 when a defendant is accused of threatening a sworn law enforcement officer.

At Isaiah Williams's trial, the trial court gave inconsistent jury instructions on an essential element of the offense. Williams was charged with threatening a public official (720 ILCS 5/12-9(a)(1)(i) (2021)). Because the public official was a sworn law enforcement officer, in order to prove Williams guilty, the State was required to prove that the threat "contain[ed] specific facts indicative of a unique threat to the person, family or property of the officer and not a generalized threat of harm." 720 ILCS 5/12-9(a-5) (2021). When instructing the jury, the court gave two Illinois Pattern Jury Instructions that dealt with this offense, an issues instruction that contained the "unique threat" language and a definition instruction that did not. That made the two instructions inconsistent on an essential element and thus violated Williams's right to a fair trial. This Court should vacate Williams's conviction and remand for a new trial. Additionally, this Court should issue guidance suggesting the conflicting instructions be modified to make them harmonious.

A. Standard of review.

Whether the jury instructions accurately conveyed the applicable law to the jury is reviewed *de novo. People v. Parker,* 223 Ill. 2d 494, 501 (2006).

B. Reversible error occurs when the jury receives directly conflicting instructions on the law, one of which is a correct statement of the law, and the other is an incorrect statement of the law. Such instructional error cannot be deemed harmless.

A defendant has a right to a trial by a fair and impartial jury. U.S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, §§ 2, 8, 13; *People v. Williams*, 181 Ill.

2d 297, 318 (1998); *People v. Jenkins*, 69 Ill. 2d 61, 66 (1977). "This right, in conjunction with the Due Process Clause, requires that each element of a crime be proved to the jury beyond a reasonable doubt." *Alleyne v. United States*, 570 U.S. 99, 104 (2013). Implicit within this constitutional right is the requirement that the jury be properly instructed. *Beck v. Alabama*, 447 U.S. 625, 634-37 (1980); *People v. Ogunsola*, 87 Ill. 2d 216, 222 (1981). The purpose of instructions is to provide the jury with the correct legal principles that apply to the evidence, enabling the jury to reach a proper conclusion based on the applicable law and the evidence presented. *People v. Novak*, 163 Ill. 2d 93, 115-16 (1994), *abrogated on other grounds, People v. Kolton*, 219 Ill. 2d 353, 364-67 (2006). It is the trial judge's "burden to insure the jury is given the essential instructions as to the elements of the crime charged." *Williams*, 181 Ill. 2d at 318.

Instructions in a criminal case are read as a whole. *People v. Terry*, 99 Ill. 2d 508, 516 (1984). Typically, instructions are sufficient if considered in their totality, they fully, fairly, and comprehensively apprise the jury of the relevant legal principles at issue in the case. *People v. Nere*, 2018 IL 122566, ¶ 67 (quoting *Terry*, 99 Ill. 2d at 516). Generally, when the language of a single inaccurate instruction might mislead the jury, others in the series may explain it, remove the error, or render it harmless. See, *e.g.*, *People v. Miller*, 403 Ill. 561, 565 (1949). However, that is not the case when two instructions are in direct conflict with each other on an essential element in dispute, one that correctly states the law and another that misstates the law. *People v. Woods*, 2023 IL 127794, ¶¶ 53-55; *People v. Haywood*, 82 Ill. 2d 540, 545 (1980); *People v. Jenkins*, 69 Ill. 2d 61, 66-67 (1977); *Miller*, 403 at 564-65, 567; *Enright v. People*, 155 Ill. 32, 35-36 (1895).

C. The conflicting jury instructions in this case require reversal.

In this case, Williams was charged with threatening a public official, a sworn law enforcement officer. (C. 27) The statute states that threatening a public official occurs when a person "knowingly delivers or conveys, directly or indirectly, to a public official *** by any means a communication *** containing a threat that would place the public official *** in reasonable apprehension of immediate or future bodily harm[.]" 720 ILCS 5/12-9(a)(1)(i) (2021). The statute includes a subjective requirement, that the threat places the public official in "reasonable apprehension" of harm. There is an additional requirement for threats against a sworn law enforcement officer. Threats against sworn law enforcement officers must "contain specific facts indicative of a unique threat to the person, family or property of the officer and not a generalized threat of harm." 720 ILCS 5/12-9(a-5) (2021). This additional language specific to sworn officers is an essential element of the offense that must be included in the charging instrument and the jury must be given instructions including it. *People v. Hale*, 2012 IL App (4th) 100949, ¶¶ 23-24.

Here, at the conclusion of trial, the court gave inconsistent instructions concerning the charge for threatening a public official because one instruction included this essential element while the other did not. The court gave the jury two instructions defining the act of threatening a public official based on Illinois Pattern Jury Instructions, Criminal, Nos. 11.49 and 11.50 (approved July 18, 2014) (hereinafter IPI Criminal Nos. 11.49 and 11.50). (C. 118; C. 120) The issues instruction, IPI Criminal No. 11.50, included the following language: "That the threat to a sworn law enforcement officer contained specific facts indicative of

a unique threat to the sworn law enforcement officer and not a generalized threat of harm." (C. 118) However, the instruction defining the offense of threatening a public official, IPI Criminal No. 11.49, did not include any language requiring "specific facts indicative of a unique threat[.]" (C. 120) Instead, it stated:

> A person commits the offense of threatening a public official when he knowingly delivers or conveys, directly or indirectly, to a public official by any means a communication containing, a threat that would place the public official in reasonable apprehension of immediate or future bodily harm; and the threat was conveyed because of the performance or nonperformance of some public duty. (C. 120)

Thus, under that definition, the jury had to find only the subjective element – that Officer Nicholas Albarran had a reasonable apprehension of harm. The jury did not have to find that the threat was a unique threat containing specific facts and not just a generalized threat of harm. This meant that the two instructions were inconsistent, and, therefore, the court erred in giving them.

1. This case is similar to a previous jury instruction case concerning the same statute. In that prior case, the instructions were changed to eliminate conflicts.

In *People v. Warrington*, 2014 IL App (3d) 110772, ¶¶ 27-32, the appellate court considered a case under the same statute involving inconsistent jury instructions. Similar to this case, the trial court gave an issues instruction and a definition instruction for threatening a public official. *Id*. ¶¶ 28-29. In the issues instruction, the trial court included the "reasonable apprehension" element required by the statute, but failed to include the "reasonable apprehension" language in its instruction defining the offense. *Id*. The appellate court stated that, "It is clear from a simple comparison of the two jury instructions that [they] were inconsistent. For example, the issues instruction required the jury to consider whether the communicated threat by defendant caused the public official to form a *reasonable*

apprehension of immediate or future bodily harm while the definition instruction did not include the requisite reasonable apprehension language." *Id*. ¶ 29. The court concluded that despite not challenging the conflicting instructions or including them in a post-trial motion, Illinois Supreme Court Rule 451(c) specifically allows for review of jury instruction errors and that inconsistent instructions are an error that "cannot be deemed harmless." *Id*. ¶ 30. The appellate court went on to find that the trial court also failed to include language in either instruction for the "unique threat" element, which was an additional error in the given jury instructions. *Id*. ¶ 31. The appellate court vacated the defendant's conviction and remanded for a new trial. *Id*.

This ultimately led to the IPIs being modified, as the court noted at that time, "We note that the Illinois Pattern Jury Instructions, Criminal, No. 11.49 (4th ed. 2000) (hereinafter IPI Criminal 4th) and IPI Criminal 4th No. 11.50, the definition and issues instructions do not include 'reasonable apprehension' language and, therefore, do not track with the statute." *Warrington*, 2014 IL App (3d) 110772, ¶ 29, n.3. The instructions now both contain reasonable apprehension language. IPI Criminal Nos. 11.49 and 11.50. One of the instructions, IPI Criminal No. 11.50, was also changed to include language covering the circumstance where the threat is against a sworn law enforcement officer, but that change was not made to IPI Criminal No. 11.49.

2. The use of Illinois Pattern Instructions did not eliminate the prejudicial error.

In this case, the appellate court found that the instructions were not in conflict, rejecting *Warrington* and relying heavily on the fact that the trial court used IPIs. *People v. Williams*, 2024 IL App (2d) 230268-U, ¶¶ 28-31. In doing so,

the appellate court failed to properly account for this Court's recent *Hartfield* decision regarding conflicting instructions.

In *Hartfield*, in response to the jury's question about the knowledge element of the offense of aggravated discharge of a firearm ("Does suspect need to know there were 4 cops on the scene in the area where gun was fired"), the trial court provided the jury with an inaccurate statement of the law of the offense ("You must determine based on the evidence which officer or officers, if any, may have been in the line of fire when the firearm was discharged."). *People v. Hartfield*, 2022 IL 126729, ¶ 53. The given response conflicted with the instructions originally given to the jury that "A person commits the offense of aggravated discharge of a firearm when he knowingly discharges a firearm in the direction of a person he knows to be a peace officer." *Id.* ¶ 18. Although defense counsel objected generally mid-discussion, the defendant conceded that he did not expressly argue against the legal accuracy of the instruction and failed to include the issue in the post-trial motion. *Id.* ¶ 43. Applying second-prong plain-error analysis, this Court reversed the defendant's convictions because the jury received directly conflicting instructions. *Id.* ¶¶ 57-61.

In *Hartfield*, this Court reaffirmed its holding in *People v. Jenkins*, 69 Ill. 2d 61, 66-67 (1977), that directly conflicting instructions on an essential element of the offense are qualitatively different than most other instructional errors because they call into question "the integrity of the judicial system itself," explaining:

> Whereas a single erroneous instruction might be cured by other instructions or by some other showing of a lack of prejudice, two directly conflicting instructions on an essential element, one stating the law correctly and the other erroneously, cannot be cured this way due to the simple fact that we can never know which instruction the jury was following. *Hartfield*, 2022 IL 126729, ¶ 59.

This Court emphasized that directly conflicting instructions " 'put [the jury] in the position of having to select the proper instruction—a function exclusively that of the court.' " *Id.* ¶ 58 (quoting *Jenkins*, 69 Ill. 2d at 67). And, when such error occurs, " 'the jury cannot perform its constitutional function.' " *Id.* (quoting *Jenkins*, 69 Ill. 2d at 66). Thus, "such an error is presumed to be prejudicial." *Id.* ¶ 59.

In this case, the pattern instructions in question conflict regarding an essential element of the offense as charged. Because Albarran was a sworn law enforcement officer, in addition to proving that Williams conveyed a threat to Albarran, the State was also required to prove that the threat "contained specific facts indicative of a unique threat to the person *** of [Albarran] and not a generalized threat of harm." 720 ILCS 5/12-9(a-5) (2021). If the jury followed IPI Criminal No. 11.49, it could have found Williams guilty without finding that the State proved specific facts of a unique threat. Thus, IPI Criminal No. 11.49 is an incorrect statement of the law in this case. The fact that IPI Criminal No. 11.50 correctly states the law does not fix the error, because, as this Court emphasized in *Hartfield*, it is not the province of the jury to look at two instructions, one stating the law correctly and one not, and decide which one is correct. The absence of an essential element made one of the instructions an incorrect statement of the law. Here, as in *Hartfield* and *Jenkins*, the conflicting instructions on an essential element of the offense caused an untenable situation where it can never be known which instruction the jury followed, resulting in a presumptively prejudicial error.

3. This Court's holding in *Woods* does not compel a different result because the instructions concerned an essential element that was disputed at trial.

After reaffirming in *Hartfield* that two directly conflicting instructions on

an essential element is presumptively prejudicial because it can never be known which instruction the jury followed, this Court held in *Woods* that "directly conflicting [jury] instructions may be harmless when they do not concern a disputed essential issue in the case so that there is not a fear that the jury relied on the incorrect instruction." *Woods*, 2023 IL 127794, ¶ 54. *Woods* does not compel a different result here because the essential element at issue was disputed at trial.

Defense counsel argued in closing that the State failed to prove Williams made any threat at all. (R. 555-57) At trial, the State presented video evidence regarding the alleged threats as follows: Albarran's bodycam and squad car video footage showing Williams being hostile to Albarran, calling him a "bitch" and a racist, stating that he would "fuck him up" if he was not handcuffed, and that he prayed Albarran would get shot. (St. Ex. 23) Additionally, Albarran testified that after Williams was brought to the station, another officer, Deputy Abel, showed him different bodycam footage where Williams allegedly stated he would kill Albarran and slash his throat if he caught Albarran on the street. (R. 410) This video was not admitted into evidence. Defense counsel drew the jury's attention to the fact that the State did not present testimony from Deputy Abel, nor admit the bodycam video he allegedly showed to Albarran into evidence, and argued that Williams's statements on the video actually admitted into evidence were rude, argumentative and combative, but not threatening. (R. 555-57)

Defense counsel's arguments were not unfounded. As noted above, the State's evidence regarding a threat was limited, and counsel's argument has legal support. None of the State's evidence contained specific facts indicative of a unique threat towards Albarran. All of them were conditional statements and no facts were given

indicating any specific intent to act on any of those threats. In other cases considering a unique threat, there was evidence supporting an inference that the defendant was going to act on a threat, rather than merely making a general threat to cause harm. For instance, in *People v. Perkins*, 2023 IL App (5th) 220108, ¶ 30, there was a unique threat against the officer, because after threatening several times to "kick the windows out of the squad car," the defendant was kicking the windows of the squad car and the officer's experience led him to believe the defendant could act on his threat to break the window and harm him. Moreover, at one point, the defendant threatened to kick out the window in three seconds and began to count to three. *Id.* In this case, there was no evidence that Williams intended or attempted to act on his threats, nor was there any evidence that Albarran thought Williams could effectuate those threats. The threats were merely generalized threats of harm phrased completely conditionally.

Thus, because the jury was given conflicting instructions concerning a disputed essential issue in the case, pursuant to *Woods* and *Hartfield*, this Court should reverse Williams's conviction and remand for a new trial.

4. This Court should review the error either under Illinois Supreme Court Rule 451(c), plain-error review, or ineffective assistance of counsel.

Under Illinois Supreme Court Rule 451(c) and second-prong plain-error review, this Court should review the error and remand the case for a new trial despite trial counsel's failure to object at trial or raise the issue in a post-trial motion. Ill. S. Ct. R. 451(c) (eff. April 8, 2013) ("substantial defects" to jury instructions "are not waived by failure to make timely objections thereto if the interests of justice require."); *Hartfield*, 2022 IL 126729, ¶¶ 57-61. Under *Hartfield*,

this Court found that conflicting instructions on an essential element threatened the integrity of the judicial system, because it was not possible to know which instructions the jury followed. *Hartfield*, 2022 IL 126729, ¶ 59. Thus, the Court found that second-prong plain-error analysis would apply and prejudice would be presumed, even without the Court reviewing the evidence in the case. *Id*. Additionally, because Williams was found not guilty of aggravated domestic battery at trial, this Court should also find that double jeopardy applies and that he can only be tried on the charge for threatening a public official. (C. 129); *People v. Singer*, 2021 IL App (2d) 200314, ¶¶ 64-72.

In the alternative, this Court may also review this error as ineffective assistance of counsel. A defendant has a constitutional right to the effective assistance of counsel. U.S. Const. amends. VI, XIV; Ill. Const. 1970 art. I, § 8; *Strickland v. Washington*, 466 U.S. 668, 690-91 (1984); *People v. Albanese*, 104 Ill. 2d 504, 525 (1984). To succeed on a claim of ineffective assistance of counsel, a defendant must show both the representation provided at trial was deficient, and such deficiency prejudiced the defense. *Albanese*, 104 Ill. 2d at 526. Counsel's performance is deficient where it falls outside the range of reasonable, professionally competent assistance, and prejudice exists where the deficient representation denies the client a fair trial. *Strickland*, 466 U.S. at 687-90. A defendant need not show he would have been acquitted, only that a different outcome would be reasonable, as prejudice may be found even where the chance of a different result "is significantly less than 50 percent." *People v. McCarter*, 385 Ill. App. 3d 919, 935 (1st Dist. 2008); see also *Strickland*, 466 U.S. at 693-94.

Trial counsel's failure to request consistent jury instructions cannot be trial

strategy, as it deprives the defendant of a fair trial, thereby amounting to ineffective assistance. See *People v. Parker*, 260 Ill. App. 3d 942 (1st Dist. 1994) (counsel ineffective for failing to request second-degree murder instruction). Trial counsel's failure to request the appropriate instructions "removed from the jury's consideration a disputed issue essential to the determination of defendant's guilt or innocence," resulting in constitutionally ineffective assistance. *Ogunsola*, 87 Ill. 2d at 223. As a result of counsel's ineffectiveness, this Court should reverse Williams's conviction and remand the case for a new trial.

5. This Court should issue guidance suggesting IPI Criminal Nos. 11.49 and 11.50 be modified to make them harmonious.

As noted above, IPI Criminal No. 11.50 has been modified already to include bracketed language covering sworn law enforcement officers. This Court should suggest that IPI Criminal No. 11.49 be similarly modified. Such modification would require minimal change to the instruction, and the committee could likely rely on the changes it previously made to IPI Criminal No. 11.50.

D. Conclusion.

In sum, because the trial court gave conflicting instructions on a disputed essential element of the offense, this Court should vacate Williams's conviction and remand for a new trial. The appellate court's decision below rejected published cases considering similar conflicting instructions and should be reversed. Finally, this Court should issue guidance suggesting that IPI Criminal No. 11.49 be modified to include bracketed language applicable when a defendant is charged with threatening a sworn law enforcement officer.

CONCLUSION

For the foregoing reasons, Isaiah Williams, defendant-appellant, respectfully requests that this Court vacate his conviction and remand for a new trial. Further, Williams requests that this Court issue guidance resolving the conflict between Illinois Pattern Jury Instructions, Criminal, Nos. 11.49 and 11.50.

Respectfully submitted,

CHRISTOPHER MCCOY
Deputy Defender

DREW A. WALLENSTEIN
Assistant Appellate Defender
Office of the State Appellate Defender
Second Judicial District
One Douglas Avenue, Second Floor
Elgin, IL 60120
(847) 695-8822
2nddistrict.eserve@osad.state.il.us

COUNSEL FOR DEFENDANT-APPELLANT

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 Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 17 pages.

/s/ Drew A. Wallenstein
DREW A. WALLENSTEIN
Assistant Appellate Defender

No. 130779

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- ISAIAH WILLIAMS, Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, No. 2-23-0268. There on appeal from the Circuit Court of the Twenty-Third Judicial Circuit, Kendall County, Illinois, No. 21 CF 122. Honorable Joseph R. Voiland, Judge Presiding.

NOTICE AND PROOF OF SERVICE

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

Mr. Edward Randall Psenicka, Deputy Director, State's Attorney Appellate Prosecutor, 2032 Larkin Avenue, Elgin, IL 60123, 2nddistrict.eserve@ilsaap.org;

Mr. Eric C. Weis, Kendall County State's Attorney, 807 W. John St., Yorkville, IL 60560, States_Attorney_Web_Email@co.kendall.il.us;

Mr. Isaiah Williams, 2200 Light Rd, Unit 101,, Oswego, IL 60543

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 4, 2024, 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-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/Norma Huerta
LEGAL SECRETARY
Office of the State Appellate Defender
One Douglas Avenue, Second Floor
Elgin, IL 60120
(847) 695-8822
Service via email will be accepted at
2nddistrict.eserve@osad.state.il.us

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PEOPLE OF THE STATE OF ILLINOIS
Plaintiff/Petitioner

Reviewing Court No: 2-23-0268
Circuit Court/Agency No: 2021CF000122
Trial Judge/Hearing Officer: HONORABLE JOSEPH R. VOILAND

v.

ISAIAH WILLIAMS
Defendant/Respondent

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PEOPLE OF THE STATE OF ILLINOIS
Plaintiff/Petitioner

Reviewing Court No: 2-23-0268
Circuit Court/Agency No: 2021CF000122
Trial Judge/Hearing Officer: HONORABLE JOSEPH R. VOILAND

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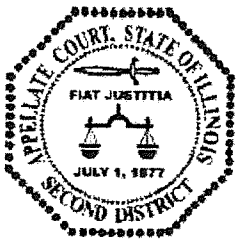

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PEOPLE OF THE STATE OF ILLINOIS
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v.

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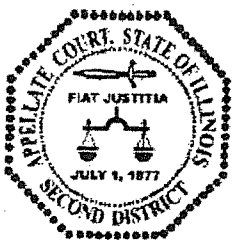

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Plaintiff' s	#23,#25,#2...		E 26 (Volume 1)

STATE OF ILLINOIS, CIRCUIT COURT KENDALL COUNTY	SENTENCING ORDER	FILED IN OPEN COURT JUL 07 2023 MATTHEW G. PROCHASKA CIRCUIT CLERK KENDALL CO.
THE PEOPLE OF THE STATE OF ILLINOIS, v. Isaiah Williams **Defendant** *(First, middle, last name)*		Case Numbers 21CF122
States Attorney JC	Deft. Attorney BE.	
Court Reporter DR	Deputy Clerk J	

1. Fines

☐ DEFENDANT ADMONISHMENT: 705 ILCS 135/5-5 (effective July 1, 2019) established a minimum fine of ☐ $25 for a minor traffic offense and ☐ $75 for any other offense, unless otherwise provided by law.

☐ If applicable, DEFENDANT HAS BEEN ADMONISHED of his/her right to elect whether he/she will be sentenced under the law in effect at the time of the offense or at the time of sentencing.

Defendant has elected *(Check one)*:

☐ He/she **will be sentenced under the law in effect at the time of the offense;**
☐ He/she **will be sentenced under the law in effect at the time of the time of sentencing.**

~~PLEA:~~ ☐ ~~NOT GUILTY~~ ☐ ~~GUILTY~~ **FINDING BY:** ☐ COURT ☑ JURY **SENTENCE IS:** ☐ AGREED ☑ CONTESTED

☑ CONVICTION TO ENTER ☑ PROBATION ☐ CONDITIONAL DISCHARGE ☐ COURT SUPERVISION
☐ WITHHOLD JUDGMENT ☐ PROBATION per 730 ILCS 5/5-6-3.4 ☐ PROBATION per 730 ILCS 550/10 OR 570/410
For a period of 18 months until 1/7/25 at 9:00 a.m. in

Offense Threatening a Public Official a Class 3 ~~Misdemeanor~~/Felony $100
Offense _____ a Class _____ Misdemeanor/Felony $_____
Offense _____ a Class _____ Misdemeanor/Felony $_____

Total Fine Amount $100

2. Criminal Assessment ***(Check the highest class offense only)***

☑ Schedule 1: Generic Felony (705ILCS135/15-5) $549	$549
☐ Schedule 2: Felony DUI (705ILCS135/15-10) $1709	$_____
☐ Schedule 3: Felony Drug Offense (705ILCS135/15-15) $2215	$_____
☐ Schedule 4: Felony Sex Offense (705ILCS135/15-20) $1314	$_____
☐ Schedule 5: Generic Misdemeanor (705ILCS135/15-25) $439	$_____
☐ Schedule 6: Misdemeanor DUI (705ILCS135/15-30) $1381	$_____
☐ Schedule 7: Misdemeanor Drug Offense (705ILCS135/15-35) $905	$_____
☐ Schedule 8: Misdemeanor Sex Offense (705ILCS135/15-40) $1184	$_____
☐ Schedule 9: Major Traffic Offense (705ILCS135/15-45) $325	$_____
☐ Schedule 10: Minor Traffic Offense (705ILCS135/15-50) $226	$_____
☐ Schedule 10.5: Truck Weight/load Off (705ILCS135/15-52) $260	$_____
☐ Schedule 11: Conservation Offense (705ILCS135/15-55) $195	$_____
☐ Schedule 13: Non-Traffic Violation (705ILCS135/15-65) $100	$_____

Total Criminal Assessment Amount $549

3. **Conditional Assessment** ***(Check all that apply)***

- ☐ Arson/residential arson/aggravated arson (705ILCS135/15-70(1)) $500 for each Conviction $____
- ☐ Child pornography (705ILCS135/15-70(2)) $500 for each conviction $____
- ☐ Crime lab drug analysis (705ILCS135/15-70(3)) $100 $____
- ☒ DNA analysis (705ILCS135/15-70(4)) $250 $____
- ☐ DUI analysis (705ILCS135/15-70(5)) $150 $250
- ☐ Drug related offense, possession/delivery (705ILCS135/15-70(6)) Street Value $____
- ☐ Methamphetamine related offense, possession/manufacture (705ILCS135/15-70(7)) Street Value $____
- ☐ Order of protection violation (705ILCS135/15-70(8)) $200 for each conviction $____
- ☐ Order of protection violation (705ILCS135/15-70(9)) $25 for each conviction $____
- ☐ States Attorney petty or business offense (705ILCS135/15-70(10)(a)) $4 $____
- ☐ States Attorney conservation or traffic offense (705ILCS135/15-70(10)(b)) $2 $____
- ☐ Guilty plea or no contest, DV against family member (705ILCS135/15-70(13)) $200 for each sentenced violation $____
- ☐ EMS response reimbursement vehicle/snowmobile/boat violation (705ILCS135/15-70(14)) Max Amount is $1000 $____
- ☐ EMS response reimbursement controlled substances (705ILCS135/15-70(15)) Max amount is $1000 $____
- ☐ EMS response reimbursement reckless driving/aggravated reckless driving/speed in excess 26 mph (705ILCS135/15-70(16)) Max amount is $1000 $____
- ☐ Weapons violation, Trauma Center Fund (705ILCS135/15-70(18)) $100 for each conviction $____

Total Conditional Assessment Amount $[illegible]

4. **Other Assessments**

- ☐ Restitution (See supplemental order) $____
- ☒ Probation/Supervision Fee $25 months x 18 months until 1/7/25 9:00 am $450
  - ☒ Comply with all conditions set out in the corresponding order.
  - ☒ Shall not violate any laws of any jurisdiction, including Federal, State or Local Ordinances.
- ☐ Public Defender assessment $____
- ☐ Victim Impact Panel $____
- ☐ Kendall County Jail Weekend/Work Release Fee $____
- ☐ GPS Fee $____
- ☒ DNA Indexing Fee $250
- ☐ Other $____

Any remaining bond is to be paid to Attorney Erwin after total amt. paid

5. **Credits** (to be applied before offsets)

- ☒ Bond Applied Clerk to apply available bond ($____)
- ☒ Credit for time served 5 day(s) x $__ day credit $30 ($____)

Total Credits ($150)

WAIVER SECTION

Total amount due shall be paid by 11/7/24. **Total Amount Due** $1,199

Unless a court ordered payment schedule is implemented or the assessment requirements of this Act are waived under a court order, the Clerk of the Circuit Court may add to any unpaid assessments under this Act a delinquency amount equal to 5% of the unpaid assessments that remain unpaid after 30 days, 10% of unpaid assessments that remain unpaid after 60 days and 15% of the unpaid assessments that remain unpaid after 90 days. (705 ILCS 135/5-10(e))

☐ **INCARCERATION**

☐ _____ day(s) in Kendall County Jail (See Imprisonment Order)

☐ _____ year(s) _____ month(s) in Illinois Department of Corrections _____ year(s) mandatory supervised release.

☐ Impact Incarceration Recommendation ☐ Extended Term Sentence per 730 ILCS 5/5-8-2 ☐ MSR per 730 ILCS 5/5-8-1(a)(6)

☐ Class X Sentencing per 730 ILCS 5/5-4.5-95(b) ☐ Truth-In Sentencing per 730 ILCS 5/3-6.3

☐ _____ weekend(s) to commence ___/___/____ at 6:00 p.m. plus $20.00 per weekend fee (see imprisonment Order)

*** All weekends are consecutive and are from 6:00 p.m. on Friday to 6:00 p.m. on Sunday ***

☐ _____ day(s) periodic imprisonment (see Supplemental Sentencing Order) plus $10.00 per day fee.

☐ Incarceration shall commence instanter. ☐ Incarceration shall commence on ___/___/____ at _____ a.m./p.m.

☐ No Day for Day Credit ☐ Day for Day Credit ☐ Credit for _____ actual days served from _____ to _____

☑ **COUNSELING**

☑ Shall complete evaluation within 60 days for ☐ Alcohol/Drug ☑ Anger Management ☐ Psychological _____.
and successfully complete all recommended counseling and aftercare as a condition of probation.

☐ Shall complete Level ____ alcohol counseling per alcohol evaluation / subject to modification by alcohol evaluation.

☐ Shall complete an Illinois Certified Domestic Violence Counseling Program.

☐ Shall complete T.A.S.C. and all recommended aftercare as a condition of probation.

OTHER CONDITIONS

☑ 100 hour(s) of Public Service Work as arranged by Court Services.

☐ _____ days(s) on the (Global Positioning System) or SCRAM Program) at $_____ per day (See Supplemental Order)

☐ Shall have no contact/no harmful or offensive contact with_____.

☐ Shall not enter upon the property of _____.

☐ Shall refrain from direct or indirect contact with any street gang member(s).

☐ Register pursuant to: ☐ Sex Offender Registration Act (730 ILCS 150/1) ☐ Violent Offender Against Youth Act (730 ILCS 154/1)

☐ HIV (Human Immunodeficiency Virus) / STD (Sexually Transmitted Disease) testing (730 ILCS 5/5-5-3(g)).

☐ Shall submit a blood specimen for genetic marking purpose (730 ILCS 5/5-4-3).

☐ Shall submit to DNA Indexing (Felony only) plus #250.00 fee (730 ILCS 5/5-4-3(a)).

☐ Said sentence shall run ☐ Concurrent ☐ Consecutive to the sentence imposed in _____ County, case number_____.

☑ Defendant shall report and appear before this court for a status review on 11/7/24 at 9:00 a.m. in Courtroom 115

ALL TERMS AND CONDITIONS TO BE COMPLETED BY SAID DATE.

☐ Defendant waives personal service of a Petition to Revoke. ☐ A motor vehicle was used in the commission of a Felony Offense.

☐ The Court verifies that the offense(s) were/were not sexually motivated pursuant to 730 ILCS 154/86.

☐ The Defendant has been advised as to the penalties under the Federal Gun Control Act of 1968.

☐ The following cases and or counts are hereby Nolle Prosequi: _____.

☑ Other: GPS fees reserved.
Def. admonished as to appeal rights.
Matter continued to 9/1/23 at 9AM in 115 for proof that Def. has obtained Anger Management eval.

7/7/23
Date

Judge

I am the Defendant and I have read and understand this Sentencing Order.

Contested
Signature of Defendant

*NCD - 11/7/24 at 9AM in 115

C 146

No. 2-23-0268

IN THE

APPELLATE COURT OF ILLINOIS

SECOND JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- ISAIAH WILLIAMS, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of the Twenty-Third Judicial Circuit, Kendall County, Illinois No. 21 CF 122 Honorable Joseph R. Voiland, Judge Presiding.

LATE NOTICE OF APPEAL

An appeal is taken to the Appellate Court, Second District, from the judgment described below:

Appellant's Name:	Isaiah Williams Register No. 271290
Appellant's Address:	2200 Light Road Oswego, IL 60543
Appellant's Attorney:	Office of the State Appellate Defender
Appellant's Attorney's Address:	One Douglas Avenue, Second Floor Elgin, IL 60120
Offense of which convicted:	Threatening a public official
Date of Order:	July 7, 2023
Sentence:	18 months probation

Respectfully submitted,

By: /s/ Thomas A. Lilien
Deputy Defender

2024 IL App (2d) 230268-U
No. 2-23-0268
Order filed May 13, 2024

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Kendall County.
Plaintiff-Appellee,	)	
v.	)	No. 21-CF-122
ISAIAH J. WILLIAMS,	)	Honorable Joseph R. Voiland,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE BIRKETT delivered the judgment of the court.
Presiding Justice McLaren and Justice Schostok concurred in the judgment.

ORDER

¶ 1 *Held*: Jury instructions on threatening a public official—here, a sworn enforcement officer—did not conflict even though the issues instruction expressly required a specific threat to the officer while the definition instruction contained no such requirement. Despite the difference, the instructions were meant to be given together. Nothing in the definition instruction negated the specific-threat requirement in the issues instruction; rather, the former was meant to generally define the offense while the latter was intended to specify the precise proof requirements.

¶ 2 Defendant, Isaiah J. Williams, appeals his conviction, following a jury trial, of threatening a public official, specifically, a sworn law enforcement officer (720 ILCS 5/12-9(a)(1)(i) (West 2020)). He contends that (1) the trial court inaccurately informed the jury of the applicable law—

and committed plain error—when the issues instruction for threatening a public official required the State to prove that the alleged threat contained specific facts indicative of a unique threat to the victim, a sworn law enforcement officer, but the definition instruction for the offense mentioned no such requirement; and (2) his trial counsel was ineffective for failing to challenge the instructions as given. Because the definition and issues instructions were complementary, not inconsistent, and accurately informed the jury of what the State needed to prove, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant with one count of aggravated domestic battery (720 ILCS 5/12-3.3(a-5) (West 2020)) and one count of threatening a public official.

¶ 5 The following facts were developed at defendant's jury trial. On April 29, 2021, Kendall County sheriff's deputy Nicholas Albarran responded to a domestic battery call at the residence of defendant and the alleged victim, Teresa Sanchez. When he arrived, Albarran saw defendant and Sanchez outside between their apartment and the parking lot.

¶ 6 Albarran testified that when he tried to speak with Sanchez, defendant became aggressive and hostile toward Albarran. At one point, defendant referred to Albarran as an "alpha male" and said he wanted to get "physical right there."

¶ 7 After speaking with Sanchez inside the apartment, Albarran exited, arrested defendant, handcuffed him, and put him in the back of the squad car. Defendant continued to be confrontational inside the squad car and told Albarran to remove the handcuffs so they could "see who the real man was." Defendant called Albarran a "bitch" several times. Defendant then began banging his head against the partition and the side window of the squad car. When Albarran told defendant to stop, defendant said that "he would f*** [him] up if [he] took [the] handcuffs off."

¶ 8 Albarran transported defendant to the Kendall County jail. On the way to the jail, defendant said that he wished that Albarran would be shot. Defendant also stated that he was HIV-positive and threatened to spit on Albarran.

¶ 9 When Albarran arrived at the jail, several jail personnel assisted in taking defendant into the booking area. As defendant was being escorted, he told Albarran that, if he saw him on the street, he would "f*** [him] up." As Albarran was leaving to resume his patrol, Deputy Abel told Albarran that defendant had said that, if he ever saw Albarran on the street, he would "f*** kill [him]" and "slash [his] throat." Albarran's squad-car and body-camera videos were admitted into evidence and played for the jury. Both videos contained statements by defendant consistent with Albarran's testimony.

¶ 10 Defendant also testified. He denied that he "intend[ed] on [*sic*] any threats to [Albarran]." However, defendant admitted that he (1) said he would spit on Albarran, (2) told Albarran that he was a racist and that he hoped he would be shot, and (3) said he would kill Albarran and slash his throat.

¶ 11 On cross-examination, defendant admitted calling Albarran a "bitch" and saying that, if he were not handcuffed, he would "f*** [him] up." He further admitted that, while in the squad car, he said, "I really hope to God that someone f*** shoots you." He also admitted that, as he entered the booking area, he told Albarran that, if he saw him on the street, he would "f*** [him] up."

¶ 12 During closing argument, the prosecutor told the jury that the trial court would instruct them on the offense of threatening a public official. The prosecutor added that the State would have to prove, among other things, that "the threat to [Albarran] contained specific facts indicative of a unique threat to [Albarran] and not a generalized threat of harm." As evidence of specific

facts indicating a unique threat, the prosecutor pointed to defendant's threat that, if he ever saw Albarran on the street, he would kill him and slash his throat.

¶ 13 The State tendered to the trial court both a definition instruction and an issues instruction on the charge of threatening a public official. State's instruction No. 15, the definition instruction, was based on Illinois Pattern Jury Instructions, Criminal, No. 11.49 (approved May 2, 2014) (IPI Criminal No. 11.49). State's instruction No. 17, the issues instruction, was based on Illinois Pattern Jury Instructions, Criminal, No. 11.50 (approved May 2, 2014) (IPI Criminal No. 11.50). Defense counsel indicated that he had no objection to either instruction. When asked if he had any of his own instructions to offer, counsel responded that he did not, because the State had "corrected the ones that needed to be corrected."[1]

¶ 14 The definition instruction read:

> "A person commits the offense of threatening a public official when he knowingly delivers or conveys, directly or indirectly, to a public official by any means a communication containing a threat that would place the public official in reasonable apprehension of immediate or future bodily harm; and the threat was conveyed because of the performance or nonperformance of some public duty."

¶ 15 The issues instruction stated that, to prove defendant guilty of threatening a public official, the State needed to prove, among other things, that defendant conveyed a threat to Albarran and that the threat "contained specific facts indicative of a unique threat to [Albarran] and not a generalized threat of harm."

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[1]Earlier, during a preliminary review of jury instructions before jury selection, the State acknowledged that some propositions were missing from the issues instruction. As noted, defense counsel ultimately accepted both the definition and issue instructions.

¶ 16 The jury found defendant not guilty of aggravated domestic battery but guilty of threatening a public official. Defendant filed a motion for a new trial but did not challenge either instruction on threatening a public official. Following the denial of the posttrial motion, the trial court sentenced defendant to 18 months' probation, and defendant filed this timely appeal.

¶ 17 II. ANALYSIS

¶ 18 On appeal, defendant contends that (1) the trial court committed plain error in instructing the jury because the definition and issues instructions conflicted on whether the State had to prove that the threat to Albarran contained specific facts indicative of a unique threat to Albarran and not a generalized threat of harm, and (2) trial counsel was ineffective for failing to challenge the instructions as given.

¶ 19 To prove the offense of threatening a public official as charged here, the State had to establish, *inter alia*, that defendant conveyed "a threat that would place [Albarran] in reasonable apprehension of immediate or future bodily harm." 720 ILCS 5/12-9(a)(1)(ii) (West 2020). Because Albarran was a sworn law enforcement officer, the State also had to prove that the threat "contain[ed] specific facts indicative of a unique threat to the person *** of [Albarran] and not a generalized threat of harm." 720 ILCS 5/12-9(a-5) (West 2020).

¶ 20 "A jury instruction error, although one of constitutional magnitude, is not necessarily a structural error and therefore does not result in automatic reversal." *People v. Hartfield*, 2022 IL 126729, ¶ 42. If the error was forfeited, then plain error analysis applies. *Hartfield*, 2022 IL 126729, ¶ 42. Generally, a defendant forfeits review of any putative jury instruction error if he (1) does not object to the instruction or offer an alternative instruction at trial and (2) does not challenge the instruction in a posttrial motion. *Hartfield*, 2022 IL 126729, ¶ 44.

¶ 21 Here, defendant did not object to either instruction on threatening a public official or offer an alternative instruction. Thus, he forfeited the issue he now seeks to raise. However, he asserts that the issue is reviewable as plain error.

¶ 22 Illinois Supreme Court Rule 451(c) (eff. Apr. 8, 2013) provides for review of unpreserved jury instruction errors. Under this rule, "substantial defects" in jury instructions "are not [forfeited] by failure to make timely objections thereto if the interests of justice require." Ill. S Ct. R. 451(c) (eff. Apr. 8, 2013). Rule 451(c) is coextensive with the plain error clause of Illinois Supreme Court Rule 615(a) (eff. Jan. 1, 1967), and we construe those rules identically. *Hartfield*, 2022 IL 126729, ¶ 49. The plain error clause of Rule 615(a) provides that "[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the trial court." Ill. S. Ct. R. 615(a) (eff. Jan. 1, 1967).

¶ 23 Plain error occurs where (1) the evidence is close, regardless of the seriousness of the error, or (2) the error is serious, regardless of the closeness of the evidence. *Hartfield*, 2022 IL 126729, ¶ 50. In the first instance, the defendant must show that a clear or obvious error occurred and that the evidence was so closely balanced that the error alone severely threatened to tip the scales of justice against him. *Hartfield*, 2022 IL 126729, ¶ 50. In the second instance, the defendant must show that clear or obvious error occurred and that the error was so serious that it affected the trial 's fairness and challenged the judicial process 's integrity. *Hartfield*, 2022 IL 126729, ¶ 50. In both instances, the burden of persuasion remains with the defendant. *Hartfield*, 2022 IL 126729, ¶ 50. A jury instruction error "rises to the level of plain error only when it creates a serious risk that the jurors incorrectly convicted the defendant because they did not understand the applicable law, so as to severely threaten the fairness of the trial." (Internal quotation marks omitted.) *Hartfield*, 2022 IL 126729, ¶ 50.

¶ 24 Inherent in plain error analysis is an initial determination of whether any error occurred. *Hartfield*, 2022 IL 126729, ¶ 51. This entails determining "whether the instructions, taken as a whole, fairly, fully, and comprehensively apprised the jury of the relevant legal principles." (Internal quotation marks omitted.) *Hartfield*, 2022 IL 126729, ¶ 51. "Although jury instructions should be considered as a whole and not in isolation, this proposition rests on the assumption that the jury instructions clearly and properly informed the jurors of the law." (Internal quotation marks omitted.) *Hartfield*, 2022 IL 126729, ¶ 51. "When the instructions are confusing and create a situation in which the jurors believe they are forced to choose between conflicting elements within the instructions, *** the instructions as a whole cannot be considered curative of the confusion." *People v. Alvine*, 173 Ill. 2d 273, 290 (1996). We review *de novo* whether a jury instruction accurately conveys the applicable law to the jury. *Hartfield*, 2022 IL 126729, ¶ 51.

¶ 25 Here, defendant asserts that the jury instructions on threatening a public official conflicted in that (1) the issues instruction stated that the threat to a sworn law enforcement officer must contain specific facts indicative of a unique threat to the officer and not a generalized threat of harm but (2) the definition instruction mentioned no such requirement. Defendant concludes that it was error to give the instructions as worded. We disagree.

¶ 26 The definition instruction generally defined the offense of threatening a public official. As defendant notes, that instruction did not include any language regarding the additional element, applicable to Albarran as a sworn law enforcement officer, that the threat must contain specific facts indicative of a unique threat to Albarran and not a generalized threat of harm. See 720 ILCS 5/12-9(a-5) (West 2020). Had the definition instruction been the only instruction given on the offense of threatening a public official, it would have been insufficient.

¶ 27 However, the issues instruction explicitly required the State to prove beyond a reasonable that, *inter alia*, "the threat to [Albarran] contained specific facts indicative of a unique threat to [Albarran] and not a generalized threat of harm." That language accurately conveyed the additional element required under the statute where the public official is a sworn law enforcement officer. See 720 ILCS 5/12-9(a-5) (West 2020). Thus, the issues instruction clearly informed the jury that, before it could find defendant guilty of threatening a public official, it must find that defendant's threat contained specific facts indicative of a unique threat to Albarran and not merely a generalized threat of harm.

¶ 28 More importantly, the definition instruction and the issues instruction were not in conflict. Specifically, there was no language in the definition instruction to suggest that the jury must find defendant guilty, even absent a threat that contained specific facts indicative of a unique threat to Albarran. Such language would have created a direct conflict between the definition and issues instructions as to what the State had to prove to establish the offense of threatening a public official (sworn law enforcement officer). As it stands, however, the definition instruction merely provided the jury with the general definition of the offense, while the issues instruction informed the jury of what it must find in this particular case. Thus, the two instructions did not conflict but complemented each other. Thus, there was no clear and obvious error in giving the two instructions as written.

¶ 29 We further note that the definition and issues instructions mirrored the pattern jury instructions for the offense of threatening a public official (sworn law enforcement officer). See IPI Criminal Nos. 11.49 and 11.50. Rule 451(a) provides:

> "Whenever Illinois Pattern Jury Instructions, Criminal *** contains an instruction applicable in a criminal case, giving due consideration to the facts and the governing law,

> and the court determines that the jury should be instructed on the subject, the IPI Criminal *** instruction shall be used, unless the court determines that it does not accurately state the law." Ill. S. Ct. R. 451(a) (eff. July 1, 2006); see *People v. Rodriguez*, 2014 IL App (2d) 130148, ¶ 78.

Notably, both IPI Criminal No. 11.49, on which the definition instruction was based, and IPI Criminal No. 11.50, on which the issues instruction was based, provide for alternative wording based on the nature of the offense. The committee note to IPI Criminal No. 11.50 states that, "when the public official is a sworn law enforcement officer, social worker, caseworker, investigator or human service provider," the instruction must contain the "Fifth Proposition," which is that the threat contained specific facts indicative of a unique threat to the public official and not a generalized threat of harm. IPI Criminal No. 11.50, Committee Note (approved May 2, 2014). IPI Criminal Nos. 11.49 and 11.50 must be given together. See IPI Criminal No. 11.50, Committee Note (approved May 2, 2014); IPI Criminal No. 11.50, Committee Note (approved May 2, 2014). IPI Criminal No. 11.49, however, makes no provision for that additional proposition. Thus, the committee obviously believed that, when IPI Criminal Nos. 11.49 and 11.50 are given together—and the latter is properly adapted where the alleged threat is to a sworn law enforcement officer—the jury will be accurately informed that the State must prove the threat contained specific facts showing a unique threat to the public official, not a generalized threat of harm. This examination of the pattern instructions confirms our conclusion that no clear and obvious instructional error occurred.

¶ 30 In arguing that the two instructions conflicted, defendant relies primarily on *People v. Warrington*, 2014 IL App (3d) 110772, and *People v. Hale*, 2012 IL App (4th) 100949. Neither of those cases supports defendant.

¶ 31 In *Warrington*, the Third District held that the instructions for threatening a public official (a sworn law enforcement officer) were "conflicting" where (1) the issues instruction required the State to prove that the threat placed the public official in reasonable apprehension of immediate or future bodily harm but (2) the definition instruction contained no such language. *Warrington*, 2014 IL App (3d) 110772, ¶¶ 29-30. We respectfully disagree with the Third District's holding, as the definition instruction there did not contain any language negating the need to find that the threat caused a reasonable apprehension of bodily harm, as the issues instruction provided. Rather, just as here, the two instructions were complementary, not conflicting. We are not obliged to follow a decision from another district of our appellate court. *People v. Abusharif*, 2021 IL App (2d) 191031, ¶ 17.

¶ 32 In *Hale*, the defendant was charged with threatening a public official (a sworn correctional officer). *Hale*, 2012 IL App (4th) 100949, ¶ 4. The definition instruction did not include any language about the need to prove that the threat contained specific facts indicative of a unique threat to the correctional officer, not just a generalized threat of harm. *Hale*, 2012 IL App (4th) 100949, ¶ 21. The Fourth District held that it was plain error to give the definition instruction because it failed to accurately convey the applicable law. *Hale*, 2012 IL App (4th) 100949, ¶¶ 21, 24. The State conceded the error but asserted that reversal was inappropriate because the evidence on the threat element was overwhelming. *Hale*, 2012 IL App (4th) 100949, ¶ 22. In rejecting that argument, the court held that, because the issues instruction likewise lacked any language regarding the need to prove a specific threat, the error met the second prong of the plain error doctrine because it undermined the fairness of the trial and challenged the integrity of the judicial process. *Hale*, 2012 IL App (4th) 100949, ¶¶ 23-25.

¶ 33 *Hale* is distinguishable because here the issues instruction clearly informed the jury that it must find that the threat contained specific facts showing a unique threat to Albarran.

¶ 34 Alternatively, even if we were to hold that it was a clear and obvious error to give the definition instruction without language incorporating the statutory requirement of a specific threat to Albarran, such an error would not have affected the fairness of the trial or challenged the integrity of the judicial process. See *Hartfield*, 2022 IL 126729, ¶ 50. As discussed, although the definition instruction did not require proof of a specific threat to Albarran, the issues instruction clearly did. Nor did the definition instruction directly conflict with the issues instruction by informing the jury that it must convict regardless of proof of a specific threat. *Cf. Hartfield*, 2022 IL 126729, ¶¶ 59-61 (finding plain error where the trial court's answer to a jury question about an essential element of the offense *directly* conflicted with the written jury instruction). Further, during closing argument, the State noted that it must prove, and the jury must find, that the threat to Albarran contained specific facts indicative of a unique threat to Albarran and not a generalized threat of harm. Thus, even if there were clear and obvious instructional error, it did not amount to second-prong plain error.[2]

¶ 35 III. CONCLUSION

¶ 36 For the reasons stated, we affirm the judgment of the circuit court of Kendall County.

¶ 37 Affirmed.

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[2]Also, because there was no clear and obvious error, trial counsel was not ineffective for failing to challenge the instructions as given. See *People v. Carr-McKnight*, 2020 IL App (1st) 163245, ¶ 93.