No. 127256

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of Illinois, First Judicial
Plaintiff-Appellant,	)	District, No. 1-18-0672
	)	
v.	)	There on Appeal from the Circuit Court of Cook County, Criminal Division, No. 14 CR 994 (01)
BRANDON JACKSON,	)	
Defendant-Appellee.	)	The Honorable Paula M. Daleo, Judge Presiding.

REPLY BRIEF FOR PLAINTIFF-APPELLANT
PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General of Illinois

JANE ELINOR NOTZ
Solicitor General

KATHERINE M. DOERSCH
Criminal Appeals Division Chief

JOHN E. NOWAK
Assistant Attorney General
100 West Randolph Street
12th Floor
Chicago, Illinois 60601-3218
(773) 590-7958
eserve.criminalappeals@ilag.gov

Counsel for Plaintiff-Appellant
People of the State of Illinois

E-FILED
3/7/2022 12:08 PM
CYNTHIA A. GRANT
SUPREME COURT CLERK

ORAL ARGUMENT REQUESTED

ARGUMENT

The Inadvertent Failure to Poll a Single Juror Did Not Constitute Second Prong Plain Error.

Defendant had a fair trial, which concluded with unanimous guilty verdicts and verdict forms signed by all 12 jurors. The trial court's error in inadvertently overlooking a single juror during polling was a mistake but, as the People's opening brief demonstrated, that mistake, which apparently went unnoticed by the parties and the judge, was not second prong plain error because it did not affect the fairness of defendant's trial or challenge the integrity of the judicial process. Peo. Br. 5-16; s*ee also*, *e.g.*, *People v. Flores*, 2021 IL App (1st) 192219, ¶ 23 (challenge to poll of 11 jurors, which defendant raised for first time on appeal, did not rise to level of second prong plain error). Jury polling is one means of ensuring that the verdict accurately reflects the vote of each juror and that no juror's vote was the result of coercion. But the polling error here does not establish that defendant's jury was not unanimous or his trial unfair.

In analogous circumstances, this Court has rejected arguments that non-compliance with similar safeguards constituted second prong plain error. For example, the Court held that a trial court's failure to comply with Rule 431(b), mistaken denial of a peremptory challenge, and failure to administer the voir dire oath was not second prong plain error because, while these procedures are among the available means of ensuring an unbiased jury, their absence does not necessarily result in a biased jury. Peo. Br. 5-9. Just

so here. The trial court's failure to poll a single juror does not make it inevitable that the verdict against defendant was not unanimous. And nothing in the record suggests that the verdict was anything other than unanimous: each verdict form was signed by all 12 jurors, and all signs pointed to jury unanimity. Peo. Br. 10-11. Indeed, in cases decided both before and after this one, the appellate court relied on *People v. Thompson*, 238 Ill. 2d 551 (2007), and *People v. Glasper*, 234 Ill. 2d 173 (2009), to correctly hold that similar polling errors did not rise to the level of second prong plain error. Peo. Br. 11-13. This Court should follow the same reasoning here and reverse the judgment below.

A. A defendant has the right to poll the jury, but not every forfeited polling error is so serious that it requires reversal as second prong plain error.

Defendant's contrary arguments are without merit. Defendant begins by arguing at length that he was entitled to a unanimous verdict and that "[t]he right to poll the jury in open court is a substantial right under Illinois law," s*ee* Def. Br. 6-16, but these are points that the People readily acknowledged in their opening brief. *See* Peo. Br. 5 (citing *People v. McGhee*, 2012 IL App (1st) 093404, ¶ 15). Indeed, the People do not dispute that a defendant in a criminal trial "has the absolute right to poll the jury after it returns its verdict," *id.*, or that this right is a means of safeguarding the fundamental right to a unanimous jury verdict in criminal cases, see*, e.g.*, *Flores*, 2021 IL App (1st) 192219, ¶ 15.

But defendant's arguments overlook his forfeiture and the well-established rule that not every error involving a substantial right requires reversal. The plain error rule is not a "general savings clause" preserving for review all errors affecting substantial rights. *People v. Herron*, 215 Ill. 2d 167, 177 (2005). Reversal under the second prong of the rule is limited to a clear or obvious error that was so serious that it affected the fairness of the trial and challenged the integrity of the judicial process. *People v. Leach*, 2012 IL 111534, ¶ 60; *see also People v. Allen*, 222 Ill. 2d 340, 360 (2006) ("to determine whether defendant's right to a fair trial has been compromised under the second prong of the plain error test we ask whether a substantial right has been affected to such a degree that we cannot confidently state that defendant's trial was fundamentally fair") (internal brackets and quotation marks omitted).

Defendant's reliance on *People v. Kellogg*, 77 Ill. 2d 524 (1979), *see* Def. Br. 8-10, is entirely misplaced. The trial court in *Kellogg* did not merely overlook a juror while conducting the jury poll; the court also refused to answer when a juror asked, "Can I change my vote?" 77 Ill. 2d at 527. And the court repeatedly asked that juror, "was this then and is this now your verdict?" until the juror relented and answered, "Yes, sir." *Id.* Thus, in *Kellogg*, there was significant ambiguity regarding the juror's vote and, in fact, reason to believe that the juror would not have voted to convict but for the trial court's conduct. *People v. Beasley*, 384 Ill. App. 3d 1039 (4th Dist.

2008), and *People v. Bennett*, 154 Ill. App. 3d 469 (1st Dist. 1987), also cited by defendant, *see* Def. Br. 9-10, are similarly inapposite. Jurors in both of those cases expressed ambivalence about their verdicts, and both defendants raised objections. *See Beasley*, 384 Ill. App. 3d at 1049-50 (juror stated, "Um, I have to say, yes, I guess" while shaking his head; judge cut him off and incorrectly considered it an unambiguous assent to the verdict over defense objection); *Bennett*, 154 Ill. App. 3d at 473, 476 (juror responded she was "not sure" during poll; judge responded by repeating polling question, and juror relented; judge denied defense mistrial motion, which was based on juror's response). Because of those objections, neither *Beasley* nor *Bennett* reviewed the issue under the plain error rule. The lack of any ambiguity regarding the verdict against defendant, plus defendant's forfeiture of this issue, distinguishes this case from *Kellogg*[1], *Beasley*, and *Bennett*.

Defendant also relies on *People v. DeStefano*, 64 Ill. App. 2d 389 (1st Dist. 1965), Def. Br. 10-11, wherein the trial court committed numerous jury-related errors. The court declared a mistrial and discharged the jurors after the foreperson stated that the jury could not reach a unanimous decision, but then later brought the jury back after the bailiff told the court that the jury

---

[1] *Kellogg* noted that the defendant had forfeited the error, but did not analyze the issue for plain error "since the failure to object has not been raised by the State in this court[.]" 77 Ill. 2d at 531. Still, this Court expressed its concern about the defendant's method of proceeding: "Counsel's failure to make a timely objection has necessitated a review by the appellate court, a review by this court, and a new trial in the trial court, all of which might have been avoided. We view this as a needless waste of judicial time." *Id.* at 530-31.

had actually reached a verdict on one of the charges. *DeStefano*, 64 Ill. App. 2d at 402-03. While defense counsel was objecting that a mistrial had already been declared, defendant interjected that he wanted to poll the jury. *Id.* at 405. The court ignored defendant and excused the jury without a poll. *Id.* Among the many differences between *DeStefano* and this case is that there the trial court failed to poll any jurors, while here the judge here polled 11 of the 12.

Nor is *United States v. F.J. Vollmer & Co.*, 1 F.3d 1511 (7th Cir. 1993), "directly relevant to this case." Def. Br. 12. In that case, instead of polling the jury after defense counsel requested it, the trial court asked why counsel wanted a poll. 1 F.3d at 1522. At a sidebar, the court stated it thought the guilty verdict was defective because the corporate defendant could not be guilty if the agent was acquitted. *Id.* Defense counsel then moved for a judgment of acquittal, but the court reserved ruling on that motion. *Id.* Immediately thereafter, the court dismissed the jury without a poll. *Id.* On appeal, the government argued that "by making and pursuing a motion for judgment of acquittal without pursuing the jury poll motion, [the defendant] waived its right to poll the jury." *Id.* The Seventh Circuit disagreed, and held that because the request to poll the jury was timely and defendants enjoy an absolute right to poll the jury, the defendant's conviction must be reversed and the case remanded for a new trial. *Id.* Contrary to defendant's assertion, Def. Br. 13, the court in *F.J. Vollmer* did not reverse the

defendant's conviction notwithstanding its forfeiture of the jury-poll issue; instead, it rejected the government's waiver argument based on a finding that the defendant had adequately preserved the issue. 1 F.3d at 1523 ("F. J. Vollmer cannot be said to have waived its motion when there was no opportunity to raise the issue again.").

In sum, defendant's cited authority is inapposite, and this Court should reject his request to "find error under" his so-called "substantial-rights theory of plain error." Def. Br. 16.

B. To establish second prong plain error, defendant must show that the error affected the trial's fairness and challenged the integrity of the judicial process.

Defendant also mischaracterizes the People's argument on appeal. The People do not argue that defendant must establish that he was prejudiced by the polling error, i.e., that the outcome of the trial would have been different had juror 3 been polled. *See* Def. Br. 5, 25-28, 33-34. Instead, consistent with this Court's second prong plain error jurisprudence, the People observed that the record contains no proof that the polling error here affected the fairness of the trial or challenged the integrity of the judicial process. *See*, *e.g.*, *Allen*, 222 Ill. 2d at 359 (2006) ("unlike the aforementioned cases where a trial objection was made, due to defendant's complete forfeiture of the issue, not only the fact of the error but proof that the error 'affected the fairness of the defendant's trial and challenged the integrity of the judicial process' was necessary").

For example, in *People v. Johnson*, 238 Ill. 2d 478 (2010), even though the trial court erred by answering a jury note without the defendant present, this Court held that the defendant's second prong plain error argument failed because he had not shown that the substance of the court's answer was inaccurate. In reaching this conclusion, the Court reaffirmed that a defendant has the right to be present at every stage of his trial. *Id.* at 488. But, the Court explained, that right is a lesser one that helps to secure the defendant's substantial rights, including the right to confront witnesses, to present a defense, and to an impartial jury. *Id.* at 487-88 (citing *People v. McLaurin*, 235 Ill. 2d 478, 490-91 (2009)). Accordingly, the Court rejected the defendant's argument that his right to a fair trial was "*per se* impacted based solely on the trial court's *ex parte* communication with the jury." *Id.* at 489-90. Similarly, in *Allen*, the Court held that the trial court clearly erred by requiring the defendant to wear a stun belt at trial without the court having first determined that it was necessary. 222 Ill. 2d at 353. But the Court declined to find second prong plain error because the defendant had "not shown that his presumption of innocence, ability to assist his counsel, or the dignity of the proceedings was compromised." *Id.*

Just as in *Johnson* and *Allen*, defendant cannot carry his burden of showing that the trial court's error here affected the fairness of his trial and challenged the integrity of the judicial process, because, as the dissenting justice noted, there is no evidence that defendant's jury had any difficulty

reaching unanimous verdicts. *People v. Jackson*, 2021 IL App (1st) 180672, ¶ 58 (Coghlan, J., dissenting); *see also Flores*, 2021 IL App (1st) 192219, ¶ 19 (rejecting second prong plain error argument where one juror was overlooked during poll because all indications from record were that verdict was unanimous); *Sharp*, 2015 IL App (1st) 130438, ¶ 112 (same, but two jurors were overlooked). For his part, defendant points to the three notes the jury sent during deliberations. Def. Br. 33. The first requested a definition of reasonable doubt (the judge responded that the jury should keep deliberating). R1794-95. The second asked whether Exhibit 38 depicted defendant or the co-defendant (the judge responded that it was the co-defendant). R1789-90. And the last sought permission to use an extra jury room for the jurors to stretch their legs (they were allowed to do so and told not to discuss the case there). R1790-91. These notes cannot fairly be interpreted as evidence that the jury verdicts were not unanimous. At most, they show that jurors were not shy about seeking answers when they had questions; presumably, had there been any difficulty in reaching unanimous verdicts, the jury would have sent a note about that, too.

Similarly, and contrary to defendant's suggestion, Def. Br. 33, there was nothing about the length or the delivery of the verdict forms that suggests the jury verdicts were not unanimous. The jury began deliberating at 12:21 p.m. R1782. The final jury note (about the jurors wanting to stretch their legs) came at 4:59 p.m. R1790. While discussing that note, the judge

and the attorneys considered ordering pizza for the jury and how late they should let the jury deliberate before concluding for the day. R1792-95. The judge ultimately decided that it would allow the jury to break for the day if they had not reached a verdict by 9:00 p.m., R1795, although it does not appear that she told the jury this. Subsequently, the jury announced that it had reached a verdict but had not yet signed the forms, and then entered the courtroom with the signed verdict forms in hand. R1797-98. The time of the verdict is not a matter of record, but it must have been before the 9:00 p.m. cutoff set by the judge set. Thus, deliberations appear to have lasted no more than nine hours, and there was nothing "irregular," Def. Br. 33, about the jury informing the judge it had reached a verdict before the verdict forms were signed.

Unable to show that the polling error here affected the fairness of his trial and challenged the integrity of the judicial process, defendant advocates for a *per se* rule requiring reversal as second prong plain error whenever a juror is overlooked during polling. Def. Br. 22-28. But defendant's argument cannot be squared with this Court's plain error jurisprudence. The Court has held that the six types of error that the United States Supreme Court recognizes as structural if preserved are usually second prong plain error when not preserved. *See People v. Clark*, 2016 IL 118845, ¶ 46; *People v. Thompson*, 238 Ill. 2d 598, 608-09, 613-14 (2010). This is because a "structural" error is typically one that "necessarily renders a criminal trial

fundamentally unfair or an unreliable means of determining guilt or innocence." *Thompson*, 238 Ill. 2d at 608-09 (citing *People v. Glasper*, 234 Ill. 2d 173, 196 (2009), which quotes *Rivera v. Illinois*, 556 U.S. 148, 160 (2009)). Consistent with this precedent, this Court should reject defendant's proposed *per se* rule because an incomplete jury poll does not necessarily render a trial unfair or unreliable. Rather, "[a] jury poll is not a necessary element of any trial, it is available upon the defendant's request as a means by which the defendant can test the unanimity of the verdict to protect that fundamental right." *Flores*, 2021 IL App (1st) 192219, ¶ 15; *see also* Peo. Br. 5. In other words, if a jury poll was a necessary element of a fair trial, then it would be required at every jury trial, regardless of whether the defendant requested it.

Under defendant's theory, a new trial would be required whenever the trial court inadvertently fails to poll all twelve jurors, irrespective of the error's impact on the fairness of the trial, the reason for defendant's lack of an objection, and the fact that the error all but certainly would have been cured had defendant raised a contemporaneous objection. But this Court has declined to apply the plain error doctrine so broadly. In *People v. Radford*, 2020 IL 123975, for example, the Court held that a courtroom closure, although mistaken, was not second prong plain error, and noted that a contemporaneous objection by the defendant would have allowed the trial court to take corrective action. *Id.*, ¶ 37; *see also id.* (requiring contemporaneous objection "prevents a defendant from potentially remaining

silent about a possible error and waiting to raise the issue, seeking automatic reversal only if the case does not conclude in his favor").

In support of his request for a rule requiring automatic reversal, defendant cites to *People v. Vargas*, 174 Ill. 2d 355 (1996), and *People v. Gard*, 158 Ill. 2d 191 (1994), Def. Br. 27-28, but these cases are distinguishable. In *Vargas*, the trial judge left the courtroom during the cross-examination of a witness, leaving the jury unsupervised. 174 Ill. 2d at 360. *Vargas* held that this error rose to the level of second prong plain error because the judge's absence rendered the trial unfair. *Id.* at 366-72. *Gard* involved the erroneous introduction of polygraph evidence, which, this Court held, required reversal because the evidence was inherently unreliable. 158 Ill. 2d at 205. Thus, the nature of the errors in *Vargas* and *Gard* were severe enough that they affected the fairness of the trials. But, as explained, overlooking one juror during polling, without more, does not affect a trial's fairness or challenge the integrity of the judicial process.

Defendant posits that an unnoticed polling error is less like the error in *Radford* and more like the one *Vargas*, Def. Br. 29-30, but this is incorrect. In *Vargas*, this Court found second prong plain error because "the judge's presence is vital to the preservation of the integrity of the justice system and the defendant's right to a fair trial." 174 Ill. 2d at 370. The judge's absence, by its very nature, also made it impossible for either party to object. Here, as in *Radford*, the judge was present and would have been able to take

corrective action had defendant brought the jury polling error to her attention. Defendant's complaint that "the State's suggestion of sandbagging is 'denigratory to the defense bar,'" Def. Br. 30 (quoting *People v. Sebby*, 2017 IL 119445, ¶ 71), ignores that the People simply observed, as this Court had in *Radford*, that requiring "a contemporaneous objection 'prevents a defendant from potentially remaining silent about a possible error and waiting to raise the issue, seeking automatic reversal only if the case does not conclude in his favor.'" Peo. Br. 14 (quoting *Radford*, 2020 IL 123975, ¶ 37)

In support of his per se rule, defendant also argues that *McGhee* — the first decision of the Illinois Appellate Court to address the question presented — was wrongly decided. Def. Br. 17-28. But as the appellate court in *Flores* and *Sharp*, as well as the dissenting judge below, have explained, *McGhee* was correctly decided. To begin, defendant quibbles that *McGhee* did not cite *Kellogg*, Def. Br. 17, but *McGhee* cited two other cases for the proposition that a trial court's failure to inquire into a juror's ambiguous response during polling is reversible error. *See McGhee*, 2012 IL App (1st) 093404, ¶ 16 (citing *McDonald*, 168 Ill. 2d at 461-63, and *People v. Herron*, 30 Ill. App. 3d 788, 789 (1st Dist. 1975)). That proposition, however, has little relevance to the question presented here, which is whether the inadvertent failure to poll a single juror absent evidence that the jury verdict was not unanimous is second prong plain error.

Moreover, contrary to defendant's suggestion, *see* Def. Br. 18-22, *McGhee* and *Flores* correctly analogized the inadvertent failure to poll a juror to an error in applying Illinois Supreme Court Rule 431(b). Rule 431(b) requires the trial court to ask each prospective juror whether that juror understands and accepts four principles deemed critical for a fair trial. However, when a court fails to comply with that rule, a reviewing court "cannot presume the jury was biased." *People v. Thompson*, 238 Ill. 2d 598, 614 (2010). And because a failure to comply with Rule 431(b) does not necessarily result in a biased jury, such a failure does not require reversal as second prong plain error absent evidence of jury bias. *Id.* at 615. The polling error here is similar. Jury polling is one mechanism to ensure that the verdict was unanimous, but the inadvertent failure to poll a juror does not rise to the level of second prong plain error absent evidence of a lack of juror unanimity. *See*, *e.g.*, *Flores*, 2021 IL App (1st) 192219, ¶¶ 11-23 (citing, inter alia, *McGhee*, 2012 IL App (1st) 093404, and *Thompson*, 238 Ill. 2d 598).

Defendant asserts that, unlike Rule 431(b), "jury polling is the last and only way to ensure that the apparently unanimous verdict reached in the jury room is in fact unanimous." Def. Br. 19. While it may be last, jury polling is not the only way to ensure the verdict is unanimous. For example, instructing the jury before deliberations that its agreement on a verdict must be unanimous, as occurred here, R1769, R1771, R1779, also helps to ensure juror unanimity, as does the requirement that all 12 jurors sign the verdict

form. *Cf. People v. Taylor*, 166 Ill. 2d 414, 438 ("The jury is presumed to follow the instructions that the court gives it.").

Defendant also argues that "[s]econd-prong plain error is not the rarity the *McGhee* court believed or the State implies." Def. Br. 22. On the contrary it is well established that the plain error doctrine, including its recognition of second prong plain error, is a "narrow and limited exception to the general [rule of procedural default]." *People v. Herron*, 215 Ill. 2d 167, 177 (2005). It is not a "general saving clause" that preserves for review all errors affecting substantial rights regardless of whether they have been brought to the attention of the trial court. *Id.*

Defendant notes that *McGhee* was decided before this Court reiterated in *Clark*, 2016 IL 118845, ¶ 46, that second prong plain error is not restricted to the six types of structural error recognized by the United States Supreme Court. Def. Br. 22-24. But the Court had stated well before *Clark* that "an error [may be] structural as a matter of state law regardless of whether it is deemed structural under federal law." *People v. Averett*, 237 Ill. 2d 1, 13 (2010). Thus, as the dissenting justice observed, the appellate court in "*McGhee* correctly acknowledged that structural errors 'include' the six categories [but] did not end its analysis there." *Jackson*, 2021 IL App (1st) 180672, ¶ 56 (Coghlan, J., dissenting) (internal citation omitted). That is, the *McGhee* court did not reject the defendant's jury polling claim because the trial court's error was not within one of the six categories of structural error

identified by the Supreme Court; instead, the court correctly considered whether the failure to poll the jury affected the fairness of a defendant's trial and challenged the integrity of the judicial process. 2012 IL App (1st) 093404, ¶¶ 20-26. Defendant's criticisms of *McGhee* thus are unwarranted.

Defendant's efforts to distinguish the appellate court's decisions in *Sharp* and *Galloway*, Def. Br. 31-32, which were also cited by the People, *see* Peo. Br. 11-13, 15, similarly fall flat. In *Sharp*, the trial court overlooked two jurors when polling the jury, and no one noticed. 2015 IL App (1st) 130438, ¶ 111. As defendant notes, the defendant in *Sharp* framed his challenge as a claim that his trial counsel, by failing to object to the polling error, provided ineffective assistance of counsel, and the appellate court rejected the defendant's claim on that ground. *Id.*, ¶ 112. But the court also considered the issue under the plain error doctrine and, following *McGhee*, held that the error did not affect the fairness of the defendant's trial or challenge the integrity of the judicial process. *Id.*, ¶¶ 111-12. *Sharp* thus is squarely on point.[2] As for *Galloway*, the People cited it because it was the first reported instance of this type of polling error being forfeited, Peo. Br. 11; the People did not suggest that *Galloway* considered whether the error was second prong plain error. And as for the People's citations to cases from foreign jurisdictions, *see* Peo. Br. 15-16 (citing, inter alia, *Colvin v. State*, 150 A.3d

[2] Defendant asserts that *Sharp* addressed second-prong plain error without briefing (Def. Br. 31), but he is merely speculating. *Sharp* does not indicate whether the issue was briefed or not.

850, 856 (Md. 2016), and *People v. Anzalone*, 298 P.3d 849, 856 (Cal. 2013)), these were provided as examples of cases holding that not every forfeited polling error requires reversal.

In short, the inadvertent failure to poll a single juror does not threaten the fairness of a defendant's trial or challenge the integrity of the judicial process, as the appellate court in *McGhee*, *Sharp*, and *Flores* correctly held. To be sure, a defendant must be convicted by a unanimous jury. *See Ramos v. Louisiana*, 140 S.Ct. 1390 (2020). But a poll that mistakenly skips a juror does not mean that the verdict was not unanimous, and there is no evidence here that defendant was not convicted by a unanimous jury. Accordingly, the appellate court's judgment should be reversed, defendant's convictions should be affirmed, and the cause should be remanded to the appellate court to consider his unaddressed sentencing challenge.

CONCLUSION

The People of the State of Illinois respectfully request that this Court reverse the judgment of the appellate court, affirm defendant's convictions, and remand this matter to the appellate court so that it may consider defendant's challenge to his sentences.

March 7, 2022

Respectfully submitted,

KWAME RAOUL
Attorney General of Illinois

JANE ELINOR NOTZ
Solicitor General

KATHERINE M. DOERSCH
Criminal Appeals Division Chief

JOHN E. NOWAK
Assistant Attorney General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601-3218
(773) 590-7958
eserve.criminalappeals@ilag.gov

Counsel for Plaintiff-Appellant
People of the State of Illinois

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 17 pages.

/s/ John E. Nowak
JOHN E. NOWAK, Bar #6243584
Assistant Attorney General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601-3218
(773) 590-7958
eserve.criminalappeals@ilag.gov

PROOF OF FILING AND SERVICE

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 March 7, 2022, the **Reply Brief for Plaintiff-Appellant People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system, which provided service to the following:

Deborah K. Pugh
Assistant Appellate Defender
Office of the State Appellate Defender
First Judicial District
203 N. LaSalle Street,
24th Floor
Chicago, Illinois 60601
1stdistrict.eserve@osad.state.il.us
Counsel for Defendant-Appellee

Kimberly M. Foxx
State's Attorney of Cook County
Richard J. Daley Center, 3d Floor
Chicago, Illinois 60602
eserve.CriminalAppeals@cookcountyil.gov

/s/ John E. Nowak
JOHN E. NOWAK, Bar #6243584
Assistant Attorney General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601-3218
(773) 590-7958
eserve.criminalappeals@ilag.gov