
IN THE SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	On Leave to Appeal from the
)	Appellate Court of Illinois, First
)	District, No. 1-23-0669
Respondent-Appellee,)	
)	
)	There on appeal from the Circuit
v.)	Court of Cook County, Illinois
)	No. 03 CR023217
)	
JAMES REED,)	
)	
Petitioner-Appellant.)	

**BRIEF OF EXONEREES AS *AMICI CURIAE*
IN SUPPORT OF PETITIONER-APPELLANT JAMES REED**

Jon Loevy (6218254)
Rachel Brady (6312402)
LOEVY & LOEVY
311 North Aberdeen Street
Chicago, Illinois 60607
(312) 243-5900
jon@loevy.com
brady@loevy.com

Counsel for Amici Curiae

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POINTS AND AUTHORITIES

INTEREST OF *AMICI CURIAE*.....1

ARGUMENT.....2

735 ILCS 5/2-702(g)(3)2

People v. Palmer, 2021 IL 1256212

I. The First-Hand Experiences of Illinois Amici Demonstrate Why a Certificate of Innocence is So Critical for the Wrongfully Convicted 3

A. Wayne Washington.....3

Wayne Washington, Nat’l Registry of Exonerations (last updated July 9, 2024)3, 4

Megan Hickey, Over 10 years after being exonerated of murder, Wayne Washington’s name is finally fully cleared (July 21, 2023)4

Wrongful Convictions: *People v. Washington*, Roderick & Solange MacArthur Justice Center (accessed Aug. 7, 2024).....4

People v. Washington, 2023 IL 127952.....5

B. Larry Gillard.....6

Larry Gillard, Nat’l Registry of Exonerations (last updated Jan. 27, 2020).....6

C. Charles Palmer.....7

Charles Palmer, Nat’l Registry of Exonerations (last updated Oct. 12, 2021)7

People v. Palmer, 2021 IL 1256217, 8

D. Jeremiah Cain9

Jeremiah Cain, Nat’l Registry of Exonerations (last updated Apr. 21, 2024)9

Melissa Segura, *Two More Men Convicted Of Murder Have Been Exonerated After 23 Years In Prison Due To Allegations Of Police Misconduct*, BuzzFeed News (July 20, 2022)9

II. The Statute’s Purpose, as Demonstrated by Its Legislative History and Plain Language, Warrant Relief for Mr. Reed	10
735 ILCS 5/2-702	10
<i>People v. Palmer</i> , 2021 IL 125621	10
A. The Illinois COI statute was enacted to provide relief for exonerees to seek remedies for their wrongful convictions.	10
Addison K. Watson, <i>Wrongful Convictions: Life Liberty, and the Pursuit of Compensation</i> , 87 Miss. L.J. 887 (2018)	10
Erik Encarnacion, <i>Backpay for Exonerees</i> , 29 Yale J.L. & Human., Vol. 29, No. 2, 245, 248 (2017)	11
Jack Healy, <i>Wrongfully Convicted Often Find Their Record, Unexpunged, Haunts Them</i> , N.Y. Times (May 5, 2013)	11
735 ILCS 5/2-702(h).....	12
110 ILCS 947/62.....	12
20 ILCS 1015/2.....	12
B. The legislature expressed its intent to avoid procedural barriers and societal challenges that exonerees face in pursuing justice for their wrongful convictions.	12
<i>People v. Palmer</i> , 2021 IL 125621	12
735 ILCS 5/2-702 (a).....	12
<i>Citizens Util. Bd. v. Illinois Commerce Comm’n</i> , 166 Ill. 2d 111 (1995).....	12
95th Ill. Gen. Assem., House Proceedings, May 18, 2007	13
735 ILCS 5/2-702(f)	13
735 ILCS 5/2-701	13
<i>Illinois Gamefowl Breeders Ass’n v. Block</i> , 75 Ill. 2d 443 (1979)	13

C. In light of the statute’s remedial purpose and consistent with precedent, this Court should construe broadly the statutory language in favor of the petitioner.13

Price v. Philip Morris, Inc., 219 Ill. 2d 182 (2005).....13, 14

Flynn v. Indus. Comm’n, 211 Ill. 2d 546 (2004).....14

Sawyer Realty Grp., Inc. v. Jarvis Corp., 89 Ill. 2d 379 (1982).....14

Superior Bank FSB v. Golding, 152 Ill. 2d 480 (1992)14

People v. Green, 2024 IL App (2d) 22-032814

People v. Palmer, 2021 IL 12562114

People v. Washington, 2023 IL 127952.....14

People v. Glenn, 2018 IL App (1st) 16133114

D. A broad construction of the statute supports imposing no additional burden beyond proving innocence of the crime of conviction......14

People v. Washington, 2023 IL 127952.....15

People v. Green, 2024 IL App (2d) 22-032815

People v. Daniels, 187 Ill. 2d 301 (1999).....15

People v. Palmer, 2021 IL 12562115

People v. Artis, 232 Ill. 2d 156, 169 (2009).....15

720 ILCS 5/2-1615

Green, 2024 IL App (2) 22032816

People v. Warner, 2022 IL App (1st) 2102616

People v. Palmer, 2021 IL 12562116

III. The Statute as A Whole Also Supports Mr. Reed’s Interpretation 17

People v. Green, 2024 IL App (2d) 22032817

People v. Palmer, 2021 IL 12562117

<i>Michigan Ave. Nat. Bank v. County of Cook</i> , 191 Ill. 2d 493 (2000)	17
735 ILCS 5/2-702	18
<i>Alvarez v. Pappas</i> , 229 Ill. 2d 217 (2008)	18
735 ILCS 5/2-702(b).....	18
735 ILCS 5/2-702(h).....	18
735 ILCS 5/2-702(f)	18
735 ILCS 5/2-702(c).....	18
720 ILCS 5/2-5	18
<i>Chiarella v. United States</i> , 445 U.S. 222 (1980)	18
<i>Hartney Fuel Oil Co. v. Hamer</i> , 2013 IL 115130.....	19
<i>Michigan Ave. Nat. Bank v. County of Cook</i> , 191 Ill. 2d 493 (2000)	19
725 ILCS 5/116-4(b).....	19
CONCLUSION	19
RULE 341 CERTIFICATE	21

INTEREST OF *AMICI CURIAE*

Amici curiae are four exonerees who spent cumulatively 82 years in prison after being wrongfully convicted by the State of Illinois. They all have been granted Certificates of Innocence. In their underlying criminal proceedings, each of these exonerees was charged with crimes beyond the crimes of conviction, that were dismissed or nolle-prosequi'd before trial or resulted in acquittal. Each understands the difficulty of needing to prove innocence of the charges of which they were not tried or were found not guilty in order to obtain their Certificates of Innocence.

Wayne Washington spent 14 years in prison for a crime he did not commit. Mr. Washington obtained a Certificate of Innocence after his exoneration.

Larry Gillard spent 28 years in prison for a crime he did not commit. Mr. Gillard obtained a Certificate of Innocence after his exoneration.

Charles Palmer spent more than 17 years in prison for a crime he did not commit. Over the State of Illinois's opposition, Mr. Palmer obtained a Certificate of Innocence after his exoneration.

Jeremiah Cain spent 23 years in prison for a crime he did not commit. Over the State of Illinois's opposition, Mr. Cain obtained a Certificate of Innocence after his exoneration.

This case will have a significant impact on whether exonerees have access to some sort of remedy—however imperfect—for their years of wrongful imprisonment, or whether the State of Illinois will compound the harm of wrongful conviction with unfair procedural hurdles. As exonerees who spent decades in prison for crimes they did not commit, *amici* have a significant interest in ensuring that the State of Illinois does not obstruct the ability of other exonerees to get the relief and assistance afforded by a

Certificate of Innocence. Additionally, as Certificate of Innocence holders, *amici* can provide this Court with insight into how its decision would have affected their lives.

Amici thus offer a perspective not presented by the Parties.

ARGUMENT

The Certificate of Innocence (“COI”) statute requires a petitioner to prove by a preponderance of the evidence he or she is innocent of the offense resulting in conviction and incarceration. 735 ILCS 5/2-702(g)(3); *People v. Palmer*, 2021 IL 125621, ¶ 72. The appellate decision in this case, however, heightens this burden of proof. Its incorrect interpretation wrongly imposes a new barrier for a petitioner to prove innocence of criminal charges that a prosecutor has already determined not to pursue, as well as of charges that resulted in acquittal.

The statute’s remedial purpose, as evidenced by its legislative history and its language, supports an interpretation that improves, rather than obstructs, an exoneree’s ability to access relief. And the statute, taken as a whole, plainly spells out that a petitioner needs to prove innocence only of the crime that led to conviction and incarceration. Construing the statute liberally in line with the statute’s purpose to remove obstacles means requiring a petitioner *only* to prove innocence of the charges resulting in conviction and incarceration.

In contrast, the State’s position, adopted by the appellate court, would lead to absurd results. It would require a petitioner to prove innocence of charges on which a petitioner was never even tried, including those that the prosecution dismissed, or of which he was acquitted. Such an incorrect interpretation could have frustrated all *amici*’s efforts to obtain the Certificates of Innocence that they rightfully earned. Mr. Reed, in the

same circumstances as *amici*, should not be subject to this flawed interpretation and harmful outcome.

I. The First-Hand Experiences of Illinois *Amici* Demonstrate Why a Certificate of Innocence is So Critical for the Wrongfully Convicted

Amici are all exonerees who were wrongfully convicted by the State of Illinois.

Cumulatively, they spent over 82 years in prison for crimes they did not commit.

Certificates of Innocence were crucial for *amici* to get back on their feet and reintegrate into society following their release. Their experiences highlight why this Court must not interpret the COI statute to allow the State to preclude compensation for a wrongfully convicted petitioner on the basis of untested charges that the prosecution dismissed before trial, and for which the person was never convicted or incarcerated.

A. Wayne Washington

Restoring his name. For Wayne Washington, obtaining a Certificate of Innocence was one step in a long journey to restore his good name—a journey he continues to endure, as the harms of a wrongful conviction accumulate.

Mr. Washington spent 14 years incarcerated for a crime he did not commit. In 1993, at 20 years old, Mr. Washington became the subject of a criminal investigation relating to the murder of Marshall Morgan, Jr., a basketball player at the Illinois Institute of Technology. Mr. Washington was beaten by Chicago Police detectives into falsely confessing to the murder, despite having nothing to do with it—as the detectives in his case have been accused many times of doing in many other cases. Washington took a plea deal, hoping to avoid the 75-year sentence his co-defendant received. Pursuant to that deal, he was convicted of first degree murder. Wayne Washington, National Registry

of Exonerations (last updated July 9, 2024), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4639>.

It was only after his release that it became clear that Mr. Washington was innocent. In 2015, the County's State's Attorney vacated Mr. Washington's convictions and dismissed all charges against him after acknowledging overwhelming evidence that Mr. Morgan, Jr. was murdered by his father, Marshall Morgan, Jr. for a life insurance policy.

Mr. Washington was exonerated for the crime, but the vacatur of his conviction solved only part of his problem. Mr. Washington still faced hurdles to obtaining meaningful employment because he would still fail background checks. He could not chaperone his daughter's field trips because his record was tarnished. *See* Megan Hickey, Over 10 years after being exonerated of murder, Wayne Washington's name is finally fully cleared (July 21, 2023), <https://www.cbsnews.com/chicago/news/over-10-years-exonerated-wayne-washington-name-cleared/>. Some of his family members could not move beyond the stigma of a conviction, even one that was vacated. In his own words, Mr. Washington stated:

I just want to get my name cleared. They vacated my conviction but won't recognize my innocence. After everything I've been through, it still hangs over my head. . . . Without a certificate of innocence, this will continue to hinder me personally and professionally.

Wrongful Convictions: *People v. Washington*, Roderick & Solange MacArthur Justice Center, <https://www.macarthurjustice.org/case/people-of-the-state-of-illinois-v-wayne-washington/> (accessed Aug. 7, 2024). A Certificate of Innocence was necessary to remedy these additional harms stemming from a wrongful conviction, remove barriers, and clear Mr. Washington's reputation.

Obtaining a Certificate of Innocence was a years-long process. Mr. Washington was first denied a certificate when the Circuit Court held that his guilty plea precluded him from obtaining relief. On appeal, which the State did not oppose, the Appellate Court affirmed the denial of a certificate of innocence, adopting a rule to preclude innocent people who pled guilty from obtaining certificates of innocence. Finally, in 2023, this Court reversed the appellate court and held that a plea deal does not preclude relief under the COI statute. Specifically, it held that the appellate court's decision not only "conflict[s] with the legislative intent, it also conflicts with numerous decisions of lower courts that have issued certificates of innocence to petitioners who pleaded guilty." *People v. Washington*, 2023 IL 127952, ¶ 34. This Court ordered the Circuit Court to grant Mr. Palmer his certificate, which he obtained thirty years after the investigation leading to his wrongful conviction began.

While Mr. Washington still faces other unresolved harms stemming from his wrongful conviction, the COI eased the difficult period after Mr. Washington's release. His record was clear. No longer can he be lawfully barred from employment based on a wrongful criminal record (although challenges still remain) or prevented from chaperoning his daughter's field trips. Family members did not believe his innocence until he was granted his COI. The Certificate of Innocence—which Mr. Washington keeps in his truck, at all times—was critical in eliminating barriers and laying those doubts to rest.

Had the State's proposed interpretation of this statute applied, however, Mr. Washington would have had to prove innocence not only of the murder, but also of the armed robbery charges with which he was initially charged. Throughout

Mr. Washington's COI proceedings, the State never took issue with the same circumstances present for Mr. Reed: the existence of charges for which Mr. Washington was not convicted nor incarcerated. No court made mention of this, either.

Mr. Washington obtained compensation for his wrongful convictions and incarceration. Applying the appellate decision's incorrect interpretation to bar Mr. Reed from similarly deserved compensation would be inconsistent and illogical.

B. Larry Gillard

Larry Gillard's Certificate of Innocence was also critical to provide him with vindication. In 1981, Mr. Gillard was charged with multiple crimes, including rape, armed robbery, unlawful restraint, aggravated battery, and armed violence of a 25-year-old woman in her Chicago apartment. Larry Gillard, Nat'l Registry of Exonerations (last updated Jan. 27, 2020), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3431>. The charges of aggravated battery and armed violence were nolle-prossed. A jury took less than an hour to deliberate and convict Mr. Gillard on the remaining charges, and he was sentenced to 24 years in prison.

In 2009, Mr. Gillard's conviction was finally vacated when state police DNA tests conducted that year definitively excluded Mr. Gillard from being the perpetrator. Mr. Gillard was granted a Certificate of Innocence in August 2009. While nothing could restore the years he lost while wrongfully incarcerated, the COI and associated compensation allowed Mr. Gillard to be seen as truly innocent by his community and to rebuild his life.

Had the State's proposed interpretation of this statute applied, however, Mr. Gillard would have had to prove innocence not only of the rape, armed robbery, and unlawful restraint charges for which he was convicted and incarcerated, but also the

nolle-prossed aggravated battery and armed violence charges. In the same position as Petitioner faces in this litigation, Mr. Gillard was able to obtain compensation for his wrongful convictions and incarceration. Applying the appellate decision's incorrect interpretation to bar Mr. Reed from similarly deserved compensation would be inconsistent and illogical.

C. Charles Palmer

Charles Palmer served over 17 years in prison after being wrongfully convicted of first degree murder in 2000. After his petition for a certificate of innocence was denied, appealed, and ultimately resolved before this Court, Mr. Palmer finally received his COI in 2021. Charles Palmer, Nat'l Registry of Exonerations (last updated Oct. 12, 2021), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5037>.

On August 28, 1998, William Helmbacher was found beaten to death in his apartment in Decatur, Illinois. The previous day, Helmbacher had reported a burglary in his apartment. Police found Mr. Palmer's cousin, Ray Taylor's, fingerprints on a trash bag containing Helmbacher's stolen belongings. Worried police would look at him for the murder as well, Taylor gave a false story implicating Mr. Palmer in the burglary and the murder. Mr. Palmer was arrested on charges of first-degree murder and burglary. In April 2000, the jury convicted Mr. Palmer of first-degree murder and acquitted him of burglary. Mr. Palmer remained wrongfully incarcerated until November 2016, when his conviction was vacated because DNA excluded him from key evidence.

Mr. Palmer sought a Certificate of Innocence in 2018. Although the State conceded that the DNA proved Mr. Palmer's innocence of the beating, the State argued that Mr. Palmer had not proven his innocence of a theory of accountability that it had not previously raised. The petition was denied. Mr. Palmer appealed, and on April 15, 2021,

this Court ordered the Circuit Court to grant Mr. Palmer his certificate. *People v. Palmer*, 2021 IL 125621, ¶ 80. This Court held that Mr. Palmer was required to prove his innocence only of the specific factual offense for which he was prosecuted and incarcerated, and not uncharged theories of the crime of conviction and incarceration that were never presented to a jury. *Id.* at ¶¶ 64, 72. It further found that Palmer could “not be expected to have access to the evidence necessary to disprove a theory of guilt that was never charged or presented during the original criminal proceedings.” *Id.* at ¶ 68.

Mr. Palmer was able to use his Certificate of Innocence to truly reenter society. Even though he had been exonerated, people still looked at him sideways, suspecting that he was a murderer. With his COI in hand, he was finally able to return to his community and be seen as a truly innocent person, and this meant a lot to him. But his COI had more concrete benefits, too. Mr. Palmer had previously had trouble getting an apartment because his conviction still appeared on his background check, and his certificate of innocence cleared his record and allowed him to secure housing. His clear background check also allowed him to get a job, and he was also able to use the financial compensation to buy a used car so he could drive to work. He believes his certificate of innocence was critical to getting his life back together.

To receive his COI under the State’s proposed interpretation of this statute, however, Mr. Palmer would have had to prove innocence not only of the murder, but also of the burglary, which occurred on a completely different day. It was, after all, charged in the same indictment as the murder. This would have required Mr. Palmer to prove innocence of a totally different crime using an entirely different set of evidence, marred by the passage of time.

D. Jeremiah Cain

Jeremiah Cain was beaten into falsely confessing to supplying a gun used in a fatal shooting that took place in 1999. Jeremiah Cain, Nat'l Registry of Exonerations, (last updated April 21, 2024), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=6376>. Following an investigation conducted by two disgraced former CPD officers, Anthony Wojcik and Reynaldo Guevara, Mr. Cain was charged with murder and aggravated battery based on an accountability theory, and two counts of unlawful use of a weapon by a felon. He was convicted of murder and battery, but acquitted of the unlawful use of a weapon charges. He spent 23 years in prison for a crime he did not commit.

In July 2022, his conviction was vacated. Melissa Segura, *Two More Men Convicted Of Murder Have Been Exonerated After 23 Years In Prison Due To Allegations Of Police Misconduct*, BuzzFeed News (July 20, 2022), <https://www.buzzfeednews.com/article/melissasegura/two-men-exonerated-murder-convictions-chicago-police>. Then began Mr. Cain's journey to obtain a Certificate of Innocence. Despite the true offender testifying under oath that neither Mr. Cain nor his codefendant were involved in the murder, the State fought to prevent both from receiving their certificates of innocence. Even though the State repeatedly requested continuances and the proceedings took two years, Mr. Cain finally received his COI. During those two years, he was denied jobs multiple times because his murder conviction still appeared on his background check. Mr. Cain now has his Certificate of Innocence hanging on his wall; he thinks it is an amazing thing. He says that nothing can bring back the family members he lost during his 23 years of wrongful incarceration, but his COI is a start. Seeing the words "The Defendant/Petitioner is innocent of the offenses charged in the

indictment or information” and “the petition for a Certificate of Innocence is GRANTED” means a lot to him.

Had the State’s proposed interpretation of this statute applied, Mr. Cain would have had to prove innocence not only of the accountability murder, but also of the unlawful use of a weapon charge—a feat, given the near impossibility of proving that, 25 years ago, he never handled a firearm, particularly because he was acquitted of this charge. Applying such a barrier to compensation for Mr. Cain would have been inconsistent and illogical.

II. The Statute’s Purpose, as Demonstrated by Its Legislative History and Plain Language, Warrant Relief for Mr. Reed

Illinois enacted the COI statute, 735 ILCS 5/2-702, to facilitate an exoneree’s ability to seek justice. In light of its historical backdrop, purpose, and language, the statute imposes no additional burden on a petitioner beyond proving innocence of the crime of conviction and incarceration. Thus, this Court should interpret it, as it did in *Palmer*, 2021 IL 125621 at ¶¶ 64-68, in a way that enables, rather than impedes, wrongfully convicted individuals’ access to relief.

A. The Illinois COI statute was enacted to provide relief for exonerees to seek remedies for their wrongful convictions.

As evident in *amici*’s personal experiences, many exonerees face profound hardships upon their exits from prison while fighting for reparations from their wrongful convictions. Illinois enacted its COI statute in 2009, within the context of a national movement of states enacting compensation statutes to clear the path for exonerees to seek remedies for their wrongful convictions. *See* Addison K. Watson, *Wrongful Convictions: Life Liberty, and the Pursuit of Compensation*, 87 Miss. L.J. 887 (2018) (noting that

more than half of the 35 states with compensation statutes adopted them between 2000 and 2018).

As *amici*'s stories demonstrate, wrongful convictions plague exonerees long after they are released from prison. Once freed, exonerees often lack work experience, education, money, and even social ties to help them adjust to life outside of prison. Erik Encarnacion, *Backpay for Exonerees*, 29 *Yale J.L. & Human.*, Vol. 29, No. 2, 245, 248 (2017). Perversely, exonerees may have fewer resources available to help them in their return to society than those on parole after serving sentences for crimes they did commit—even though the exonerees have done nothing wrong. *Id.*

The stigma of their convictions continues to follow exonerees well after their release from prison. Wrongful convictions can appear during routine traffic stops and other interactions with police, leading to tense situations for both exonerees and police officers. *See* Jack Healy, *Wrongfully Convicted Often Find Their Record, Unexpunged, Haunts Them*, *N.Y. Times* (May 5, 2013), <https://www.nytimes.com/2013/05/06/us/wrongfully-convicted-find-their-record-haunts-them.html> (reporting that exoneree had overturned murder conviction appear on background check during routine traffic stop, causing him to be detained in police vehicle for thirty minutes). Further, as *amici* experienced, wrongful convictions can frequently arise during employee background checks, making it more difficult for exonerees to obtain jobs and live normal lives. *See id.* (reporting that exoneree was unable to get work in restaurants or retail stores and failed background check due to conviction that remained on record).

Illinois's COI statute aims to address these problems by conferring three key benefits. First, the COI expunges the record of the arrest, removes all references to the

Petitioner’s involvement in the crime and subsequent conviction, and seals the court records. 735 ILCS 5/2-702(h). Second, it provides compensation for the time a person spent wrongfully incarcerated for crimes they did not commit. *Id.* Third, a COI recipient becomes entitled to job and educational assistance and grants. *See* 110 ILCS 947/62; 20 ILCS 1015/2. COIs are therefore critical to help wrongfully convicted people reenter society and gain stability.

B. The legislature expressed its intent to avoid procedural barriers and societal challenges that exonerees face in pursuing justice for their wrongful convictions.

The legislature’s intent to “*ameliorate*, not impose, technical and substantive obstacles to petitioners seeking relief from a wrongful conviction,” *Palmer*, 2021 IL 125621 at ¶ 68 (emphasis added), is evident throughout the COI statute. For one, the statute’s purpose statement states that it was enacted to help “innocent persons” wrongfully convicted of crimes and subsequently incarcerated “hav[ing] been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law.” 735 ILCS § 5/2-702 (a); *see also Citizens Util. Bd. v. Illinois Commerce Comm’n*, 166 Ill. 2d 111, 126 (1995) (“The function of a statutory preamble is to supply reasons and explanations for the legislative enactments.”).

Further evincing its intent to remove barriers for petitioners, the legislature instructed that courts considering COI petitions should, “in the interest of justice, give due consideration to the difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destructions of evidence or other factors not caused by [the petitioner] or those acting on their behalf.” *Id.*

In addition, during the legislature’s consideration of the statute, it also expressed its intent to prevent a situation where courts considering COI petitions would be required

to retry an entire criminal case. *See* 95th Ill. Gen. Assem., House Proceedings, May 18, 2007, at 5-6 (statements of Rep. Flowers). In accordance with this policy goal, subsection (f) permits courts evaluating COI petitions to take judicial notice of evidence used during the proceedings that gave rise to the criminal conviction. 735 ILCS 5/2-702(f). In providing for judicial notice of evidence from the prior proceedings, the legislature plainly intended for the claim and evidence of innocence to be assessed against the facts, theories, and evidence used during the original criminal proceedings, not against some charge that was dismissed before trial. As a result, legislators drafted a statute that provides judges with tools to evaluate petitions based on evidence from the criminal case as well as new evidence of innocence. *Id.*

Finally, the COI statute was placed in the Declaratory Judgment Act, 735 ILCS 5/2-701 *et seq.*, which this Court has liberally construed in support of its remedial purpose and in favor of the intended beneficiary. *See, e.g., Illinois Gamefowl Breeders Ass'n v. Block*, 75 Ill. 2d 443, 452 (1979) (“The declaratory judgment remedy should be liberally applied and not restricted by unduly technical interpretations.”).

By plainly stating its intent to *reduce* the obstacles that exonerees faced in seeking relief from their wrongful convictions, the legislature could not have intended to create the additional obstacle for petitioners to prove innocence of a charge that was dismissed or resulted in acquittal.

C. In light of the statute’s remedial purpose and consistent with precedent, this Court should construe broadly the statutory language in favor of the petitioner.

This Court has recognized consistently and in a wide range of contexts that remedial statutes, such as the one considered here, should be broadly construed to effectuate their purposes. *See, e.g., Price v. Philip Morris, Inc.*, 219 Ill. 2d 182, 234

(2005) (noting that remedial statute should “be liberally construed to effectuate [its] purpose); *Flynn v. Indus. Comm’n*, 211 Ill. 2d 546, 556 (2004) (remedial statute should “be liberally construed to accomplish” its purpose); *Sawyer Realty Grp., Inc. v. Jarvis Corp.*, 89 Ill. 2d 379, 390 (1982) (explaining statute “is a remedial one, and it should be broadly construed”). A liberal construction is one that manifests the spirit or purpose of the law and seeks to overcome procedural hurdles in favor of obtaining substantial justice. *See Superior Bank FSB v. Golding*, 152 Ill. 2d 480, 486 (1992). Petitioner’s proposed construction of the COI Statute is aligned with the statute’s remedial purpose.

Indeed, Illinois courts have “consistently applied a broad reading to section 2-702 to further this legislative intent” and the statute’s remedial purpose. *People v. Green*, 2024 IL App (2d) 22-0328, ¶ 20 (citing *Palmer*, 2021 IL 125621 at ¶ 68, and *People v. Washington*, 2023 IL 127952, ¶ 32); *see also People v. Glenn*, 2018 IL App (1st) 161331 (applying a broad statutory construction). For instance, in *Washington*, this Court found that precluding petitioners from obtaining a certificate of innocence because they pled guilty “impose[d] both technical and substantive obstacles” and was a restrictive reading of the statute in conflict with the statute’s plain language and the statutory intent. 2023 IL 127952 at ¶ 34. Further, it considered its holding “consistent with several decisions that have employed a broad interpretation to further the purposes of the statute.” *Id.* at ¶ 31.

D. A broad construction of the statute supports imposing no additional burden beyond proving innocence of the crime of conviction and incarceration.

A broad interpretation of the statutory language requires a petitioner to prove innocence of the charge of conviction—but not to prove innocence of every charge in the

indictment, including those which were nolle-prossed¹ or resulted in acquittal, as the State suggests.

Indeed, proving innocence on charges that did not result in conviction would frustrate the statute's remedial purpose to "sweep away technical obstacles" facing petitioners. *Washington*, 2023 IL 127952 at ¶ 30. In Illinois, courts have held that "[a] motion to nol-pros is comparable to a motion to dismiss." *Green*, 2024 IL App (2d) 22-0328 at ¶ 29 (citing *People v. Daniels*, 187 Ill. 2d 301, 312 (1999)). Following that logic, a nolle'd charge is akin to a dismissed charge. No prospect of liability attaches to once-charged, now-dismissed offenses. A petitioner should therefore not have to prove innocence of *dismissed* charges that did not proceed beyond a criminal indictment and for which there was no risk of liability, and which a jury never considered. *See Palmer*, 2021 IL 125621 at ¶ 67 (petitioner "cannot be expected to have access to the evidence necessary to disprove a theory of guilt that was never charged *or presented during the original criminal proceedings*") (emphasis added).

In *Green*, the Second District Appellate Court confirmed that a statutory interpretation requiring proof of innocence on dismissed charges, or even charges that resulted in an acquittal, would be illogical. In that case, the State charged the defendant with three counts of aggravated unlawful use of a weapon (AUUW), and one count each

¹ "A nolle prosequi is the formal entry of record of a prosecuting attorney of his or her unwillingness to prosecute a case." *People v. Artis*, 232 Ill. 2d 156, 169 (2009). "The term 'prosecution' is defined in the Criminal Code as 'all legal proceedings by which a person's *liability* for an offense is determined, commencing with the return of the indictment or the issuance of the information, and including the final disposition of the case upon appeal.'" *Id.* (quoting 720 ILCS 5/2-16). It follows that, when a prosecuting attorney is unwilling to prosecute a case, they are unwilling to determine liability for that offense.

of mob action, resisting a peace officer, and unlawful possession of cannabis. 2024 IL App (2) 220328 at ¶ 3. The defendant pled guilty to one count of AAUW, and the State nol-prossed all other counts charged in the indictment. *Id.* The defendant’s conviction was ultimately vacated as unconstitutional, and when the defendant petitioned for a COI, alleging that he satisfied all statutory requirements, the State made the same argument repeated here: that the defendant must establish innocence on all offenses charged in the indictment, including those which were nolle’d. *Id.* at ¶¶ 3, 10. The court granted the petition for COI, favoring instead the interpretation put forth by Petitioner and *amici*, holding that the defendant did *not* need to prove innocence of dismissed charges. *Id.* at ¶ 11. Further, it held that a contrary interpretation would lead to absurd results, requiring petitioners even to prove innocence of charges for which they were acquitted at trial:

If [*People v.*] *Warner*’s conclusion that a defendant must prove his innocence of *all* charges leveled in the indictment or information in order to be granted a COI were correct, that would logically mean that a defendant would be required to prove his innocence of charges for which he was found not guilty after trial. A *not guilty* finding is not the same as a finding of *innocence*, even after a retrial on the charge a defendant was originally convicted of and incarcerated for. . . . However, our supreme court has not made that a requirement [to prove innocence on acquitted charges]. In that respect, what [*People v.*] *Palmer* did *not say* is as important as what it did say.

Id. at ¶ 43 (internal citation omitted and emphasis added); *see also id.* at ¶ 33 (“[T]he ghost of the dismissed charges would, in reality, remain pending against him, preventing him from being compensated for being incarcerated pursuant to an unconstitutional charge. He would still be required to contend with and prove himself innocent of criminal charges that not only were never proven but were dismissed almost 20 years ago and neither prosecuted nor reinstated.”); *People v. Warner*, 2022 IL App (1st) 210260; *Palmer*, 2021 IL 12562. Indeed, the more time goes by, the less evidence remains. In

some instances, Illinois law requires evidence to be retained for only seven years. 725 ILCS 5/116-4(b). As a policy matter, the statute cannot support such illogical requirements.

III. The Statute as A Whole Also Supports Mr. Reed's Interpretation

Were its purpose and the Court's consistently broad construction of the statute not enough, the language of the COI statute as a whole also supports Petitioner's and *amici's* interpretation.

This Court has acknowledged as much. The statutory language as a whole rejects the appellate court's reading of the statute that would require a petitioner "to contend with and prove himself innocent of criminal charges that not only were never proven but were dismissed almost 20 years ago and neither prosecuted nor reinstated," *Green*, 2024 IL App (2d) 220328 at ¶ 33. This Court concluded as much in *Palmer*: "[W]e hold that subsection (g)(3) requires a petitioner to prove by a preponderance of the evidence his or her innocence of the offense as it was charged in the indictment or information *that resulted in the wrongful criminal conviction.*" 2021 IL 125621 at ¶ 72 (emphasis added). In other words, this Court concluded that the statutory language focuses on the crime of conviction and not other, unpursued or dismissed charges lurking in the indictment.

Indeed, the statute as a whole demands this interpretation. "One of the fundamental principles of statutory construction is to view all provisions of an enactment as a whole. Words and phrases should not be construed in isolation, but must be interpreted in light of other relevant provisions of the statute." *Michigan Ave. Nat. Bank v. County of Cook*, 191 Ill. 2d 493, 504 (2000). Viewing the statute as a whole, there is ample evidence that subsection (g)(3)'s reference to "offenses charged in the indictment or information" refers to the charges that actually resulted in conviction.

For one, the COI statute bears the title “Petition for a certificate of innocence that the petitioner was innocent of all offenses *for which he or she was incarcerated.*” 735 ILCS 5/2-702 (emphasis added); *Alvarez v. Pappas*, 229 Ill. 2d 217, 230-31 (2008) (noting that courts may refer to the title of statute to aid in interpretation). Similar references to the offenses for which the petitioner “was incarcerated” appear throughout the statute. 735 ILCS 5/2-702(b) (“The petition shall request a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.”); 735 ILCS 5/2-702(h) (“If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.”); *see also* 735 ILCS 5/2-702(f) (referring to “alleged wrongful incarceration”).

The same can be said of the COI statute’s repeated references to the petitioner’s crime of conviction resulting in wrongful incarceration. 735 ILCS 5/2-702(b) (referring to “[a]ny person convicted . . . for one or more felonies . . . which he or she did not commit”); 735 ILCS 5/2-702(c) (referring to “the claim for certificate of innocence of an unjust conviction”); 735 ILCS 5/2-702(f) (discussing reliance on evidence from “the criminal proceedings related to convictions which resulted in the alleged wrongful incarceration”). A conviction is a “judgment of conviction or sentence entered . . . upon a verdict or finding of guilt of an offense, rendered by a legally constituted jury” 720 ILCS 5/2-5. The conviction rests upon the fact-finder’s determination of guilt. It follows that a conviction can be based only on the theories and evidence presented to the jury. *Chiarella v. United States*, 445 U.S. 222, 236-37 (1980).

Reading these provisions in concert with the legislature’s purpose supports the conclusion that the petitioner is required to prove innocence of the factual offense that was actually charged, presented at trial, and then became the basis of the alleged wrongful imprisonment. *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, ¶ 25 (“Statutory provisions should be read in concert and harmonized.”).

On the other hand, the appellate court’s interpretation of the statute—requiring proof of innocence of *all* charges in the indictment, including those that did not result in conviction—impermissibly leads to an absurd result. Specifically: a COI petitioner would be required to prove innocence not only of charges that were nolle-prossed, but of those *that resulted in acquittal*, even in cases where all physical evidence was destroyed. 725 ILCS 5/116-4(b). This cannot be, since “courts presume that the General Assembly, in the enactment of legislation, did not intend absurdity, inconvenience, or injustice.” *Michigan Ave. Nat. Bank*, 191 Ill. 2d at 493.

CONCLUSION

Amici therefore request that this Court hold that a COI petitioner need to show innocence only of the crime of conviction and incarceration, and not other charges from the indictment that were dismissed, nolle-prossed, acquitted, or that the State otherwise did not pursue to the fact-finder. Mr. Reed is entitled a Certificate of Innocence under that standard. For all of the foregoing reasons, this Court should reverse the judgment of the appellate court and remand the case for further proceedings.

DATED: August 12, 2024

RESPECTFULLY SUBMITTED,

Charles Palmer, Jeremiah Cain,
Larry Gillard, Wayne Washington

By: /s/ Rachel Brady
Counsel for Amici Curiae

Jon Loevy (6218254)
Rachel Brady (6312402)
LOEVY & LOEVY
311 North Aberdeen Street
Chicago, Illinois 60607
(312) 243-5900
jon@loevy.com
brady@loevy.com

RULE 341 CERTIFICATE

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(a), is 20 pages.

/s/ Rachel Brady
Counsel for Amici Curiae

NOTICE OF FILING AND CERTIFICATE OF SERVICE

I certify that on the below date, I electronically filed the foregoing Motion for Leave to File Brief of Exonerees as Amici Curiae in Support of Petitioner-Appellant James Reed, and Brief of Exonerees as Amici Curiae in Support of Petitioner-Appellant James Reed with the Clerk of the Court, by using the Odyssey eFileIL system.

I further certify that the other participants in this case, named below, are registered service contacts on the Odyssey eFileIL system, and thus will be served with a copy of the Motion and Brief via the Odyssey eFileIL system:

Joel Flaxman, jaf@kenlaw.com
Kenneth Flaxman, knf@kenlaw.com

I also served the foregoing by email to:

Christa Bowden, christa.bowden@cookcountyil.gov
Maureen Renno, maureen.renno@cookcountyil.gov
Enrique Abraham, enrique.abraham@cookcountyil.gov
Joel Flaxman, jaf@kenlaw.com
Kenneth Flaxman, knf@kenlaw.com
Garson Fischer, eserve.criminalappeals@ilag.gov

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.

Dated: August 12, 2024

By: /s/ Rachel Brady
Rachel Brady (6312402)
LOEVY & LOEVY
311 North Aberdeen Street
Chicago, Illinois 60607
(312) 243-5900
brady@loevy.com