No. 131187

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. KATRINA DOBBINS, AS ADMINISTRATOR OF THE ESTATE OF GREGORY DOBBINS, Petitioner-Appellant.	)	On Appeal from the Appellate Court of Illinois, First Judicial District, Case No. 1-23-0566. There Heard on Appeal from the Circuit Court of Cook County, Illinois, Criminal Division, Case No. 08 CR 11379(01) The Honorable Erica L. Reddick, Judge Presiding.

APPELLANT'S REPLY BRIEF

Debra Loevy
Joshua Tepfer
THE EXONERATION PROJECT
311 N. Aberdeen Street, 3rd Floor
Chicago, IL 60607
(312) 789-4955
debra@exonerationproject.org
josh@exonerationproject.org
Attorney No. 44407

Attorneys for Appellant

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CYNTHIA A. GRANT
SUPREME COURT CLERK

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ARGUMENT

It is undisputed that State actors—a Chicago Police Sergeant and his rogue crew—framed Gregory Dobbins for a crime he did not commit as part of their own drug ring conspiracy and caused his wrongful conviction. *See, e.g.,* Supp. C. 30 (court calling the scandal that ensnared Mr. Dobbins "one of the most staggering cases of police corruption in the history of the City of Chicago."); A.2, ¶ 5 (appellate court describing that it "amounted to one of the most momentous examples of police corruption in Chicago history."). The State conceded that this occurred, and over 230 adult felony convictions were overturned along with Mr. Dobbins'. R.9. All those exonerees received a Certificate of Innocence ("COI") except for him. R.9. In this context, depriving Mr. Dobbins' family of the much-needed relief promised by the Legislature because of the vagaries of the lower court's scheduling calendar *vis a vis* his untimely death seems unnecessarily cruel. Had the circuit court been available to grant Mr. Dobbins' COI petition two weeks earlier, his family would have received the compensation due.

The appellate court wanted to grant relief after conducting its legal analysis, but it lacked supervisory authority to do so. *See* A.2, ¶ 3, A.7, ¶ 26 (acknowledging the "unfortunate result," of its ruling and that it "would prefer to rule otherwise"). This Court has the supervisory authority to right this wrong, and Petitioner humbly asks the Court for relief. *See People v. Coty*, 2020 IL 123972, ¶ 49 (Court's supervisory authority "is unlimited in extent and hampered by no specific rules or means for its exercise. It is an unequivocal grant of power."). There is statutory support for this request, but regardless, the State's brief fails to address, much less refute, that retroactively awarding a COI is simply the right and decent thing to do under the unique circumstances of this case.

I. The Statutes' Purposes and the Interest of Justice Align to Warrant a Supervisory Order Granting Mr. Dobbins' Certificate of Innocence

The State's brief does not refute that the situation before the Court warrants relief, if only the Court can find a vehicle for providing it. In other words, the State posits no arguments opposing the equities of awarding Mr. Dobbins' estate—his partner and their young children—his COI to redress his wrongful conviction. Instead, the State argues that justice interests aside, there is simply no mechanism for providing relief. The State is wrong. The simplest vehicle, of course, is exercise of this Court's supervisory authority.

The State concedes that the Survival Act "is remedial in nature and liberally construed to prevent abatement," which is consistent with this Court's longstanding common law disapproval of abatement. *See* St. Br. at 18 (citing *Walter v. Board of Education*, 93 Ill.2d 101, 108 (1982)); A.5, ¶ 20; Op. Br. at 11 (citing *McDaniel v. Bullard*, 34 Ill.2d 487, 492 (1966); *Williams v. Palmer*, 177 Ill. App. 3d 799, 803 (3d Dist. 1988); *Baksh v. Human Rights Comm'n*, 304 Ill. App. 3d 995, 1001 (1st Dist. 1999); *Wasleff v. Dever*, 194 Ill. App. 3d 147, 152 (1st Dist. 1990); *Murphy v. Martin Oil Co.*, 56 Ill.2d 423 (1974)); *see also Bryant v. Kroger Co.*, 212 Ill. App. 3d 335 (3d Dist. 1991); *Tunnell v. Edwardsville Intelligencer, Inc.*, 43 Ill.2d 239, 243-44 (1969).

And the State does not refute that both the stated purpose of the COI statute and its legislative history emphatically support the statute's intent to make the process of receiving COI relief as simple and streamlined as possible. *See* Op. Br. at 7-8, discussing 735 ILCS § 5/2-702(a); 95th Ill. Gen. Assem., House Proceedings, May 18, 2007, Representative Flowers at 12-13; Illinois House Transcript, 2013 Reg. Sess. No. 66 (May 29, 2013, statement of Rep. Monique Davis); Illinois House Transcript, 2013 Reg. Sess. No. 44 (April 19, 2013, statement of Rep. Monique Davis).

Additionally, the State concedes that this Court "has broad supervisory authority over all lower courts in the State." St. Br. at 38 (citing Ill. Const. 1970, art. VI, § 16); *see also* Op. Br. at 10; *Coty*, 2020 IL 123972, at ¶ 49 (Court's supervisory authority "is unlimited in extent and hampered by no specific rules or means for its exercise. It is an unequivocal grant of power."). This Court could use its expansive supervisory authority to honor both its longstanding disapproval of abatement and the COI statute's support for granting simple relief to the wrongfully convicted.

Specifically, this Court could either simply grant the COI itself or order the lower court to grant the COI dated two weeks before the hearing date, prior to Mr. Dobbins' death. *Id.; see also People ex rel. Ryan v. Roe*, 201 Ill.2d 552, 558 (2002) (the Court exercising its supervisory authority to implement "an equitable solution" to a sentencing challenge); *Clark v. Tap Pharm. Products, Inc.*, 201 Ill.2d 562 (2002) (the Court exercising supervisory authority to direct the lower court in light of "the unique facts and circumstances of this case and the equitable considerations inherent therein"); *Charles Austin, Ltd. v. A-1 Food Services, Inc.*, 2014 IL App (1st) 132384, ¶ 18 (discussing this Court exercising supervisory authority "on the basis of the court's equitable powers to prevent an injustice"); *People v. Lyles*, 217 Ill.2d 210, 220 (2005) (the Court exercising its supervisory authority to reinstate an appeal despite jurisdictional bar that prohibited the lower courts from ordering such relief); *People v. Ruiz*, 194 Ill.2d 454, 459 (2000) (the Court exercising supervisory authority to allow State appeal of issue even though it was not within "the range of State appeals authorized by our rules").

In opposition to this simple, just solution, the State says nothing about the equities and instead erects and slays a strawman, arguing that the Court may not use its

supervisory authority here because that authority does not extend to enacting and amending statutes. St. Br. at 38-39. However, Petitioner seeks no amendment of the COI statute or the Survival Act.

The State's argument hinges on a fallacy of its own creation: the State claims, without citation, "The General Assembly has determined that a COI action does not survive the unjustly imprisoned person's death" and argues that circumventing that "determination" amounts to effectively "rewriting" the statute. St. Br. at 39. *See also* St. Br. at 41 (again asserting that the General Assembly "decid[ed] that COI actions do not survive," and again omitting a citation supporting that contention); St. Br. at 8 (again asserting, "the legislature determined that a COI action does not survive the deceased petitioner's death," and again failing to include any citation for this claim). But repetition does not make it true: the General Assembly has made never made the claimed "determination" (hence the State's repeated lack of citation).[1]

Instead, the proffered solution of a backdated order does not expressly conflict with the plain language of any statute (*see* Argument II), and it would allow this Court to act justly and provide relief, irrespective of how the statutes at issue should be interpreted together. Indeed, the State spends the bulk of its brief asking this Court not to adjudicate

[1] The closest the State comes to a cite for the General Assembly's supposed "decision" to rule that a Certificate of Innocence does not survive is its contention that the Survival Act was expanded on August 11, 2023, to allow punitive damages but made no mention of COI claims. *See* St. Br. at 41; 2023 Ill. Legis. Serv. P.A. 103-514 (H.B. 219). But the appellate court ruling in this case was not issued until September 30, 2024, a year after that amendment. A.1. There is no reason why the Legislature should have preemptively anticipated the court's ruling and proactively addressed the issue while considering the viability of punitive damages under the Survival Act. Indeed, it is doubtful that, even now, the issue of how the COI statute and the Survival Act relate is on the Legislature's radar. The Legislature's 2023 amendment is in no way tantamount to a legislative pronouncement that an accrued and filed COI does not survive a petitioner's death.

the statutory interpretation question before it. *See* St. Br. at 8-18. Exercise of supervisory authority would obviate the need to make sweeping rules in a case with such particular facts, while also honoring both the Legislature's intentions and the interests of justice.

There has never been any dispute below that Mr. Dobbins' filed petition met all the COI requirements, that the State conceded his entitlement to a COI when he was alive, or that the circuit court required no further evidentiary proof for his COI to issue. Nevertheless, in trying to distinguish *Tunnell*, 43 Ill.2d at 243-44 (no abatement where all factual questions were resolved before the plaintiff died and "the reviewing court is in a position to determine the controversy on the merits"), and *In re Marriage of Davies*, 95 Ill.2d 474, 479 (1983) (no abatement when "proceedings are ripe for judgment" before the death), the State disingenuously posits for the first time, "Nothing in the record suggests that the court had determined that [Mr. Dobbins] had satisfied the statutory requirements to obtain a COI." St. Br. at 11. The State deceptively calls it a mere "prediction" that COI proceedings would have gone in Mr. Dobbins' favor had he survived. St. Br. at 12; *see also Id.* (arguing that the court "never decided" whether Mr. Dobbins had satisfied the statutory requirements for a COI).

There have been over 230 adult felony convictions overturned based on Watts and his police officer-accomplices' illegal conduct, and every single one received an uncontested COI—Mr. Dobbins is the only adult exoneree who did not receive a COI. C.310; R.9. When Mr. Dobbins' petition was heard on June 22, 2023, the court granted the petitions of all twenty-seven of the other Watts-related exonerees' petitions who were before the court that day, with no opposition from the State. C.311. As with the other Watts exonerees, the State indicated that it was not intervening to contest Mr. Dobbins'

petition for a COI. R.9. To suggest that Mr. Dobbins' petition would have had a merits problems is patently false.

Failing to recognize this Court's vast supervisory authority, the State's only other argument in opposition to the relief sought here focuses on whether this Court could require the lower court to enter an order labelled "*nunc pro tunc*." The State contends that the *nunc pro tunc* label is a poor fit because that doctrine refers to the correction of clerical errors, not judicial errors. St. Br. at 39-40. But whether this Court attaches that particular Latin phrase to the relief is of no importance; it is the court action warranted that matters. The Court could simply grant the COI. Or the Court could order the lower court to grant the relief backdated, regardless of what this action is named.

The limits this Court has placed on when *nunc pro tunc* relief may be granted are only legally significant because that is a type of relief that lower courts are permitted to issue without this Court's supervisory authority. *See, e.g.,* 27A Ill. Law and Prac. Motions and Orders § 9 ("The trial court has inherent authority to enter *nunc pro tunc* order"). Accordingly, if this Court finds that the phrase would be inaccurate or confusing here, it could just call its relief a supervisory order and leave it at that. The *nunc pro tunc* doctrine is merely useful because it demonstrates that it is routine for courts to date an order earlier when justice warrants doing so, thus such relief is well within this Court's supervisory authority, regardless of what the Court ultimately chooses to call it.

While bogged down with these semantics, the State's brief notably concedes the equities. ILL. SUP. CT. R. 341(h)(7) ("Points not argued are forfeited"); *Macknin v. Macknin*, 404 Ill. App. 3d 520, 528 (2d Dist. 2010) ("appellee's failure to respond to an argument raised in the appellant's brief may constitute a concession."). Mr. Dobbins was

framed by corrupt police officers, wrongfully served time in prison, and was unable to support his family as a result. Petitioner was Mr. Dobbins' life partner and was there with him when he was wrongfully arrested in 2008 by Sergeant Watts and Watts' corrupt crew. C.311. She was pregnant with Mr. Dobbins' child during his prosecution, and Mr. Dobbins was wrongfully incarcerated for their newborn child's infancy. *Id.* This caused a severe emotional strain on their family and the unwarranted loss of access to a nurturing parent. *Id.* It also caused real financial strain, as the family lost earnings from Mr. Dobbins during his incarceration and lost access to a second parent for childcare, forcing Petitioner to stop working. *Id.*

Exercising this Court's supervisory authority to allow Mr. Dobbins' family to collect the benefits of his COI is a just result. *See, e.g., Tunnell*, 43 Ill.2d at 243-44 (where the entitlement to relief was clear because, like here, "all factual questions had been resolved before the plaintiff died. No new trial is involved, and the reviewing court is in a position to determine the controversy on the merits," the plaintiff's death did not abate the action); *Patton v. Denver Post Corp.*, 326 F.3d 1148, 1152-54 (10th Cir. 2003) (allowing posthumous qualified domestic relations order to be entered so wife could receive survivor benefits); *Hogan v. Raytheon, Co.*, 302 F.3d 854, 857 (8th Cir. 2002) (domestic relations order awarding former spouse of deceased employee half of employee's ERISA benefits was valid even though employee died before entry of order); *Davies*, 95 Ill.2d at 479. Petitioner respectfully asks this Court to exercise its supervisory authority and grant just relief.

II. Alternatively, this Court Should Find that an Accrued, Filed, and Uncontested COI Claim is Among the Types of Actions that Survives Under the Illinois Survival Act

A. This Court Can Review the Statutory Interpretation Question Posed

This appeal presents the Court with a statutory interpretation question of first impression: can an accrued, filed, uncontested claim under the COI statute survive a petitioner's death under the Illinois Survival Act? The State strives hard to discourage this Court from answering that question. *See* St. Br. at 8-18.

First, Argument I of the State's brief contends that even though the appellate court's review was *de novo* (A.4, ¶ 16) and was based exclusively on the appellate court's interpretation of the interplay between the Survival Act and the COI statute (A.4-7, ¶¶ 18-26), the circuit court's finding that the common law does not support survival of COI claims dictates the outcome of this appeal. St. Br. at 8-13. That is a nonstarter.

The State seeks to force Petitioner to defend the estate's entitlement to relief based strictly on: (1) a single, cursorily-reasoned, twelve-year-old appellate court decision, *Rudy v. People*, 2013 IL App (1st) 113449, that did not consider the Survival Act's application at all; or (2) the common law abatement exception announced in *Tunnell*, 43 Ill.2d at 243-44 (no abatement where all factual questions were resolved before the plaintiff died and "the reviewing court is in a position to determine the controversy on the merits"). *See* St. Br. at 4-5, 8-12.

Petitioner maintains that as an appellate court decision, *Rudy* is not binding on this court and, in any case, it is readily distinguishable because the petitioner there did not

file a petition before dying.[2] And she maintains that *Tunnell* absolutely supports the relief sought here, further warranting this Court's exercise of supervisory authority (or relief based on the *Tunnell* common law exception to abatement).

But, regardless, Petitioner has asked this Court to find that an accrued, filed, uncontested COI claim survives under the Illinois Survival Act. *See* Op. Br. at 11-17. That is the issue the appellate court adjudicated. A.4-7, ¶¶ 18-26; *see also* A.3, ¶ 11 ("The estate does not ask us to revisit *Rudy*. Rather, the estate argues that the Survival Act governs here, allowing the pending COI action to 'survive' Gregory's death"). And that is the issue raised in the petition for leave to appeal. *See* Petition for Leave to Appeal at 3-4, 6-10. The State's dogged defense of the circuit court's refusal to grant relief based on a poorly reasoned case that failed to consider the Survival Act is a *non sequitur*.

The State's second argument is that this question of statutory interpretation has been waived. St. Br. at 13-18. After careful consideration, the appellate court found this issue was not forfeited, explaining how the issue was implicitly raised in the circuit court, received fulsome briefing from both sides on appeal, and merited review on appeal regardless of any arguable procedural default. A.3-4, ¶¶ 13-16. Nevertheless, the State reprises its failed procedural bar argument here. That ship has sailed.

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[2] The *Rudy* appellate court conducted virtually no analysis, cited no specific statutory language, and only cited a D.C. Circuit case, in holding that the plain language of the COI statute supports that a COI is personal to the individual convicted. 2013 IL App (1st) 113449, at ¶ 13. Based on this, the court found that an un-filed, potential COI claim died with the wrongfully convicted potential petitioner's death. *Id*. But the *Rudy* court notably failed to address the fact that some of the COI remedies benefit the exoneree's family and are not strictly personal. *See* 110 ILCS § 947/62. And the *Rudy* court failed to apply the Survival Act at all. For these reasons, this Court should consider overruling *Rudy*.

For starters, the State presented its procedural bar argument below exclusively in terms of forfeiture, not waiver. *See* St. Appellate Court Br. at 5-8. Without a hint of irony, the State newly changes course and argues here that Petitioner did not merely forfeit her statutory argument on appeal, but instead affirmatively waived it by misleading the circuit court into believing that Petitioner was exclusively seeking relief on common law grounds. St. Br. at 13-17. This contrived repackaging of the procedural bar argument does not make it any more compelling.

This Court clarifies that a forfeited issue is one that could have been raised in the court below but was not. *People v. Blair*, 215 Ill.2d 427, 444 (2005). Waiver, in contrast, refers to "the voluntary relinquishment of a known right" and arises from an affirmative, intentional relinquishment of the right. *Ctr. Partners, Ltd. v. Growth Head GP, LLC*, 2012 IL 113107, ¶ 66. Both are premised on the failure to raise the issue below. But the appellate court found that this issue was implicitly raised below. *See* A.3-4, ¶ 14.

Moreover, the appellate court went on to hold that even if there was a failure to explicitly raise the issue below, the interests of justice support hearing the issue. A.4, ¶¶ 15-16. The appellate court observed that the forfeiture rule "serves two critical functions: it ensures that the trial court has the chance to correct any errors before appeal, and it refuses to reward an appellant for its inaction below via reversal on appeal." A.4, ¶ 15 (citation omitted). The court determined, "Neither concern is present here." A.4, ¶ 16.

Specifically, according to the appellate court: the trial court was able to make all the findings necessary for adjudicating this issue on appeal, the reviewing court's review of statutory interpretation is, in any case, *de novo*; both parties "fully briefed the issue on appeal"; reviewing the question "does not prejudice the State" or unfairly "advantage the

estate"; and judicial economy supports reviewing the issue. A.4, ¶ 16. As the State acknowledges, waiver is a limit on the parties, not the court. St. Br. at 17, citing *People v. Jackson*, 2021 IL 111928. *See also, e.g., People v. Shipp*, 2020 IL App (2d) 190027, ¶ 37. The appellate court properly exercised its discretion in finding that review of the statutory interpretation question presented here is warranted. *Id.*; *see also* Ill. Sup. Ct. R. 366(a)(5).

To contest the appellate court's ruling that this issue is properly before the reviewing courts, the State needed to acknowledge that the appellate court made a discretionary decision and argue how that decision was an abuse of discretion. *See, e.g., People v. Moon*, 2022 IL 125959, ¶ 19 (court's decision to excuse a procedural default is discretionary); *People v. Tisley*, 341 Ill. App. 3d 741, 746 (1st Dist. 2003) (same). An abuse of discretion occurs when a court's ruling is arbitrary, fanciful, or unreasonable, or when no reasonable person would take the same view. *People v. Illgen*, 145 Ill.2d 353, 364 (1991). While the State delineates its disagreement with the appellate court's decision to review this issue, it fails to argue, much less demonstrate, an abuse of discretion. This lapse forfeits its procedural bar argument here. *See* ILL. SUP. CT. R. 341(h)(7) ("Points not argued are forfeited."). Thus, the legal question presented remains appropriate for review.

Finally, although the State has forfeited its procedural bar contention, it is worth noting that the State's equitable arguments about why the Court should not overlook any alleged default are specious. The State argues that there is no reason to review the question presented here because there is no split in authority nor justice interest for doing so. St. Br. at 17-18. But the appellate court conflict is expressly articulated in the decision itself, where the court stated its strong reluctance for the ruling it believed it was required to reach. A.2, ¶ 3; A.7, ¶ 26. The appellate court's misgivings support this Court's review.

And the State again ignores the strong justice interest in support of determining whether the estate can receive the COI that Mr. Dobbins was entitled to after he was framed by Chicago police officers and wrongfully convicted. *See* Op. Br. at 8-9 (citing law review articles describing how a conviction can cause lifelong challenges to the incarcerated person's family as well). This Court's review of this issue is not procedurally barred and is warranted, should the Court choose not to invoke its supervisory authority to remedy the injustice below.

B. Allowing Survival of a Certificate of Innocence Petition Honors the Language and Intentions of Both the COI and Survival Statutes

The interplay of the COI statute and the Survival Act should be adjudicated with the statutes' remedial intentions at the forefront and in light of the Court's longstanding goal of avoiding abatement due to death. *See* Op. Br. at 11. The COI statute is silent about whether claims survive a petitioner's death. And there are virtually no specific types of claims mentioned in the Survival Act explicitly—instead, that Act describes in broad strokes the types of actions implicated, mentioning only one statute specifically by citation (the Liquor Control Act, not relevant here). 755 ILCS § 5/27-6.

Nevertheless, the State asserts that the plain language of the statutes bar relief. St. Br. at 20. That contention is belied by the remainder of the State's arguments which look to the section labels, statutory interplay, purpose of the court of claims, and more, to support its contention that the statutes are clear. But the State fails to point any language in either statute that directly answers this question (because there is none). For this reason, the appellate court used legislative history to interpret the statutes. *See* A.5-6. This Court should do the same. *See, e.g., Gruszeczka v. Illinois Workers' Comp. Comm'n*, 2013 IL 114212, ¶ 12 ("In ascertaining the legislature's intent, if the meaning of an

enactment is unclear from the statutory language itself, the court may look beyond the language employed and consider the purpose behind the law and the evils the law was designed to remedy, as well as other sources such as legislative history") (citations omitted).

The State acknowledges that if a COI can be characterized as an action "to recover damages for an injury to the person" the COI claim survives under the Survival Act. St. Br. at 19; *see* 755 ILCS § 5/27-6. But the State posits several reasons why it believes this Court should construe a COI as outside the ambit of the Survival Act.

First, the State argues that the Legislature's intent should be gleaned from when it amended the Survival Act but did not add COI claims expressly, supposedly demonstrating acquiescence to the appellate court's ruling denying Mr. Dobbins' application. St. Br. at 19. But the most recent amendment to the Survival Act was August 11, 2023. *See* 2023 Ill. Legis. Serv. P.A. 103-514 (H.B. 219); 755 ILCS 5/27-6 (eff. August 11, 2023). And the appellate court ruling in this case was not issued until over a year later, on September 30, 2024. A.1. Thus, no such acquiescence occurred.

Instead, the Legislature's intention in passing the COI statute can be discerned through the clear statements of purpose articulated. *See* 735 ILCS § 5/2-702(a) ("The General Assembly finds and declares that innocent persons who have been wrongly convicted of crimes in Illinois and subsequently imprisoned have been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law and that such persons should have an available avenue to obtain a finding of innocence so that they may obtain relief through a petition in the Court of Claims."); 95th Ill. Gen. Assem., House Proceedings, May 18, 2007, Representative Flowers at 12-13 ("These people are

… entitled to the monies that they deserve. They are entitled to job training. They are entitled to therapy. They are entitled to be completely set free and given their good name back for a crime that they did not commit[.]"); Illinois House Transcript, 2013 Reg. Sess. No. 66 (May 29, 2013, statement of Rep. Monique Davis) (in discussing a COI Statute amendment, "These additions to the Bill….removes the need for persons who are found innocent to go through multiple legal procedures to receive these equitable benefits."); Illinois House Transcript, 2013 Reg. Sess. No. 44 (April 19, 2013, statement of Rep. Monique Davis) ("This Amendment [to the COI Statute]… is intended to help this particular group of the wrongly convicted receive a certificate of innocence without going through an additional civil process."). The legislative intent of the COI statute is clear: to make sure that wrongfully convicted persons are compensated and supported.

The State points out that the COI statute is found in a portion of the Code of Civil Procedure for actions for declaratory judgment. St. Br. at 21. But courts admonish that it is the statutory language, not the title of the statute (or even more distant, the title of the subsection under which the title of the statute is written) that governs. *See, e.g., People v. Lesley*, 2024 IL App (3d) 210330, ¶ 29, ("the title of a statutory section is not controlling") (appeal pending, Sep. Term 2024); *Dubin v. United States*, 599 U.S. 110, 124 (2023) ("The title is, by definition, just the beginning. A title does not supplant the actual text of the provision").

Next, the State argues that COI relief is personal to the person who was unjustly imprisoned. St. Br. at 21. But in its next breath, the State acknowledges the educational grants available to the petitioner's family through a COI. St. Br. at 22 (citing 110 ILCS § 947/62). The reality is that COIs offer both: monetary compensation and personal, non-

monetary remedies to the wrongfully convicted and their dependents. *See* St. Br. at 21-22; 110 ILCS § 947/62. This multipurpose remedy underscores why exercise of this Court's supervisory authority truly is the best route for remedying the situation at hand. As the State points out, even if this Court finds that the Survival Act applies to save the monetary aspect of the COI for Mr. Dobbins' family, there are benefits that the estate would be entitled to with a COI—like access to educational grants for Mr. Dobbins' children, once they reach college age—that might be lost with that remedy. *See* 110 ILCS § 947/62. Thus, a supervisory order would further judicial efficiency and better preserve the integrity of the COI for Mr. Dobbins' family.

The State also argues that because COI petitioners must go to the court of claims to collect their compensation, the COI is not an action to recover damages. St. Br. at 23-27. The issuance of a COI is, however, unquestionably binding on the court of claims. *See* 735 ILCS § 5/702(j) ("The decision to grant or deny a certificate of innocence shall be binding [ ] with respect to claims filed in the Court of Claims[.]"); *see also* A.6, ¶ 23 ("The granting of a COI—the circuit court's finding of innocence—is binding on the Court of Claims." A.6, ¶ 23); A.6, ¶ 24 (735 ILCS § 5/702(h) requires the clerk of the circuit court to transmit a copy of the COI to the clerk of the court of claims, but once there, the COI is "conclusive evidence of the validity of" the claim).

The court of claims merely has discretion to enter a judgment amount within a statutory range. 705 ILCS § 505/24. But this Court has not yet decided whether that extra collection step means that a COI is not an action to recover damages. Justice interests and the remedial nature of all statutes involved support construing the pursuit of a COI as an action to recover damages, notwithstanding enforcement of that damages claim in a

separate court. This is a far more elegant solution than the State's strained proposal of instead construing the pursuit of a COI as an "action to produce 'evidence' that the innocent may then use to obtain relief under other statutes." St. Br. at 25.

The State argues that there are other ways to obtain court of claims awards based on innocence: a petitioner could seek relief based on a pardon instead of a COI. St. Br. at 25. But that is of no consequence. Certainly, there are different paths to pursuing relief, in the circuit court and the court of claims. But the fact that there are varying avenues to relief for the wrongfully convicted does not define the nature of the COI route.

The State argues that the court of claims refers to the compensation to the wrongfully convicted as "awards" instead of "damages," and that this word choice means that a COI does not fit under the Survival Act's scope. St. Br. at 26, citing 705 ILCS § 505/8. However, the word choice is a distinction without a difference, as courts routinely use the two words interchangeably. *See, e.g., Int'l Union of Operating Engineers, Local 150 v. Lowe Excavating Co.*, 225 Ill.2d 456, 491-92 (2006) (this Court repeatedly referring to a "damages award"); *Klawonn v. Mitchell,* 105 Ill.2d 450, 453 (1985) (using the words interchangeably throughout its discussion).

The State similarly tries to imbue meaning into the word choice in a Secretary of State publication listing the bases for jurisdiction in the court of claims, listing "damage claims against the State for torts" but "compensation" claims for awards under the COI statute. St. Br. at 27. But again, compensation is a type of damages award ("compensatory damages"), as distinct from punitive damages (which are available for torts). *See, e.g., In re Consol. Objections to Tax Levies of Sch. Dist. No. 205*, 193 Ill.2d 490, 497 (2000) (discussing compensatory damage awards as "[m]oney claimed by, or

ordered to be paid to, a person as compensation for loss or injury"); *Slovinski v. Elliot*, 237 Ill.2d 51, 58 (2010) (torts can warrant punitive damages). So this linguistic distinction refers to the difference between the compensatory damages available to COI petitioners, as opposed to the punitive damages available to tort plaintiffs, not whether the compensatory awards to COI petitioners are or are not damages. Likewise, the distinction between 705 ILCS § 505/8(c) and (d) (St. Br. at 27-29) is a difference between potential tort damages and strictly compensatory damages, not about whether either type of award is excluded from our understanding of "damages" entirely.

Additionally, the State argues that had Mr. Dobbins died after the COI issued in the circuit court, but before he collected in the court of claims, the court of claims might have denied Petitioner leave to substitute into the proceedings as the party of interest. St. Br. at 29-30. But the State's only asserted basis for the court of claims denying leave to substitute is the potential that the court found the COI claim did not survive. This, of course, begs the question presented here. If the action does not survive, then Petitioner's ability to substitute is moot; and if the action does survive, then there would be no reason for the court of claims to deny Petitioner's right to substitute.

Finally, the State cites a slew of cases for the proposition that an "injury to the person" in the Survival Act "encompasses only direct physical injury," and contends that a wrongful conviction is not such an injury. St. Br. at 31-34. These cases are primarily: (1) unpublished, *e.g.*, *Brock v. Univ. of Chicago Med. Ctr.*, 2024 IL App (1st) 230625-U, and *Law Offices of Brendan R. Appel, LLC v. Georgia's Restaurant & Pancake House, Inc.*, 2023 IL App (1st) 220588-U; (2) not Illinois state court cases, *e.g.*, *Strandell v. Jackson Cnty., Ill.*, 648 F. Supp. 126 (S.D. Ill. 1986); *Jarvis v. Stone*, 517 F. Supp. 1173

(N.D. Ill. 1981); *Berghoff v. R.J. Frisby Mfg. Co., a Div. of W. Capital Corp.*, 720 F. Supp. 649 (N.D. Ill. 1989); or (3) only address the claim survival question in wholly different contexts, *e.g.*, *Mattyasovszky v. West Towns Bus Co.*, 21 Ill. App. 3d 46 (1974) (wrongful death action against a bus company); *Shedd v. Patterson*, 230 Ill. App. 553, 554 (1st Dist. 1923) (malicious prosecution); *Denslow v. Hutchinson*, 152 Ill. App. 502 (1910) (malicious prosecution); *Mitchell v. White Motor Co.*, 58 Ill.2d 159 (1974) (personal injury); *Bassett v. Bassett*, 20 Ill. App. 543, 543 (4th Dist. 1886) (enticing a husband to leave his wife); *Doerr v. Villate*, 74 Ill. App. 2d 332, 338 (2d Dist. 1966) (breach of an oral contract).

This issue is certainly one the Court could adjudicate either way. *See, e.g., Shelton v. Barry*, 328 Ill. App. 497, 506 (1st Dist. 1946) (in false imprisonment case, stating, "Elements of injury to the person imprisoned which are properly included in the recovery comprise injury to the person and physical suffering"); *Mexican Cent. R. Co. v. Gehr*, 66 Ill. App. 173, 193 (1st Dist. 1896) (referring to false imprisonment as both "personal in character" and an "injury"). Construing a wrongful conviction as an injury to the person has a basis in law, *see id.*, and yields the just result.

CONCLUSION

Mr. Dobbins was framed by police officers and wrongfully convicted. Justice supports allowing his young family to receive the benefits of his accrued, filed, and uncontested COI. This Court could reach that result *via* its supervisory authority, the Illinois Survival Act, or both. But the State does not meaningfully dispute that the only equitable result is providing Mr. Dobbins' family the relief promised by the Legislature.

Date: August 7, 2025

Respectfully Submitted,

/s/ Debra Loevy
Attorney for Appellant

Debra Loevy
Joshua Tepfer
THE EXONERATION PROJECT
311 N. Aberdeen Street, 3rd Floor
Chicago, IL 60607
(312) 789-4955
debra@exonerationproject.org
josh@exonerationproject.org
Attorney No. 44407

Attorneys for Appellant

CERTIFICATE OF COMPLIANCE

Counsel for Appellant hereby certifies that this brief conforms to the requirements of Supreme Court Rule 341(a) and (b). The length of this brief, excluding the pages required for 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 appended to the brief under Rule 342(a), is 19 pages.

Respectfully submitted,

/s/ Debra Loevy
Attorney for Appellant

No. 131187

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. KATRINA DOBBINS, AS ADMINISTRATOR OF THE ESTATE OF GREGORY DOBBINS, Petitioner-Appellant.	)	On Appeal from the Appellate Court of Illinois, First Judicial District, Case No. 1-23-0566. There Heard on Appeal from the Circuit Court of Cook County, Illinois, Criminal Division, Case No. 08 CR 11379(01) The Honorable Erica L. Reddick, Judge Presiding.

NOTICE OF FILING AND CERTIFICATE OF SERVICE

TO: Cook County State's Attorney
Criminal Appeals Division
50 W Washington Street
Chicago, IL 60602
eserve.criminalappeals@cookcountysao.org

Attorney General
State of Illinois
100 W Randolph Street
Chicago, IL 60601
eserve.criminalappeals@atg.state.il.us

I hereby certify that on this 7th day of August, 2025, I caused a copy of the foregoing Proof of Service and accompanying Appellant's Reply Brief, Oral Argument Requested to be served on the following via the Court's Odyssey E-File and Serve system. Under penalties by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

DATED: August 7, 2025

Respectfully Submitted,

/s/ Debra Loevy
Attorney for Appellant

Debra Loevy
Joshua Tepfer
THE EXONERATION PROJECT
311 N. Aberdeen Street, 3rd Floor
Chicago, IL 60607
(312) 789-4955
debra@exonerationproject.org
josh@exonerationproject.org
Attorney No. 44407

Attorneys for Appellant