No. 130585

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court
	)	of Illinois, Fifth Judicial District,
Plaintiff-Appellant,	)	No. 5-22-0492
	)	
	)	There on Appeal from the
v.	)	Circuit Court for the 24th
	)	Judicial Circuit, Perry County,
	)	Illinois, No. 21 CF 87
	)	
ANZANO P. CHAMBLISS,	)	The Honorable
	)	Jeffrey K. Watson,
Defendant-Appellee.	)	Judge Presiding.

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

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ORAL ARGUMENT REQUESTED

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ARGUMENT

Under the plain language of 725 ILCS 5/114-1, defendant waived his right to a preliminary hearing when he failed to move to dismiss the information on that basis. Defendant's waiver forecloses this Court's review, including for plain error. The Court has previously rejected arguments, like defendant's, that this Court should attribute a meaning other than "waiver" when the legislature concludes that a defendant "waives" a procedural right by not asserting it. Here, the Court should likewise decline defendant's invitation to ignore section 114-1's plain language.

Statutory waiver aside, plain-error review of defendant's claim is unavailable for the additional reason that defendant invited or acquiesced to the trial court's error in not conducting a preliminary hearing. Defendant obstructed the trial court's attempts to conduct pretrial proceedings through his disruptive behavior, which included repeated demands for an immediate trial and accusations that the trial court was improperly delaying the trial by attempting to conduct pretrial proceedings. By his statements and conduct, defendant demonstrated his desire to proceed — or at least acquiesced to proceeding — to trial as quickly as possible, without first conducting a preliminary hearing. Defendant cannot now argue on appeal that the trial court erred by conducting proceedings in the manner he demanded, or at a minimum, to which he agreed.

Finally, even if defendant's claim were reviewable under the plain-error rule, it would not satisfy the rule's requirements. Defendant invokes the second prong of the plain-error rule, which requires him to demonstrate that the error is structural — that is, a fundamental constitutional error that affected the fairness of his trial and undermines the integrity of the judicial process, and that defies harmless error analysis. But an error related to a preliminary hearing, including the failure to hold such a hearing, does not affect a trial's fairness or the integrity of the judicial process, nor does it evade harmless error analysis. Indeed, such an error is *necessarily* harmless when, as here, the trier of fact finds, following a trial, that the defendant is guilty beyond a reasonable doubt.

I. Defendant's Claim that He Did Not Receive a Preliminary Hearing is Not Subject to Review as Second-Prong Plain Error Because Defendant Waived, or At Least Invited or Acquiesced to, The Trial Court's Error.

A. By statute, defendant waived his claim by not moving to dismiss the information.

As the People explained in their opening brief, under the plain text of section 114-1, appellate review is unavailable because defendant waived his claim that he did not receive a preliminary hearing when he failed to file a motion to dismiss the information on that basis. *See* Peo. Br. 12-15.[1]

[1] Citations to the People's opening brief on appeal appear as "Peo. Br. __," to defendant's brief as "Def. Br. ___," to the sealed common law record as "CS__," and to the report of proceedings as "R___."

Defendant's arguments that statutory waiver does not defeat his claim are unavailing. As an initial matter, there is no merit to defendant's contention that the constitutional right to a prompt preliminary hearing, *see* Ill. Const. 1970, art. I, § 7, is enforceable by any means other than section 114-1. *See* Def. Br. 31-32, 38-39. On the contrary, this Court has held that only the General Assembly may establish a remedy for the violation of a defendant's right to a prompt preliminary hearing. *See People v. Howell*, 60 Ill. 2d 117, 120-23 (1975); Peo. Br. 14. With section 114-1, the General Assembly established such a remedy, and section 114-1 specifies that a defendant waives that remedy by failing to file a motion to dismiss. Thus, defendant's claim that he did not receive a prompt preliminary hearing is waived and therefore not subject to plain-error review.

Defendant also misapprehends the nature of statutory waiver. According to defendant, a statutory right cannot be waived unless there is an affirmative and knowing relinquishment of the right. Def. Br. 34-35. Defendant is incorrect. For decades, when the General Assembly has determined that a statutory right is waived if it is not asserted prior to trial, this Court has enforced the legislature's judgment. *See People v. Morris*, 3 Ill. 2d 437, 442 (1954) (statutory speedy trial right "can be waived, and is waived where there is a failure to raise the question prior to conviction"); *People v. Pearson*, 88 Ill. 2d 210, 216-17 (1981) (same). Particularly relevant here, in *People v. Marcum*, the Court reaffirmed that the word "waived" in section

114-1 means what it says, observing, in the speedy trial context, that the legislature specifically provided for waiver of the statutory right when it is not asserted prior to trial. 2024 IL 128687, ¶ 41.

Nor, contrary to defendant's assertion, *see* Def. Br. 35-37, is there any conflict between section 114-1's waiver provision and section 111-2, which provides that a prosecution may not be pursued by information "unless a preliminary hearing has been held or waived in accordance with Section 109-3." 725 ILCS 5/111-2(a). Rather, section 114-1 and section 111-2 work in harmony. *See People v. Rinehart*, 2012 IL 111719, ¶ 26 (statutes concerning the same subject "must be considered together in order to produce a harmonious whole"). By its plain language, section 111-2 contemplates that a defendant may waive the right to a preliminary hearing, as does section 109-3, which section 111-2 references. *See* 725 ILCS 5/109-3(b) ("If the defendant waives preliminary examination the judge shall hold him to answer . . ."). Further, section 114-1 specifies that the waiver contemplated by sections 111-2 and 109-3 does not require affirmative conduct but instead occurs when a defendant fails to file a motion to dismiss within a reasonable time after his arraignment. 725 ILCS 5/114(b). There thus is no conflict between these statutory provisions.

The Court should likewise reject defendant's contention that section 114-1's waiver provision "applies only to the delay of an indictment or preliminary hearing, not the complete failure to provide a preliminary

hearing." Def. Br. 36. There is no basis for such a limitation in section 114-1's text. Because this Court "will not depart from the plain language of the statute by reading into it exceptions, limitations, or conditions that conflict with the express legislative intent," *People v. Boclair*, 202 Ill. 2d 89, 100 (2002), defendant's attempt to cabin section 114-1 fails.

In sum, a defendant charged with a felony by information is entitled to a preliminary hearing unless he waives such a hearing by failing to assert the right before trial; once the defendant allows the case to proceed to trial without a preliminary hearing and without filing a motion to dismiss on that basis, he waives any claim related to the absence of a preliminary hearing. And because defendant here waived his right to a preliminary hearing by failing to file a motion to dismiss, appellate review of his claim is unavailable.

B. Defendant invited or acquiesced to the trial court's error.

Alternatively, appellate review is barred because defendant invited or acquiesced to the trial court's error in not holding a preliminary hearing. *See* Peo. Br. 15-18. The record contradicts defendant's assertions, Def. Br. 26-31, that he neither invited nor acquiesced to the error and that the People and the trial court were at fault for the trial court's failure to conduct a preliminary hearing.

Defendant repeatedly sought an immediate trial — to the exclusion of any further pretrial proceedings, such as a preliminary hearing. *See* Peo. Br. 4-9 (recounting pretrial proceedings). In October 2021, days after his initial appearance before the trial court, defendant objected to the trial court's

attempts to conduct pretrial proceedings, asking the trial court to "let a jury decide" his case. CS8. The next month, defendant again complained that the pretrial proceedings were violating his rights, asserting that the "the court's actions are only to stall and prevent justice to the defendant." CS30.

After defendant was found fit and granted leave to proceed pro se (in April 2022, six weeks before trial began in May 2022), defendant continued to thwart the trial court's attempts to conduct pretrial proceedings and to demand a trial. As the trial court attempted to admonish defendant about the consequences of proceeding pro se, defendant interjected that he "never did ask for [appointed counsel] in the first place" and that "anybody" could face such consequences. R41-42. Then, as the court attempted to arraign defendant, he again interrupted the court several times. R46-47. Rather than listen to the court's admonishments and attempts to explain his rights, defendant twice interrupted to ask for a "[j]ury trial next month." R47.

Before the court could explain to defendant that additional procedural steps would occur before trial, defendant interrupted again to complain about the fitness proceedings, which he labeled "a stall." R47-48. The court then told defendant to stop interrupting, and defendant responded, "Are you scaring me? Are you scaring me?" R48-49. After the court ordered defendant removed from the courtroom, defendant again demanded a trial the next month, and the court said it would accommodate that demand. R49. In short, defendant's repeated demands for an immediate trial were

inconsistent with holding additional pretrial proceedings, including a preliminary hearing, and thus demonstrate that he invited, or at the least acquiesced to, the court's error in not holding a preliminary hearing.

Nor is there merit to defendant's suggestion, *see* Def. Br. 28-29, that he did not invite or acquiesce to the error because the trial court wrongfully removed him from the courtroom after he repeatedly disrupted the proceedings. The court determined it was necessary to remove defendant from the courtroom only after his interruptions and non-responsive answers to the court's questions derailed the proceedings. *See* R41-43, 45-49. The court's actions were consistent with its inherent authority to remove a disruptive defendant because "[i]t would degrade our country and our judicial system to permit our courts to be bullied, insulted, and humiliated and their orderly progress thwarted and obstructed by defendants brought before them charged with crimes." *Illinois v. Allen*, 397 U.S. 337, 346 (1970); *accord People v. Turner*, 2024 IL App (1st) 211648, ¶ 71 ("Defendant's conduct before the court was incessantly disruptive, obstructive, and disrespectful, and the trial court did not err in removing him from the courtroom.").

And, in any event, there is no reason to believe that defendant would have sought, or even agreed to, a preliminary hearing, had he remained in the courtroom. Indeed, defendant's parting comments after he was ordered removed — that he wanted a trial the next month and that he was going to prevail at trial, R49 — reinforce the conclusion that he invited or acquiesced

to any error by the trial court in proceeding to trial without a preliminary hearing.

II. The Error is Not Structural.

Even if the error were merely forfeited, the appellate court erred in holding that it was structural error cognizable as second-prong plain error. *See* Peo. Br. 19-21. An error is structural "only if it necessarily renders a criminal trial fundamentally unfair or is an unreliable means of determining guilt or innocence." *People v. Moon*, 2022 IL 125959, ¶ 28. But a trial court's error in failing to conduct a preliminary hearing has no effect on a defendant's trial if he otherwise receives a fair trial and the jury finds him guilty beyond a reasonable doubt. For the same reason, such an error does not affect the process of determining the defendant's guilt or innocence.

Consistent with these principles, in *Howell*, this Court held that the denial of the defendant's right to a prompt preliminary hearing was not second-prong plain error because it did not "deprive[ ] the accused of a substantial means of enjoying a fair and impartial trial." 60 Ill. 2d at 121. Defendant argues that *Howell* is inapplicable because there, the probable-cause hearing there was merely delayed, not absent. *See* Def. Br. 13. But *Howell*'s holding — that a violation of the right to a prompt preliminary hearing does not qualify as second-prong plain error so long as it does not affect the defendant's right to a fair trial, 60 Ill. 2d at 121 — applies with equal force when a preliminary hearing is not conducted, given that the absence of a preliminary hearing has no effect on the trial itself.

Indeed, defendant's own framing of the right demonstrates that failure to provide a preliminary hearing is not structural error. Defendant repeatedly refers to the preliminary hearing as a "probable cause hearing." *See, e.g.*, Def. Br. 14 (asserting that "failure to provide a probable cause hearing is second-prong plain error"). This is consistent with article I, Section 7 of the Illinois Constitution, which states that the preliminary hearing functions "to establish probable cause." Ill. Const. 1970, art. I, § 7. But "second-prong plain error can be invoked only for structural errors that are not subject to harmless error analysis." *People v. Jackson*, 2022 IL 127256, ¶ 49. Where, as here, a jury convicts a defendant of the charged offense — thus finding that the evidence established his guilt beyond a reasonable doubt — there necessarily was probable cause to believe the defendant committed the charged offense, and the absence of a preliminary hearing was harmless. *See United States v. Mechanik*, 475 U.S. 66, 70 (1985) (by returning a guilty verdict, the jury signified "not only that there was probable cause to believe that the defendants were guilty as charged, but also that they are in fact guilty as charged beyond a reasonable doubt," and it follows that "any error in the grand jury proceeding connected with the charging decision was harmless beyond a reasonable doubt"). In these circumstances, any error in not holding a preliminary hearing is subject to harmless error analysis — and, in fact, is necessarily harmless — such that it is not structural error.

For its part, the appellate court incorrectly believed that a preliminary hearing serves to assist the defendant "in effectively discovering the strengths and weaknesses in the State's case" and "preserving favorable evidence." A5, ¶ 17 (internal quotations omitted). Defendant declines to defend this aspect of the appellate court's reasoning, and thus forfeited any argument that it was correct. *See* Ill. S. Ct. R. 341(h)(7). Defendant's reticence is understandable because this Court has long held that the function of a preliminary hearing is limited to "determining whether probable cause exists to hold the accused for trial." *People v. Horton*, 65 Ill. 2d 413, 416 (1976) (citation omitted); *see also* Ill. Const. 1970, art. I, § 7. In other words, contrary to the appellate court's reasoning, a preliminary hearing is not intended to afford the defendant an initial opportunity to probe the strengths and weaknesses of the People's case, and defendant does not argue otherwise.

Defendant nevertheless echoes the appellate court's conclusion that his prosecution "resulted in an unfair or unreliable process for the determination of [his] guilt or innocence," Def. Br. 21-22 (citing A8, ¶ 25), but that conclusion rested on a flawed premise: that the People "never set forth [their] foundation for the charge against the defendant and never confirmed that the defendant was the individual who allegedly committed the crime," A8, ¶ 25. To the contrary, it is undisputed that at trial, the People not only offered the foundation for the charges but also proved beyond a reasonable

doubt that defendant committed the charged offenses. *See*, *e.g.*, Def. Br. 20 (recognizing "the fact that [defendant] was guilty," declining to dispute his guilt, and instead dismissing as irrelevant the strength of People's evidence). Thus, any suggestion that the failure to hold a preliminary hearing rendered defendant's trial unreliable is misplaced.

Although defendant does not defend the appellate court's reasoning, he offers his own, different arguments for affirmance, but none withstand scrutiny. First, defendant equates the absence of a preliminary hearing with a trial court's failure to administer the jury oath, which this Court held was structural error in *Moon*. *See* Def. Br. 15-19. That the jury oath and the preliminary hearing both originated in the common law, *see id.*, does not render them analogous for purposes of structural error analysis. One pertinent distinction is that the jury oath is not subject to waiver, *see* *Jackson*, 2022 IL 127256, ¶¶ 65-66; by contrast, a preliminary hearing may be waived, as defendant recognizes. *See People v. Houston*, 174 Ill. App. 3d 584, 587-88 (4th Dist. 1988) (collecting cases); Def. Br. 33 ("a valid waiver of a preliminary hearing must be understandingly made"). Put differently, a properly sworn jury is a necessary component of every jury trial, whereas a waivable preliminary hearing is not. *See Jackson*, 2022 IL 127256, ¶ 66 ("A procedure that is not required in every criminal jury trial" is not "on par with the jury trial oath that was at issue in *Moon*.").

And a properly sworn jury is a necessary component of a criminal trial because "[s]wearing jurors with a trial oath directly impacts the state of mind of the selected jurors." *Moon*, 2022 IL 125959, ¶ 52. Thus, the Court explained in *Moon*, "upholding a conviction before an unsworn jury would undermine the integrity of the very foundation of our system of criminal justice, that foundation being the fundamental right to trial by an impartial jury." *Id.* ¶ 91. By contrast, any failure to conduct a preliminary hearing has no impact on the trial itself. As defendant acknowledges, the availability of a preliminary hearing protects defendants from "being unduly detained by the government." Def. Br. 11, 16. An erroneous failure to provide a preliminary hearing thus may affect the defendant's pre-trial detention, but it has no effect on, and thus cannot be said to undermine the fairness of, the defendant's subsequent jury trial. *See Jackson*, 2022 IL 127256, ¶ 28.

Next, defendant argues that a trial court's error in failing to hold a preliminary hearing is structural because the preliminary hearing plays an important role in protecting a defendant's liberty interests. *See* Def. Br. 24-26. Here, defendant points to *Howell*'s dicta[2] that the 65-day delay in conducting a preliminary hearing violated that defendant's constitutional rights. *See* 60 Ill. 2d at 122; Def. Br. 13, 25-26. But *Howell* did not hold that

[2] A statement in a judicial opinion that is not essential to the outcome of the case and not an integral part of the opinion is obiter dictum, "and thus is not binding authority or precedent within the *stare decisis* rule." *People v. Lighthart*, 2023 IL 128398, ¶ 50.

the failure to provide a preliminary hearing is second-prong plain error; rather, *Howell* stated that there was "no reason" to "consider the failure to conduct a prompt preliminary hearing as plain error," *id.* at 121, and that such failures are "a subject for appropriate legislative action," *id.* at 123. Accordingly, *Howell* refutes, rather than supports, defendant's position.

For similar reasons, defendant's argument that the failure to conduct a preliminary hearing is structural error because it undermines the public's confidence in the legal system, *see* Def. Br. 18-19, is wrong. This Court has never held that an error qualifies as structural error on the basis that the error might negatively impact public perceptions of the criminal justice system. Rather, an error is structural "only if it necessarily renders a criminal trial fundamentally unfair or is an unreliable means of determining guilt or innocence." *Moon*, 2022 IL 125959, ¶ 28. And, as explained, the failure to hold a preliminary hearing does not render a trial fundamentally unfair or an unreliable means of determining guilt or innocence. Thus, the error is not structural.

At bottom, defendant advances a broad view of structural error that the Court has firmly and repeatedly rejected. Again, under this Court's precedent, an error is "designated as structural only if it necessarily renders a criminal trial fundamentally unfair or is an unreliable means of determining guilt or innocence." *Moon*, 2022 IL 125959, ¶ 28. The error here had no effect on defendant's trial or on the process of determining guilt or

innocence, so it cannot be structural. Indeed, the jury's determination of guilt beyond a reasonable doubt necessarily renders the error harmless. *See Mechanik*, 475 U.S. at 70. Accordingly, even if the Court finds review is not barred by waiver, invited error, or acquiescence, it should hold that the error is not structural, and therefore not second-prong plain error.

CONCLUSION

For these reasons, the People of the State of Illinois respectfully request that this Court reverse the judgment of the appellate court and reinstate defendant's convictions and sentences.

May 6, 2025

Respectfully submitted,

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RULE 341(c) 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 containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 14 pages.

/s/ Jeremy M. Sawyer
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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On May 6, 2025, the foregoing **Reply Brief** was filed with the Clerk of the Supreme Court of Illinois using the Court's electronic filing system, which provided service to the following:

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