No. 127828

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- SHAQUILLE P. PRINCE, Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, No. 3-19-0440. There on appeal from the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, No. 18 CF 194. Honorable Daniel Kennedy, Judge Presiding.

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLANT

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ORAL ARGUMENT REQUESTED

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TABLE OF CONTENTS AND POINTS AND AUTHORITIES

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

NATURE OF THE CASE

Shaquille Prince was convicted of obstructing justice by furnishing false information after a jury trial and was sentenced to twenty-four months conditional discharge and 360 days county jail with credit for 180 days served.

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 remanding for a new trial violates the double jeopardy clause where the reviewing court reversed Shaquille Prince's conviction due to insufficient evidence absent trial error.

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RULES AND STATUTES INVOLVED

Ill. Const. 1970, art. I, § 10

> No person shall be compelled in a criminal case to give evidence against himself nor be twice put in jeopardy for the same offense.

U.S. Const. amend. V

> * * *
> [N]or shall any person be subject for the same offense to be twice put in jeopardy of life or limb;
>
> * * *.

720 ILCS 5/31-4. Obstructing justice.

> (a) A person obstructs justice when, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, he or she knowingly commits any of the following acts:
>
> (1) Destroys, alters, conceals or disguises physical evidence, plants false evidence, furnishes false information;
>
> * * *
>
> (b) Sentence.
>
> (1) Obstructing justice is a Class 4 felony * * *.

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STATEMENT OF FACTS

In the appellate court, the State conceded that it provided insufficient evidence that Shaquille Prince was a "material impediment" to law enforcement as required for a conviction of obstructing justice. *People v. Prince*, 2021 IL App (3d) 190440, ¶ 34, *appeal allowed* (Ill. 2022). The appellate court reversed Prince's conviction due to insufficient evidence, but remanded for a new trial because the first trial had taken place before this Court held that evidence of a material impediment is required for a conviction of obstructing justice by furnishing false information. *Prince*, 2021 IL App (3d) 190440, ¶ 41 (citing *People v. Casler*, 2020 IL 125117).

Prince petitioned for leave to appeal on whether the double jeopardy clause barred a new trial given the lack of trial error. This Court granted leave to appeal on January 26, 2022.

Trial

The State charged Prince with obstructing justice following an incident around 1:00 a.m. on January 25, 2018. (C.20,R.228) Three police officers testified for the State and Prince testified on his own behalf. (R.226-246)(Officer Garcia); (R.246-64)(Officer Jandura); (R.265-282)(Officer Meyers); (R.159-80)(Shaquille Prince).

Prince's arrest came after officers responded to a burglary alarm at his girlfriend Jessica's house. (R.159-64,227-28) The State pursued no charges based on Prince's presence or conduct while at the house. The sole charge was for obstructing justice by providing a false name and birth date after his arrest and transport to the police station. (C.20,R.256)

According to Prince, the house alarm sounded when he got back to the house

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

from the gym after midnight, so he contacted his girlfriend to disarm it. (R.161-64) It was her house, but he was there alone as she had recently left to visit her parents. (R.161-62)

Officers Garcia and Jandura were the first to respond to the alarm. (R.227-30) When they arrived, the alarm was no longer sounding. (R.228,242) Prince greeted them at the backdoor in his nightclothes after he woke up to sounds and flashlights at the window. (R.164-65,229,235,239-40,241,249,262) Prince told the officers that it was not his house and that the owner, Jessica, was away. (R.230-31,240,250-51) Prince told them that he did not have his ID. (R.230) According to the officers, they asked for Prince's name and for him to contact Jessica. (R.231,251) Jandura testified that Prince said he did not have to do that, and that he was going back inside and he wanted them to leave. (R.251-52) Both officers reported that Prince was adamant that he did not have to give them anything. (R.230-34,251-52)

While still at the door, Garcia told Prince that he "was going to be placed under arrest until we figured out what else was going on at the house." (R.231-32) As Garcia started to "grab [Prince] and put his hands behind his back," Prince pulled into the home and took out his cell phone to begin recording the officers. (R.231-33,252) Back-up was called. (R.232-33,267) The officers, eventually joined by Officer Meyers, followed Prince into the home where Prince loudly insisted that he did not have to tell them anything. (R.242,267,269) Prince was handcuffed when he said he was going to bed and bumped Garcia while trying to get to the bedroom. (R.233,244,252,269) Meyers delivered two knee strikes when Prince did not immediately comply with being handcuffed. (R.269) Prince was then handcuffed, put in a police car, and transported to the station for fingerprinting.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

(R.234,254,269-70)

While different officers transported Prince to the station, Meyers remained at the scene and spoke to the homeowner's friend and emergency contact. (R.270) She told Meyers that she knew the man who was arrested as "Sean" and she provided a social media name which led Meyers to the name Shaquille Prince. (R.274) Meyers confirmed through a Google search that Shaquille Prince was the man from the house, and he also learned of an arrest warrant for failure to appeal from DuPage County dated January 8, 2018. (R.172,275-77)[1] Meyers then proceeded to the station where Prince was being processed. (R.271)

At the police station, Prince initially did not want to be fingerprinted or photographed, but he consented after speaking with a supervisor. (R.255-56) He also complained of his wrists hurting and requested ice for them. (R.255) According to Jandura, they did not have ice, so they contacted the fire department to examine his wrists. (R.255-26) Jandura reported that Prince at some point said his name was "Sean Williams" born on June 7, 1989. (R.256) Meyers was present for part of the booking and heard Prince give the name. (R.271) A LEADS search on the name led to no hits. (R.256,271-72) Police used the fingerprints and photograph to identify him. (R.257) When asked how long it took for Prince to agree to fingerprinting and photographing, Jandura did not want to guess, but said it was more than minutes. (R.257) By 5:00 a.m. of the same day, Meyers had spoken to the homeowner. (R.280)

At the close of the State's case, the defense moved for a directed verdict.

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[1] It was later learned that this warrant was issued in error, something that was the subject of a post-trial claim of ineffective assistance of counsel. (C.115,Sup.C6,9-10)

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

(R.151-54) The court denied it. (R.154)

Testifying in his own defense, Prince said that he used the name "Sean Williams" with Jessica after some bad experiences with online dating. (R. 159-160) Prince described himself as cooperating at the house and the police as being aggressive. (R.166-70) He denied ever giving a false name or birth date. (R.171) Prince also testified about a retail theft case in DuPage County which was tied to the warrant underlying the obstruction charge. (R.171-72) The case had been pending for two years. (R.171-72) He denied ever failing to appear in the case or knowing about a warrant being issued for failing to appear. (R.171-72)

The jury was instructed, in relevant part, to find Prince guilty of obstructing justice if it found that he "knowingly furnished false information" and "did so with intent to prevent the apprehension" of himself. (C.84,87)

At first, the jury deadlocked. (R.210) After being told to continue deliberating, they returned a guilty verdict. (R.210-12) Bond was revoked and Prince was taken into custody. (R.215)

Post-Trial Proceedings

Throughout trial, Prince was represented by a public defender. (R.4) On April 15, 2019, Prince filed *pro se* filings seeking a new trial and complaining of ineffective assistance of trial counsel. (C.115-18) He included detailed allegations of counsel failing to call a willing witness to corroborate his account and failing to present available evidence to show the arrest warrant underlying the obstruction charge was issued in error. (Sup.C4-6,9-10) Eventually, the court advised Prince that he could either represent himself on post-trial motions or he could let his attorney do it. (R.305-06) He elected to go *pro se*, and counsel withdrew from the

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

case. (R.306-08,318) There was no inquiry into the possibility of conflict-free counsel.[2]

In early June of 2019, Prince requested transcripts only to withdraw the request when he learned it would delay his post-trial hearing by at least six weeks. (R.318-19,323) On June 21, 2019, Prince filed a *pro se* second amended motion alleging the evidence failed to show that he "actually obstructed justice." (C.156-57,R.328) It cited *People v. Taylor*, 2012 IL App (2d) 110222, which found the evidence insufficient to prove obstruction where "giving the officer a false name did not interfere in any material way with his arrest and did not impede the administration of justice." (C.156) When the State requested more time to review the second amended motion, Prince said he would rather strike it than further delay the proceedings where his first motion was filed on April 15, 2019. (R.328-31) He told the State to "strike any motion he needs a continuance for" and to proceed on "[a]ny motion that you are available to hear today." (R.331-32) Over Prince's objection, the court continued the case until July 9, 2019. (R.332) The case was continued twice more when the sheriff did not transport Prince to the courthouse and when the State was unable to secure former defense counsel as a witness. (R.339,344)

On July 23, 2019, the court denied the original post-trial motion after a hearing without witnesses. (R.348-361) The court sentenced Prince to 24 months of conditional discharge and time served. (R.365,370)

Direct Appeal

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[2] On appeal, Prince argued that the trial court erred in forcing him to go *pro se* without discussing the possibility of appointing new counsel in light of the allegations of ineffective assistance. *People v. Prince*, 2021 IL App (3d) 190440, ¶ 1 n. 1. The appellate court did not reach the issue.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

In relevant part, Prince argued on appeal that there was insufficient evidence of *mens rea* where the evidence did not show that he knew about the warrant that he was purportedly evading and insufficient evidence that he materially impeded law enforcement. *People v. Prince*, 2021 IL App (3d) 190440, ¶ 1 n. 1. The State conceded that it failed to present sufficient evidence of a material impediment, but it argued a remand for a second trial was proper because *People v. Casler*, 2020 IL 125117, constituted a post-trial change in law which clarified that evidence of a material impediment is required for obstruction of justice based on furnishing false information. *Prince*, 2021 IL App (3d) 190440, ¶ 34.

The appellate court found sufficient evidence of *mens rea*. *Id.* ¶ 40. It found insufficient evidence of a material impediment, but it determined that a second trial was permitted by *People v. Casler*, 2020 IL 125117. *Prince*, 2021 IL App (3d) 190440, ¶ 41.

This Court now must decide whether a second trial would violate the double jeopardy clause where the appellate court held that the State failed to present sufficient evidence of an element of the offense without any trial court ruling improperly barring such evidence.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

ARGUMENT

This Court should maintain the clear rule at the heart of the double jeopardy clause—a bar against second trials for an offense after a reviewing court reverses a conviction due to insufficient evidence.

Introduction

The facts relevant to the present appeal are uncontested. Shaquille Prince was charged and convicted of obstructing justice by furnishing the police with a false name and birthday. *People v. Prince*, 2021 IL App (3d) 190440, ¶ 2; 720 ILCS 5/31-4(a)(1); (C.20). According to the State's evidence, police arrested and transported him to the police station before he ever gave false information. *Prince*, 2021 IL App (3d) 190440, ¶ 33. In the appellate court, the State conceded that this failed to prove that Prince materially impeded law enforcement—an element of the offense. *Id.* ¶¶ 34, 39. The appellate court agreed and reversed the conviction due to insufficient evidence. *Id.* ¶¶ 1, 41. However, it erred by then remanding for a new trial, contrary to the basic double jeopardy rule which "precludes a second trial once the reviewing court has found the evidence legally insufficient." *Burks v. United States*, 437 U.S. 1, 18 (1978). This Court should vacate the appellate court's remand order where the double jeopardy clause bars retrial and where any retrial would be futile and unjust.

Standard of Review

This appeal raises a purely legal question, so review is *de novo*. *People v. Coleman*, 183 Ill. 2d 366, 388 (1998); *People v. Bellmyer*, 199 Ill. 2d 529, 537 (2002).

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

A. The double jeopardy clause bars retrial where the appellate court reversed Shaquille Prince's conviction due to insufficient evidence unrelated to any trial error.

The present case is unusual in that the parties agreed on appeal that the first trial did not include sufficient evidence that Prince materially impeded law enforcement as he was handcuffed and transported to the police station for booking all before he ever gave a false name. (R.231-34,256,269-71); *People v. Prince*, 2021 IL App (3d) 190440, ¶ 34. In the trial court, there was no trial court ruling which barred the parties from presenting evidence of a material impediment. *Cf. People v. Casler*, 2020 IL 125117, ¶ 62 (discussing remedy in light of the trial court's categorical bar on evidence of material impediment). As a result, this Court should apply the long-standing rule that retrials are not permitted after reversals due to insufficient evidence which are not the result of trial error.

The double jeopardy clause provides that no person "shall be twice put in jeopardy for the same offense." Ill. Const. Art. I § 10; U.S. Const. Amend. V; *Benton v. Maryland*, 395 U.S. 784, 795-96 (1969). Its most basic aim is to prevent successive trials for the same offense—an aim directly implicated by the present case. *People v. Mink*, 141 Ill. 2d 163, 175 (1990); *Denezpi v. United States*, ___ S. Ct. ___, No. 20-7622, 2022 WL 2111348, at *4 (2022).

The protection against double jeopardy has its origins in Greek and Roman times. *Benton*, 395 U.S. at 795. In Anglo-American systems, the protection is rooted in the fundamental belief that "the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

compelling him to live in a continuing state of anxiety and insecurity." *Green v. United States*, 355 U.S. 184, 187-88 (1957). In Illinois, the protection was expressly adopted more than 100 years before it was made mandatory throughout the United States. Ill. Const., 1818, art. VIII § 11; *Benton*, 395 U.S. at 795-96 (1969).

When the double jeopardy protection applies, "its sweep is absolute." *Burks v. United States*, 437 U.S. 1, 18 n. 6 (1978). There is no question that double jeopardy applies to any acquittal at trial, no matter how seemingly erroneous. *Id*. at 16; *People v. Cooper*, 194 Ill. 2d 419, 430 (2000) (recognizing that even in a bench trial a possible legal error cannot avoid the operation of the double jeopardy protection).

In 1978, a unanimous Supreme Court[3] clarified when the clause applies to appellate reversals. *Burks*, 437 U.S. at 15-18. In *Burks*, the Supreme Court explained that the salient distinction is whether reversal was due to trial error or due to "evidentiary insufficiency." *Id*. at 15. The *Burks* court recognized that retrial was permitted after mere trial error, but it squarely "h[e]ld that the Double Jeopardy Clause precludes a second trial once a reviewing court has found the evidence legally insufficient." *Id*. at 5, 18. The Court reasoned that it made no difference that the "*reviewing* court, rather than the trial court, determined the evidence to be insufficient." *Id*. at 11. Both operated as a finding of acquittal after which there could be no second trial. *Id*. at 17-18. In such a case, the only just remedy was entry of a judgment of acquittal regardless of what relief the defendant may have sought after trial. *Id*.

In *Lockhart v. Nelson*, the Supreme Court clarified the remedy analysis

[3] Justice Blackmun took no part in the decision.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

that follows a reversal due to *trial error* (as opposed to reversal due to insufficient evidence). *Lockhart v. Nelson*, 488 U.S. 33, 39-40 (1988). The Supreme Court explained that when a reviewing court reverses due to trial error, it may consider the impact of that error on the entirety of the evidence when determining whether retrial will offend double jeopardy. *Id.* For example, in *Lockhart*, the trial court erroneously admitted a prior conviction that had been the subject of a pardon based on the incorrect belief that the conviction triggered an enhanced sentencing provision. *Id*. at 36-40. Without counting the erroneously admitted conviction, the State's evidence failed to show that the enhanced sentencing provision applied. *Id*. at 40. The Supreme Court first held that the error in admitting the conviction was a clear example of trial error under *Burks*. *Id*. After identifying the trial error, the Court went on to find that a retrial would not be barred by double jeopardy. *Id*. at 40-42. The Court explained that a review of sufficiency after reversal due to trial error must include everything at trial—including any evidence impacted by the trial error. *Id*. The Court reasoned that had the conviction in question been properly flagged as erroneous, the State would presumably have offered a different conviction. *Id*. Thus, retrial after reversal due to the trial error was proper.

Following *Burk*s, this Court recognized the importance of double jeopardy protections after a reversal on appeal. In *Taylor*, it found that it was error to remand due to trial error without first resolving any challenge to the sufficiency of the evidence. *People v. Taylor*, 76 Ill. 2d 289, 309 (1979) (citing *Burks*, 437 U.S. at 11). As this Court explained, the alternative"risk[ed] subjecting the defendant to double jeopardy" which acts as an absolute bar on re-trial. *Id*. In *Cooper*, this Court refused to deviate from *Burks* when the appellate court reversed a murder

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

conviction after a bench trial due to insufficient evidence even though the trial judge may have erred in refusing to consider an alternative grounds for conviction. *Cooper*, 194 Ill. 2d at 429-30.

On appeal below, as in *Burks*, the appellate court found that the evidence was insufficient to show that Prince materially impeded law enforcement. *Prince*, 2021 IL App (3d) 190440, ¶¶ 38-39. Also, like in *Burks*, there was no trial error impacting what evidence was presented at trial. Thus, the double jeopardy clause applies to the reversal and there is no need to continue to the *Lockhart* analysis for reversals due to trial error. Therefore, the proper result is outright reversal.

Rather than applying *Burks*, the appellate court erred by extending the remedy from *People v. Casler*, 2020 IL 125117, to a reversal due to insufficiency without a related trial error. *Prince*, 2021 IL App (3d) 190440, ¶ 41. *Casler* is readily distinguishable from the present case.

In *Casler*, this Court found that reversal was required due to the inadequacy of the proof of a material impediment, but it determined that a new trial would not violate double jeopardy. *Casler*, 2020 IL 125117, ¶¶ 53-67. In discussing remedy, this Court first reasoned that the record "plainly show[ed] that the trial court categorically excluded any evidence relating to the essential element of a material impediment." *Casler*, 2020 IL 125117, ¶¶ 62-64. The "incorrect rejection of evidence" is a standard example of "trial error" to which the double jeopardy clause does not apply. *Burks*, 437 U.S. at 15. This Court next reasoned that the jury, as instructed, could have found that the State had met its burden despite the lack of evidence on material impediment. *Casler*, 2020 IL 125117, ¶¶ 65-67, 69. Thus, this Court found a trial error and, as required by *Lockhart*, considered the entirety

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

of trial including the relationship between the trial error and the gap in the State's case.

Here, in contrast, there was no trial court error— no improper exclusion of relevant evidence like in *Casler* and no improper inclusion of irrelevant evidence like in *Lockhart*. There was simply no trial court ruling on the relevance of evidence of a material impediment. Instead, the prosecutor acted on their own interpretation of the obstruction statute in forgoing evidence of a material impediment. As a result, the reviewing court had no reason to reverse other than the State's own admission that it did not offer sufficient proof of an element of the offense. Under *Burks*, a reversal based solely on insufficient evidence is no different from a ruling for acquittal. *Burks*, 437 U.S. at 18-19. Therefore, this Court should find that *Burks* controls and that the *Casler* remedy is not triggered absent a trial error related to the gap in the State's case.

Beyond the lack of trial error, there is one other notable distinction between *Casler* and the present case. In *Casler*, the State contested the sufficiency of the evidence of a material impediment on appeal, while in the present case, the State has conceded that it failed to offer sufficient proof. *Compare Casler*, 2020 IL 125117, ¶ 55 *with Prince*, 2021 IL App (3d) 190440, ¶ 34. The State concession is unsurprising where the State's evidence showed Prince did not give the false information until after he was in police custody and being booked at the police station. (R.234,254-56,260-71) On these facts, remand for a new trial would be a needless waste of resources.[4] Therefore, this Court should vacate the appellate court's erroneous and futile remand order.

[4] This argument is discussed more fully in subsection C.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

B. Any "change in law" exception to the *Burks* rule for reversals due to insufficient evidence should be carefully limited.

In *Casler*, without the benefit of briefing on the matter, this Court discussed a "change in law" exception to double jeopardy for findings of insufficient evidence due to a post-trial change in law. *People v. Casler*, 2021 IL 125117, ¶ 57 (citing, *e.g., United States v. Ford*, 703 F.3d 708, 710 (4th Cir. 2013)). As noted above, in *Casler*, there was a standard trial error directly related to the evidentiary gap such that a holding based on a change in law was not necessary to this Court's decision. In contrast, no such error occurred at Prince's trial. Thus, the question of whether to incorporate a "change in law" exception to the *Burks* rule is now squarely presented.

This Court should not adopt an exception to double jeopardy to permit retrial in the present case for two reasons. First, the "change in law" exception which treats some reversals due to insufficient evidence as trial error has no grounding in *Burks*. Second, the expansive version of the exception which would be necessary to permit retrial in the present case would lead to confusion as courts decide what type of "change" authorizes an exception to *Burks'* straightforward rule for reversals due to insufficiency. Indeed, an exception expansive enough to fit this case would offend the underlying purpose of the double jeopardy clause.

In *Burks*, the Supreme Court made clear that there is no balancing of the equities when the double jeopardy clause applies. *Burks v. United States*, 437 U.S. 1, 11 n. 6, 18 (1978). And it applies to appellate reversals due to insufficiency. *Id.*; *Lockhart v. Nelson*, 488 U.S. 33, 39 (1988)(confirming the basic *Burks* rule before discussing how to review trial errors). Relying on a "change in law" to create

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

an exception to this rule would effectively inject a balancing test back into the question of when the clause applies. The rationale for considering changes in law when fashioning a remedy often focuses on not wanting to unfairly hold the government "responsible" for an understandable failure to provide proof. See, *e.g.*, *Osborne v. District of Columbia*, 169 A.3d 876, 887 n. 12 (D.C. 2017) (citing *United States v. Wacker*, 72 F.2d 1453, 1465 (10th Cir. 1995)). But the double jeopardy clause is "absolute" when it applies because it is a constitutional policy based on grounds not open to judicial examination. *Burks*, 437 U.S. at 18 n. 6. Thus, there should be no balancing of unfairness to the State against risk to the defendant in determining when the clause applies.

Alternatively, any exception to the *Burks* rule based on changes in law should be limited to changes from *controlling* law. This limitation has been present in the majority of foreign jurisdictions to discuss the issue. *United States v. Houston*, 792 F.3d 663, 665 (6th Cir. 2015) (stating that judge applied "then-governing Sixth Circuit precedent" recently overturned by Supreme Court); *United States v. Ford*, 703 F.3d 708, 711-12 (4th Cir. 2013) (noting the erroneous definition was "binding on the district court" at the time of trial); *United States v. Gonzalez*, 93 F.3d 311, 318 (7th Cir. 1996) (noting that "the jury charge was consistent with the definition * * * approved in our circuit" prior to the change in law); *Wacker*, 72 F.3d at 1463 (noting that "at the time of appellants' trial, the governing rule in this Circuit" employed a different meaning of the statutory term). *But see Osborne*, 169 A.3d at 881.

Notably, the analogy between trial errors and a "change in law" exception only works if the change is in controlling law. Specifically, a rule of controlling

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

law and a trial court ruling have similar impacts on the parties—both act as mandatory external limitations governing the parties' choices including a prosecutor's choice of proof.

For instance, in *United States v. Weems*, the Ninth Circuit Court of Appeals reviewed a conviction for illegal structuring of financial transactions. *United States v. Weems*, 49 F.3d 528, 530 (9th Cir. 1995). After trial, the Supreme Court clarified that, contrary to the Ninth Circuit's prior rulings, a conviction required proof that the defendant knew the structuring was illegal. *Id*. In analogizing to trial error, the Ninth Circuit noted that the trial court could only have demanded proof on the matter "by disregarding clear rulings by this [higher] court." *Id*. In other words, the prosecutor was conducting a trial in a jurisdiction where it was as though there was a standing order excluding evidence of knowledge of illegality as irrelevant.

In short, in *Casler*, the prosecutor conducted trial under a binding trial court rule barring evidence of material impediment, while in *Weems*, the prosecutor conducted trial under a binding appellate court rule barring evidence of knowledge of illegality. In both cases, there was an external, judge-imposed bar on both parties.

The same is not true when the prosecutor is merely making a choice on what proof to offer in the absence of a controlling decision from this Court or the appellate court in his or her district. Instead, it is the State that chooses what evidence to provide at trial without any external bar limiting or commanding their choices. Because the State controls and decides what proof to offer without an erroneous court ruling, there is no analogy to a trial error and double jeopardy should apply to any resultant findings of insufficiency.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

Retrial would be particularly inappropriate in the present case given the state of the law at the time of trial. In the district where Prince was charged, there was no appellate court finding that evidence of a material impediment was irrelevant. Indeed, there was no such finding from any district. On the other hand, this Court had twice indicated that evidence of a material impediment was broadly required for obstruction offenses including obstruction under the subsection at issue in this case. *Casler*, 2020 IL 125117 ¶¶ 33-47 (discussing *People v. Comage*, 241 Ill.2d 139 (2011) and *People v. Baskerville*, 2012 IL 111056). After these two cases, the only appellate court to expressly interpret the single word at issue in this case—furnishing—had held that evidence of a material impediment *was* required. *People v. Taylor*, 2012 IL App (2d) 110222, ¶ 17.

Long-standing principles of statutory construction further indicated that evidence of a material impediment was required to show obstruction at the time of trial. As this Court noted in *Casler*, the legislature effectively acquiesced to this Court's interpretation of the obstruction statutes when it did not amend them to eliminate any broad requirement of a material impediment. *Casler*, 2020 IL 125117, ¶ 35 (citing *People v. Hairston*, 46 Ill. 2d 348, 353 (1970)). Attorneys are also well aware that any ambiguities in a criminal statute must be resolved in favor of the defendant. *People v. Robinson*, 172 Ill.2d 452, 457 (1996).

In light of the above, the prosecutor at Prince's trial had every reason to provide whatever evidence of a material impediment was available at the first trial. If the State wanted to put Prince through a criminal trial and did not think the element should apply, it could have requested a trial court ruling on the matter *before* making a citizen go to trial based on the State's own private interpretation

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

of a criminal statute. This approach would save court resources and avoid the harm of successive trials when it turns out the State's gamble on the required law is wrong.

An exception for a case like this runs afoul of the very purpose of the double jeopardy clause. Allowing a second trial under these circumstances would permit the State to hone its trial strategy whenever it seeks a conviction in the face of an arguably open question of law which this Court has not definitively settled. *Ohio v. Johnson*, 467 U.S. 493, 501 (1984) (recognizing that the clause seeks to ensure the State does not have multiple opportunities to "hone its presentation" and "marshal its evidence and resources" while twice exposing the defendant to conviction). Strategically, the State could benefit from avoiding pretrial litigation of open questions of law, since this would allow them to avoid applying unfavorable law, while also leaving the option of a second trial if the law is subsequently interpreted contrary to their position. The clause was created as a protection for the accused *because* of the vast resources of the State. An exception for open areas of law would create large holes in the protection that would inevitably mean successive trials and years of humiliation and stress for the accused—including some who would ultimately be acquitted at their second trial on the same offense. See *Green v. United States*, 355 U.S. 184, 187-88 (1957)(recognizing the clause's importance in protecting citizens from ongoing embarrassment, expense, ordeal, anxiety, and insecurity).

Finally, it is crucial to maintain clear boundaries on any exception to the *Burks* rule to curb judicial confusion on the appropriate remedy to grant in the face of changing statutory interpretations. Absent a clear rule for when double

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

jeopardy applies, repetitive litigation will arise at every level of the court system as the parties dispute whether the law was in flux enough to avoid the double jeopardy clause. Every time there is a new definitional question or constitutional challenge to a statute, there will be the possibility of convictions coming into question at every level of review with varying answers of whether double jeopardy does or does not bar retrials. There will inevitably be erroneous second trials that have to be reversed on appeal after the State and the court have expended years worth of resources. And there will be people at the other end of the State's power living through multiple, stressful trials as their money and emotional reserves are depleted. Surely the double jeopardy clause does not permit this wasteful and unjust result.

C. Outright reversal is a more just result even without a finding on double jeopardy where any remand would be futile and Prince has already served his sentence.

Outright reversal in the present case is particularly appropriate where the State's evidence shows a retrial would be futile. The testimony from law enforcement officers demonstrated that Prince's statement simply was not a material impediment to their apprehension and identification of him. Further, Prince has already served his sentence. A remand would needlessly waste resources and further delay justice for Prince. Therefore, this Court could reverse outright without deciding whether or not the double jeopardy clause bars retrial.

Even when double jeopardy is not implicated, courts of review have the power to reverse a conviction without remand. Ill. S. Ct. R. 615(b)(1); Ill. Const. 1970, art. VI, § 1. For example, in *Campbell*, this Court reversed a conviction due to an improper waiver of counsel, but it did not remand for a new trial. *People*

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

v. Campbell, 224 Ill. 2d 80, 87 (2006). In forgoing a remand, this Court noted that the defendant had already completed his sentence. *Id*. It explained, "a new trial therefore would be neither equitable nor productive." *Id*. As a result, the conviction was vacated outright. *Id*.

Every district of the appellate court has exercised this power when the record showed that a retrial would be futile. *People v. Freeman*, 2021 IL App (1st) 200053, ¶ 12; *People v. Trisby*, 2013 IL App (1st) 112552, ¶ 19 (reversing outright after finding evidence had to be suppressed "because the State cannot prevail on remand"); *People v. Elliot*, 314 Ill. App. 3d 187, 193 (2d Dist. 2000) (reversing outright where the State "obviously" could not prevail on remand); *People v. Smith*, 331 Ill. App. 3d 1049, 1056 (3d Dist. 2002) (same); *People v. Staple*, 345 Ill. App. 3d 814, 821 (4th Dist. 2004) (same); *People v. Bozarth*, 2015 IL App (5th) 130147, ¶ 22 (same).

Here, the State's evidence makes clear that Prince's actions were not a material impediment to law enforcement. According to the State's own witnesses, police had handcuffed, arrested, and transported Prince to the station before he ever gave the name "Sean Williams." (R.234,254-56,260-71) At that point, there was no danger that the police were going to release him before learning his legal identity. He was going through the finger-printing process after speaking with a supervisor. (R.255-56) At the scene, a neighbor had given police his social media handle, and Officer Meyers found Prince's photograph and legal name. (R.270,274-77) And police always intended to wait to hear back from the homeowner before releasing him. (R.280) Indeed, even with the less exacting jury instruction on obstruction, the jury still struggled to return a guilty verdict. (R.210-12) Given this record, it is unfathomable what evidence the State could produce at a retrial to show Prince

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

was a material impediment to law enforcement.

In addition, Prince has fully served his sentence and has consistently insisted on his innocence for years. He filed his first *pro se* motion for new trial only two weeks after the finding of guilty. (C.115-7) In custody and *pro se*, he continually fought to get information to the court to convince the judge that something was not right. (R.215,306-08) Without a lawyer by his side, he fought in the trial court to show that the warrant he was purportedly evading was issued in error, that his attorney was ineffective, and that the State failed to prove he was a material impediment to police. See, e.g., (C.115-18,156-58).

Convinced of his own innocence, Prince pushed to get to a post-trial hearing so someone would see that this was all a big mistake. (R.328-32) In his hurry to set things right without an advocate to help him, his post-trial attempts at justice were denied. (R.348-61) Denied without the State ever responding to his argument that it had failed to prove that he was a material impediment to police. (C.156,R.328-31) That is, until the appeal, at which point the State admitted that Prince was right, they never did prove that he materially impeded law enforcement. *People v. Prince*, 2021 IL App (3d) 190440, ¶ 34. Now years later, the State wants a chance to do it all over again after agreeing they didn't do it at the first trial. In the interests of both justice and judicial economy, this Court should find reversal without remand is the only just result in this case regardless of the double jeopardy protection.

Conclusion

In sum, this Court should reverse Prince's conviction outright where there is no exception to the double jeopardy bar on a second trial after an appellate reversal due to insufficient evidence absent trial error. Even if this Court is

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

considering an exception to double jeopardy due to an insufficiency related to a change in law, this is not the case to adopt such an exception. The expansive exception necessary to permit retrial in the present case would mean the possibility of successive trials for anyone tried under a statute with a specific word that this Court has not definitively interpreted. It would leave appellate courts second-guessing when to remand and entangle courts at every level in litigation concerning the exception's applicability. Finally, any retrial would be a waste of resources and an unjust result for Prince who has served a sentence for a conviction despite the State's admitted lack of proof. Therefore, this Court should reverse Prince's conviction outright where the trial evidence was indisputably insufficient.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

CONCLUSION

For the foregoing reasons, Shaquille Prince, defendant-appellant, respectfully requests that this Court reverse his conviction outright.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 24 pages.

/s/Maggie A. Heim
MAGGIE A. HEIM
Assistant Appellate Defender

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

APPENDIX TO THE BRIEF

Shaquille Prince No. 127828

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

Table of Contents

APPEAL TO THE APPELLATE COURT OF ILLINOIS

THIRD JUDICIAL DISTRICT

FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT

WILL COUNTY, ILLINOIS

PEOPLE STATE OF ILLINOIS

Plaintiff/Petitioner

Reviewing Court No: 3-19-0440
Circuit Court No: 2018CF000194
Trial Judge: DANIEL L KENNEDY

v.

SHAQUILLE P. PRINCE

Defendant/Respondent

COMMON LAW RECORD - TABLE OF CONTENTS

Page 1 of 4

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JOLIET, ILLINOIS 60432

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

Table of Contents

COMMON LAW RECORD - TABLE OF CONTENTS

Page 2 of 4

Table of Contents

COMMON LAW RECORD - TABLE OF CONTENTS

Page 3 of 4

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

Table of Contents

COMMON LAW RECORD - TABLE OF CONTENTS

Page 4 of 4

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

Table of Contents

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COMMON LAW RECORD - TABLE OF CONTENTS

Page 1 of 1

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SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

Table of Contents

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COMMON LAW RECORD - TABLE OF CONTENTS

Page 1 of 1

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Report of Proceedings ("R")

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

2021 IL App (3d) 190440

Opinion filed September 24, 2021

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2021

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. SHAQUILLE P. PRINCE, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois. Appeal No. 3-19-0440 Circuit No. 18-CF-194 The Honorable Daniel L. Kennedy, Judge, presiding.

JUSTICE DAUGHERITY delivered the judgment of the court, with opinion.
Presiding Justice McDade and Justice Lytton concurred in the judgment and opinion.

OPINION

¶ 1 After a jury trial, defendant, Shaquille P. Prince, was convicted of obstructing justice (720 ILCS 5/31-4(a)(1), (b)(1) (West 2018)) and was sentenced to a period of conditional discharge and county jail time. Defendant appeals, arguing, among other things, that he was not proven guilty of the offense beyond a reasonable doubt.[1] We agree with defendant that the proof was insufficient. However, because the proof that was lacking pertained to an element of the

[1]Defendant also argues that the trial court erred by (1) failing to properly admonish the jury pursuant to Illinois Supreme Court Rule 431(b) (eff. July 1, 2012) and (2) failing to conduct an inquiry into defendant's *pro se* posttrial claim of ineffective assistance of counsel. However, since the State has conceded that the proof of the offense was insufficient and we agree, we need not address the other two issues raised by defendant.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

offense that was added by an Illinois Supreme Court decision that was issued after the trial in this case, we reverse defendant's conviction and remand this case for a new trial rather than reverse defendant's conviction outright.

¶ 2 I. BACKGROUND

¶ 3 On January 25, 2018, defendant was arrested in Romeoville, Will County, Illinois, after an encounter with the police and charged with obstructing justice, a Class 4 felony. A bill of indictment was later filed. The indictment alleged that defendant had committed the offense by furnishing false information—a false name and date of birth—with the intent to prevent himself from being apprehended on an outstanding warrant.

¶ 4 Defendant's case proceeded to a jury trial in April 2019. The trial took two days to complete. Defendant was present in court for the trial and was represented by his appointed attorney. During the trial, the State presented the testimony of three witnesses. The first witness to testify for the State was Romeoville police officer, Francisco Garcia. Garcia testified that on January 25, 2018, shortly after 1 a.m., he was dispatched to a single-story home on Macon Avenue for a burglar alarm going off. Garcia arrived at the home the same time as Officer Jason Jandura.[2] The burglar alarm was no longer sounding at that time. Garcia and Jandura began checking the doors and windows of the home. They saw no sign of forced entry.

¶ 5 Garcia went around to the back of the home and saw that the rear sliding glass door was closed but unlocked. Garcia checked the door to see if it would open, and the burglar alarm went off again. Garcia closed the door, and a black male individual, who Garcia identified in court as defendant, came to the rear window. Defendant had nothing in his hands and was barefooted.

[2]Officer Jandura's first name was not provided in his testimony but was listed in the bill of indictment.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

¶ 6 Garcia asked defendant if he lived at the residence, and defendant said, "no." Jandura came to the back of the home at that point because Garcia had told Jandura that there was a person inside. Garcia and Jandura asked defendant for his name, and defendant replied that he did not have to give them anything. The officers asked defendant for his identification, and defendant said that he did not have one. The officers explained to defendant that they were at the home because of the burglar alarm and that they only needed to identify defendant and make sure that defendant had permission to be at the home. The officers asked defendant if he owned the home, and defendant stated that he did not. Jandura asked defendant who lived at the home, and defendant stated, "Jessica." Jandura asked where Jessica was located, and defendant replied that she was five hours away. Defendant refused to call Jessica or to give Garcia Jessica's phone number. Defendant did, however, give Jessica's number to another officer at the scene.

¶ 7 Garcia attempted to detain defendant with handcuffs until he could determine the status of the situation. As Garcia did so, defendant pulled back, went inside the residence, took a cell phone out of his pocket, and began recording the encounter. Defendant told the officers to get out of the house and started speaking into the phone. Garcia called for backup.

¶ 8 Defendant told the officers that he was going back to sleep, but Garcia blocked defendant's path to the bedroom. After backup officers arrived and talked to defendant, the officers asked defendant for identification. Defendant attempted to walk past Garcia on two occasions and bumped into Garcia. Garcia would not let defendant pass and grabbed defendant's left hand. Defendant started to resist by tensing up his arms so the other officers assisted in detaining defendant.

¶ 9 The second witness to testify for the State was Romeoville police officer Jason Jandura. Jandura's testimony, for the most part, was similar to that of Garcia. In addition to the

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

information provided by Garcia, Jandura testified that after he arrived at the home, he went up to the front door and Garcia went around to the back. Jandura knocked on the front door and rang the doorbell several times, but no one answered. Garcia informed Jandura that the back of the home was unlocked so Jandura went around to the back. That was where the encounter with defendant occurred.

¶ 10 During the encounter, after Jandura and Garcia had been speaking to defendant for a few minutes, they went into the home through the open door without being invited because they were investigating a crime. After the officers were inside, defendant still refused to give the officers his name. Jandura asked defendant multiple times to give the officers the homeowner's phone number or to contact the homeowner himself so that the officers could verify that defendant had permission to be at the home, but defendant refused. Instead, defendant pulled out his cell phone and began recording himself stating that he did not have to tell the officers anything and that he wanted the officers out of the home. After defendant bumped Garcia, the other officers grabbed defendant and took defendant to the floor.

¶ 11 The entire encounter inside the home lasted about 10 to 15 minutes before the officers took defendant to the floor and placed defendant in handcuffs. According to Jandura, defendant was very agitated and uncooperative throughout the encounter. Defendant was yelling at the officers and telling the officers to get out and that he did not have to give the officers any information.

¶ 12 Defendant was eventually taken to the police station. At the station, defendant refused to allow the officers to fingerprint or photograph him. Defendant complained that his wrists hurt and that he could not move them. The fire department was contacted to treat defendant, but defendant refused treatment and only requested ice.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

¶ 13 During the booking process, defendant told the officers that his name was "Sean Williams" and that his date of birth was June 7, 1989. The officers ran a computer check on that information but nothing came back. After speaking to a supervisor, defendant eventually allowed the officers to take his fingerprints and photograph. Jandura was not sure how long defendant had been at the police station before that occurred but stated that "[i]t was more than minutes."

¶ 14 The State's third witness, Romeoville police officer James Myers, testified that he was one of the backup officers who responded to the home during the incident. The testimony of Myers was generally similar to that of Garcia and Jandura. In addition to the information that Garcia and Jandura provided, Myers testified that when he arrived at the home, Garcia and Jandura were in the back of the home in the kitchen with defendant. Defendant seemed agitated and was yelling—stating that he did not live at the home and that he did not have to tell the officers anything. Defendant tried to walk into the living room area, but Garcia was standing in the doorway. Garcia told defendant to step back. Defendant kept walking and used his arm to push Garcia. Defendant backed up slightly and then continued to move forward toward Garcia. As defendant and Garcia were standing chest to chest, Myers grabbed defendant by the arm and told defendant to put his hands behind his back and that he was under arrest.

¶ 15 While Myers and some of the other officers tried to place defendant under arrest, defendant was flaying his arms and trying to break free from Myers's grip. Myers delivered two knee strikes to defendant's leg. Defendant and the officers fell to the ground, and the officers were able to handcuff defendant.

¶ 16 After defendant was arrested, Myers stayed at the scene and spoke to the homeowner's friend, Amanda Reeves, who had voluntarily come to the home. Reeves told Myers the name of the homeowner and confirmed that the homeowner was out of town. Reeves stated that she knew

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

defendant as "Sean" and indicated that she had social media pertaining to defendant. Reeves did not state at any point, however, that defendant was not allowed to be at the home.

¶ 17 Myers later returned to the police department. The officers were booking defendant at that time. Defendant told the officers that his name was "Sean Williams." The officers ran that name through the police computer, but no person with that name was found. Using the social media information that he had received from Reeves, Myers was able to infer that defendant's name was Shaquille Prince. Myers conducted an Internet search of that name and some of the cities in the area, and the first hit he received directed him to the Du Page County Sheriff's website. The suspect depicted in the sheriff's website appeared to be defendant—the same person that the Romeoville police had in custody. Myers learned that defendant had an active arrest warrant out of Du Page County that had been issued on January 8, 2018. A copy of that arrest warrant was identified by Myers during his testimony and was admitted into evidence without objection.

¶ 18 Myers testified further that later in the morning on January 25, 2018, at about 5 a.m., he was able to make contact with the owner of the Macon Avenue home. By that time, however, the officers had already determined defendant's real name and date of birth.

¶ 19 After the State rested, defendant testified in his own behalf. Defendant indicated that he met Jessica Dickinson, the owner of the Macon Avenue home, on a dating app while he was using the name, "Sean Williams." Defendant did not use his real name on the app because he previously had a bad experience and had some "stalkers" from the app come to his home.

¶ 20 On January 24, 2018, the day before the police encounter in the present case, defendant had spent the day with Dickinson at her home. By that time, defendant and Dickinson had known

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

each other for a few months, had been dating, and had a great relationship. At about 9 p.m., Dickinson left with her parents to go to her parents' home in Louisiana.

¶ 21 Defendant was staying the night at Dickinson's home. At about midnight, defendant left and went to the gym. Defendant returned at about 1 a.m. and opened the door with the key that Dickinson had given him. As defendant did so, the burglar alarm went off. Defendant texted and called Dickinson to turn off the alarm remotely. The alarm stopped two minutes later, and defendant assumed that Dickinson had turned off the alarm.

¶ 22 Defendant washed up, ate, and went to bed. As defendant was sleeping, he awoke to a flashlight shining through the bedroom window. Defendant grabbed his cell phone because he was not sure what was happening and got someone to be on the cell phone with him. The burglar alarm sounded again. As defendant left the bedroom, he could see that the front door was closed and that none of the windows were altered. Defendant went to the kitchen where the sliding glass door to the back of the home was located and saw that there were police officers in the backyard.

¶ 23 Defendant opened the sliding glass door to the officers. Defendant was wearing underwear, a tank top, and a bonnet in his hair at the time. As soon as defendant opened the door, Garcia called for backup. The officers asked defendant his name, and defendant told the officers that his name was Shaquille Prince. Jandura took out a notepad and wrote down defendant's name. Garcia told defendant that he did not believe that defendant lived at the home and asked defendant if he had any identification. Defendant told Garcia that he had identification in his wallet and that he would go and get it. Garcia directed defendant to stay where he was at until the police had figured out the situation. Defendant complied.

¶ 24 In response to additional questions from the police, defendant provided the officers with the name, address, and phone number of the homeowner (Dickinson). Even though defendant

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

had done so, the officers proceeded to enter the home. The officers were saying things, "egging [defendant] on," and trying to get defendant to react. Defendant did not react, did not stop the officers from coming into the home, and did not tell the officers to leave, although he did tell the officers that he did not want them to be at the home.

¶ 25 Defendant testified further that he was initially cooperative with the police and had told the police he had been living at the Macon Avenue home for a few months and had some of his belongings at the home. Defendant started recording the officers on his phone. About four or five additional officers came into the home, and defendant told the officers he would not provide any further information after he gave the officers his name. According to defendant, the officers were making jokes about whether defendant lived in the home and about defendant's last name.

¶ 26 At one point, one of the officers who was present at the scene but who did not testify at defendant's trial grabbed defendant's neck and choked him. The other officers started yelling at defendant to stop resisting and then violently took defendant down to the floor. Defendant was handcuffed on the floor with an officer's knee in his back and an officer's boot on his head. After handcuffing defendant, the officers searched the entire home and found defendant's wallet with defendant's identification inside.

¶ 27 During his testimony, defendant denied that he had resisted the officers, that he had tried to push past any of the officers, or that he had told the officers that he was going back to sleep. Defendant acknowledged during his testimony that his name was Shaquille Prince and that his date of birth was March 6, 1995, and denied that he had told the police his name was Sean Williams and that his birthdate was June 7, 1989.

¶ 28 Defendant also testified that he did not know on January 25, 2018, that there was a warrant out for his arrest. The warrant had been issued for an alleged failure to appear in court on

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

a retail theft case in Du Page County that had been pending since 2016. Defendant knew that as part of that case, he had to appear for his court dates but denied that he had failed to appear for a court date in that case shortly before his arrest in the current case. Defendant ultimately resolved that case with a conviction for retail theft.

¶ 29 Upon the completion of defendant's testimony, the attorneys gave their closing arguments, the trial court instructed the jury on the law, and the jury started its deliberations. After deliberating for a little over an hour, the jury informed the trial court that it was unable to reach a verdict. The trial court gave the jury a *Prim* instruction (see *People v. Prim*, 53 Ill. 2d 62, 75-77 (1972)) and told the jury to continue its deliberations. The jury deliberated further and found defendant guilty of obstructing justice.

¶ 30 Following the jury's verdict, posttrial motions were filed by both defendant *pro se* and by defense counsel. Attached to defendant's motion were various documents from the court in Du Page County, which tended to indicate that the outstanding warrant for defendant's arrest had been issued in error and was subsequently vacated. Those documents were not presented as evidence in defendant's jury trial. Defendant requested to discharge his attorney and to be allowed to represent himself. The trial court eventually granted that request. After hearings were later held, the trial court denied defendant's motion for new trial and sentenced defendant to a period of conditional discharge and county jail time.

¶ 31 Defendant appealed. On appeal, defendant submitted in the appendix to his brief a court order dated June 2019 from defendant's Du Page County retail theft case. The court order stated, among other things, that the previous outstanding warrant for defendant's arrest had been issued in error. Defendant asked this court to take judicial notice of that court order in this appeal.

¶ 32 II. ANALYSIS

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

¶ 33 On appeal, defendant argues that he was not proven guilty beyond a reasonable doubt of obstructing justice. Defendant asserts that the State failed to prove the second and third elements of the offense—that defendant gave the false information to the police with the intent to prevent himself from being apprehended on the outstanding warrant and that defendant materially impeded the administration of justice by giving the false information. More specifically, as to the second element of the offense, defendant asserts that the State failed to prove that defendant even knew about the outstanding warrant, let alone that defendant acted with the intent to prevent himself from being apprehended on that warrant. In making that assertion, defendant points out that the warrant was later vacated after it was determined that it had been issued in error. Defendant also suggests that rather than intending to prevent his own apprehension on the outstanding warrant, it was entirely possible that he told the police his name was Sean Williams because he did not want his girlfriend (Dickinson) to find out his real name or because he wanted his girlfriend to know who the police were talking about since he had told his girlfriend that his name was Sean Williams. As to the third element, the material impediment element, defendant asserts that the State failed to prove that element in this case as the evidence showed that defendant had already been arrested and was at the police station when he gave the false name to the police; that the police were quickly able to determine, without any delay, that defendant had given a false name; and that there was no risk that the police would mistakenly release defendant before they learned his true identity since the police were holding defendant until they heard back from the homeowner. As further error in this case, defendant also points out that the jury was never instructed about the material impediment element. Based upon the alleged insufficiency of the evidence, defendant asks that we reverse outright his conviction of obstructing justice.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

¶ 34 The State agrees with defendant that the proof of the third element (the material impediment element) was insufficient but argues that the appropriate remedy is to remand defendant's case for a new trial, rather than to reverse defendant's conviction outright. In support of that argument, the State asserts that (1) contrary to defendant's contention, the evidence presented at trial was sufficient to prove the second element of the offense (that defendant knew there was an outstanding warrant for his arrest and gave the police a false name to try to avoid being apprehended on that warrant) beyond a reasonable doubt and (2) the supreme court in *People v. Casler*, 2020 IL 125117, ¶ 69, the case that added the third element to the offense of obstructing justice by giving false information, remanded the case for a new trial, rather than reversing defendant's conviction outright, where, as in the present case, the defendant's jury had not been instructed on the third element. For those reasons, the State asks that we reverse defendant's conviction of obstructing justice and that we remand this case for a new trial.

¶ 35 Defendant replies that a new trial is not warranted here because unlike in *Casler*, this is not a case where evidence of material impediment was excluded by the trial court. See *id.* ¶¶ 62-64. To the contrary, defendant maintains, in this case, the evidence that the State presented showed that there was no material impediment. Defendant again asks, therefore, that we reverse outright his conviction of obstructing justice.

¶ 36 When faced with a challenge to the sufficiency of the evidence in a criminal case, the standard of review that the reviewing court applies is the *Collins* standard (*People v. Collins*, 106 Ill. 2d 237, 261 (1985))—the reviewing court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found the elements of the crime proven beyond a reasonable doubt. *People v. Austin M.*, 2012 IL 111194, ¶ 107; *People v. Jackson*, 232 Ill. 2d 246, 280 (2009). In applying the *Collins* standard, the reviewing

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

court must allow all reasonable inferences from the record in favor of the prosecution. *People v. Bush*, 214 Ill. 2d 318, 326 (2005). The reviewing court will not retry the defendant. *Austin M.*, 2012 IL 111194, ¶ 107. Determinations of witness credibility, the weight to be given testimony, and the reasonable inferences to be drawn from the evidence are responsibilities of the trier of fact, not the reviewing court. *People v. Jimerson*, 127 Ill. 2d 12, 43 (1989). Thus, the *Collins* standard of review fully recognizes that it is the trier of fact's responsibility to fairly resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts. See *Jackson*, 232 Ill. 2d at 281. That same standard of review is applied by the reviewing court regardless of whether the evidence is direct or circumstantial, or whether defendant received a bench or a jury trial, and circumstantial evidence meeting that standard is sufficient to sustain a criminal conviction. *Id.*; *People v. Kotlarz*, 193 Ill. 2d 272, 298 (2000). When applying the *Collins* standard, a reviewing court will not reverse a conviction unless the evidence is so improbable, unsatisfactory, or inconclusive that it leaves a reasonable doubt of the defendant's guilt. *Austin M.*, 2012 IL 111194, ¶ 107.

¶ 37 To prevail on a charge of obstructing justice by giving false information as alleged in the instant case, the State must prove the following three elements beyond a reasonable doubt: (1) that the defendant knowingly furnished false information (in this case, a false name and date of birth); (2) that the defendant did so with the intent to prevent the apprehension of any person (in this case, defendant himself on the outstanding warrant); and (3) that the false information materially impeded the administration of justice. See 720 ILCS 5/31-4(a)(1) (West 2018); *Casler*, 2020 IL 125117, ¶ 69. As the State's argument here indicates, the third element (material impediment) was only just recently made, or confirmed as, a required element of the offense under the law when the supreme court issued its decision in *Casler* in October 2020 and

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

interpreted the obstructing justice statute to include a material impediment element when a person commits the offense by furnishing false information to the police. See *Casler*, 2020 IL 125117, ¶ 69.

¶ 38 With regard to whether the remaining elements of the offense were sufficiently proven in this case, it is clear from the statute and the case law that the State must do more than merely show that the defendant gave false information to the police to prove that the offense was committed. See 720 ILCS 5/31-4(a)(1) (West 2018); *People v. Gray*, 146 Ill. App. 3d 714, 717 (1986). The State must also show that the defendant possessed the requisite intent when the false information was provided (that the defendant gave the false information with the intent to prevent the apprehension of any person). See 720 ILCS 5/31-4(a)(1) (West 2018); *Gray*, 146 Ill. App. 3d at 717. The defendant's intent need not be proven by direct evidence and may be inferred from the surrounding circumstances. *Gray*, 146 Ill. App. 3d at 717. Furthermore, the determination of whether obstructing justice has been committed is not dependent upon the outcome of the prosecution alleged to have been obstructed. *Id.* at 716.

¶ 39 In the present case, when we review the evidence presented at defendant's jury trial in the light most favorable to the prosecution, we find that the evidence was sufficient to establish the first two elements of the offense but not the third element. With regard to the first element, Jandura and Myers both testified that defendant gave a false name at the police station. Jandura also testified that defendant gave a false date of birth. Although defendant testified to the contrary, it was for the jury as the trier of fact to assess the credibility of the witnesses and to determine which version of the facts to believe. See *Jimerson*, 127 Ill. 2d at 43. Taken in the light most favorable to the State, the evidence on the first element was not so improbable, unsatisfactory, or inconclusive that it leaves a reasonable doubt of the defendant's guilt. See

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

Austin M., 2012 IL 111194, ¶ 107. Indeed, defendant does not challenge the sufficiency of the evidence as to the first element here.

¶ 40 Turning to the second element of the offense, the evidence presented at defendant's jury trial established that a warrant for defendant's arrest had been issued in Du Page County on January 8, 2018, more than two weeks before defendant's encounter with the police in the present case. Defendant knew that he had a court case in Du Page County and knew that he had to appear in court for his court dates in that case. During the instant encounter, according to the police officers that testified, defendant was highly agitated and uncooperative. Even though defendant had heard the sounding of the burglar alarm and the police officers had explained to defendant their purpose for being at the home, defendant refused to provide police with his name or the name of the homeowner and refused to contact the homeowner or to allow the police to contact the homeowner so that defendant's permission to be at the home could be verified. After being taken to the police station, defendant persisted in his refusal to provide information and also refused to allow the officers to photograph or fingerprint him. When defendant finally decided to furnish the information, he allegedly provided a false name and a false birthdate to the officers. It was the jury's role as the trier of fact to consider the timing of when the arrest warrant was issued and the level of defendant's alleged agitation and uncooperative behavior in the present case and determine whether those facts created a reasonable inference that defendant was aware that a warrant had been issued for his arrest and that he had given the police a false name and date of birth to try to avoid his apprehension on that warrant. See *Jimerson*, 127 Ill. 2d at 43; *Gray*, 146 Ill. App. 3d at 717. Although defendant testified at trial that he was not aware that a warrant had been issued, it was again for the jury as the trier of fact to determine whether to believe defendant's testimony in that regard (see *Jimerson*, 127 Ill. 2d at 43), and we cannot find

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

that the evidence presented on the second element, when taken in the light most favorable to the State, was so improbable, unsatisfactory, or inconclusive that it leaves a reasonable doubt of the defendant's guilt (see *Austin M.*, 2012 IL 111194, ¶ 107). The documentation from Du Page County, which indicated that the outstanding warrant had been issued in error and was later vacated (or quashed and recalled), has no bearing on our conclusion in that regard since those documents were not presented as evidence to the jury in defendant's jury trial.

¶ 41 Finally, as for the third element, although we agree with the parties that sufficient proof was not presented, we recognize that the third element was not made a required element under the law until approximately 18 months after the trial in this case when the supreme court issued its decision in *Casler*. See *Casler*, 2020 IL 125117, ¶ 69. We, therefore, find that the appropriate remedy in this case, as in *Casler*, is to reverse defendant's conviction and to remand for a new trial. See *id.* ¶¶ 66-67 (recognizing that double jeopardy concerns did not prevent a retrial of the defendant when the evidence presented at the defendant's trial had been rendered insufficient by a posttrial change in the law and not by the State's failure to present sufficient evidence).

¶ 42 III. CONCLUSION

¶ 43 For the foregoing reasons, we reverse defendant's conviction of obstructing justice and remand this case for a new trial.

¶ 44 Reversed and remanded.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

No. 3-19-0440

Cite as:	*People v. Prince*, 2021 IL App (3d) 190440
Decision Under Review:	Appeal from the Circuit Court of Will County, No. 18-CF-194; the Hon. Daniel L. Kennedy, Judge, presiding.
Attorneys for Appellant:	James E. Chadd, Douglas R. Hoff, and S. Emily Hartman, of State Appellate Defender's Office, of Chicago, for appellant.
Attorneys for Appellee:	James W. Glasgow, State's Attorney, of Joliet (Patrick Delfino, Thomas D. Arado, and Korin I. Navarro, of State's Attorneys Appellate Prosecutor's Office, of counsel), for the People.

SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

NOTICE OF APPEAL

APPEAL TAKEN FROM THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN WILL COUNTY, ILLINOIS

APPEAL TAKEN TO THE APPELLATE COURT, THIRD JUDICIAL DISTRICT, ILLINOIS

The People of the State of Illinois

Plaintiffs-Appellees,
-vs-
SHAQUILLE P. PRINCE
Defendant-Appellant

Case No. 18CF194

☐ Joining Prior Appeal / ☑ Separate Appeal / ☐ Cross Appeal
(Mark One)

FILED
19 JUL 24 PM 12: 12
CLERK CIRCUIT COURT
WILL COUNTY, ILLINOIS

An appeal is taken from the Order of Judgment described below:

(1) Court to which appeal is taken is the Appellate Court.

(2) Name of Appellant and address to which notices shall be sent.
NAME: SHAQUILLE P. PRINCE
ADDRESS: 150 N. MAIN ST. SYCAMORE, IL 60178

(3) Name and address of Appellant's Attorney on appeal.
NAME: Peter A. Carusona, Deputy Defender
Office of the State Appellate Defender
Third Judicial District
770 E. Etna Rd.
Ottawa, Illinois 61350
If Appellant is indigent and has no attorney, does he/she want one appointed?
yes

(4) Date of Judgment or Order: 7/23/2019
(a) Sentencing Date: 7/23/2019
(b) Motion for New Trial: 7/23/2019
(c) Motion to Vacate Guilty Plea: n/a
(d) Other:

(5) Offense of which convicted:
OBSTRUCTING JUSTICE

(6) Sentence:
24 MONTHS CONDITIONAL DISCHARGE

(7) If appeal is not from a conviction, nature of order appealed from:

(8) If the appeal is from a judgment of a circuit court holding unconstitutional a statute of the United States or of this state, a copy of the court's findings made in compliance with Rule 18 shall be appended to the notice of appeal.

(Signed) Andrea Lynn Chasteen / JLLZ
(May be signed by appellant, attorney, or clerk of circuit court.)
ANDREA LYNN CHASTEEN
Clerk of the Circuit Court
NOAPL

cc: State's Attorney
Attorney General

07/25/19 08:15:09 CH

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SUBMITTED - 18847069 - Carol Chatman - 7/27/2022 2:48 PM

No. 127828

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- SHAQUILLE P. PRINCE, Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, No. 3-19-0440. There on appeal from the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, No. 18 CF 194. Honorable Daniel Kennedy, Judge Presiding.

NOTICE AND PROOF OF SERVICE

Mr. Kwame Raoul, Attorney General, 100 W. Randolph St., 12th Floor, Chicago, IL 60601, eserve.criminalappeals@ilag.gov;

Mr. Thomas D. Arado, Deputy Director, State's Attorneys Appellate Prosecutor, 628 Columbus, Suite 300, Ottawa, IL 61350, 3rddistrict@ilsaap.org;

James Glasgow, Will County State's Attorney, 121 N. Chicago St., Joliet, IL 60432;

Mr. Shaquille Prince, 420 Haish Blvd, Apt 1, DeKalb, IL 60115

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 July 27, 2022, 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 Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

/s/Carol M. Chatman
LEGAL SECRETARY
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Chicago, IL 60601
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