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NATURE OF THE CASE

This appeal presents the Court with the question of whether an accrued and filed petition for a Certificate of Innocence (“COI”) can survive a petitioner’s death.

Former Chicago Police Sergeant and now-convicted felon Ronald Watts and his cohorts perpetrated one of the largest police corruption scandals in the nation. The Watts crew ran a gun and drugs crime ring out of a Chicago Southside housing development, shook down residents, and pinned false crimes on innocents. Hundreds of convictions arising from this corruption have been vacated by the courts at the State’s initiative or with its support. C.310; A.2, ¶ 5.¹ Until the instant case, every vacated conviction had been followed by the court granting a Certificate of Innocence. C.310.

Gregory Dobbins was a victim of the Watts scandal who was exonerated of drug possession crimes when, with the State’s agreement, he successfully moved to vacate his convictions and have his charges dropped, alongside over a hundred other petitioners who were similarly framed by the Watts crew. C.185, 217; A.2, ¶ 5. In May 2022, Mr. Dobbins and the other contemporaneously exonerated petitioners moved for relief under the Illinois Certificate of Innocence Statute, 735 ILCS § 5/2-702. C.218; A.2, ¶ 6. When the case was heard on June 22, 2023, the court granted each of the contemporaneous petitioners a COI with no further proof required. R.9-10; A.2, ¶ 6. But Mr. Dobbins died on June 8, 2023, just days before the final hearing. R.3; C.311; A.2, ¶ 6.

Soon thereafter, the probate court assigned Appellant Katrina Crawford, Mr. Dobbins’ life partner and the mother of his child, as independent administrator for Mr.

¹ Citations in this brief are as follows: “R.” refers to the report of proceedings; “C.” refers to the common law record; “A.” refers to the appendix; and “Supp. C.” refers to the supplemental common law record.

Dobbins' estate and guardian of their minor children's estate. C.311, 316-17; A.2, ¶ 7. Appellant moved to substitute as the petitioner in this proceeding under 735 ILCS § 5/2-1008(b). C.310. The circuit court, however, found that Mr. Dobbins' claims did not survive his death and dismissed the petition. R.18-19. The appellate court reluctantly affirmed this ruling, holding, "As much as we would prefer to rule otherwise, we agree with the State that the COI action does not survive Gregory's death under the Survival Act's plain language." A.2, ¶ 3. This Court granted leave to appeal that ruling. A.16.

ISSUES PRESENTED

- 1) Should this Court exercise its supervisory authority and remand this case with instructions to the lower court to issue a Certificate of Innocence *nunc pro tunc* to a date prior to Mr. Dobbins' death?
- 2) Alternatively, when the claims are accrued and the petition is filed while the petitioner is still alive, can claims under the Certificate of Innocence Statute survive a petitioner's death under the Illinois Survival Act?

JURISDICTIONAL STATEMENT

On March 15, 2023, the circuit court denied Appellant's motion to substitute as petitioner in this proceeding and dismissed the pending petition seeking a Certificate of Innocence. R.18-19. Appellant filed a notice of appeal that same day, March 15, 2023. C.334. The appellate court invoked its jurisdiction and affirmed the circuit court ruling on September 30, 2024. Appellant petitioned this Court for leave to appeal on October 31, 2024. A.1-8. This Court granted leave to appeal on January 29, 2025. A.16. The Court has jurisdiction under Illinois Supreme Court Rule 315(a).

STATUTES INVOLVED

This case involves: (1) the Survival Act, 755 ILCS § 5/27-6; (2) subparts of the Certificate of Innocence Statute, 735 ILCS § 5/2-702; (3) 735 ILCS § 5/2-1008(b), the statute regarding substitution of parties; and (4) 705 ILCS § 505/8, regarding jurisdiction in the Court of Claims. The statutes are included in full in the appendix.

755 ILCS § 5/27-6. Actions which survive.

In addition to the actions which survive by the common law, the following also survive: actions of replevin, actions to recover damages for an injury to the person (except slander and libel), actions to recover damages for an injury to real or personal property or for the detention or conversion of personal property, [and] actions against officers for misfeasance, malfeasance, nonfeasance of themselves or their deputies, actions for fraud or deceit....

735 ILCS § 5/702. The Certificate of Innocence Statute.

(g) In order to obtain a certificate of innocence the petitioner must prove by a preponderance of evidence that:

- (1) the petitioner was convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;
- (2)(A) the judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either the petitioner was found not guilty at the new trial or the petitioner was not retried and the indictment or information dismissed;
- (3) the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State; and
- (4) the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction.

(h) If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated. Upon entry of the certificate of innocence, ...(1) the clerk of the court shall transmit a copy of the certificate of innocence to the clerk of the Court of Claims, together with the claimant's current address; and (2) the court shall enter an order expunging the record....

(j) The decision to grant or deny a certificate of innocence shall be binding only with respect to claims filed in the Court of Claims and shall not have a res judicata effect on any other proceedings.

735 ILCS § 5/2-1008(b). Abatement; change of interest or liability; substitution of parties.

(b) Death. If a party to an action dies and the action is one which survives, the proper party or parties may be substituted by order of court upon motion as follows:

(1) If no petition for letters of office for the decedent's estate has been filed, the court may appoint a special representative for the deceased for the purpose of prosecuting the action. The appointment shall be on verified motion of any party who appears entitled to participate in the deceased's estate....

705 ILCS § 505/8. Court of Claims jurisdiction; deliberation periods.

The court shall have exclusive jurisdiction to hear and determine the following matters:...

(c) All claims against the State for time unjustly served in prisons of this State when the person imprisoned received a pardon from the governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was imprisoned or he or she received a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil Procedure; provided, the amount of the award is at the discretion of the court; and provided, the court shall make no award in excess of the following amounts: for imprisonment of 5 years or less, not more than \$85,350; for imprisonment of 14 years or less but over 5 years, not more than \$170,000; for imprisonment of over 14 years, not more than \$199,150; and provided further, the court shall fix attorney's fees not to exceed 25% of the award granted. On or after the effective date of this amendatory Act of the 95th General Assembly, the court shall annually adjust the maximum awards authorized by this subsection (c) to reflect the increase, if any, in the Consumer Price Index For All Urban Consumers for the previous calendar year, as determined by the United States Department of Labor, except that no annual increment may exceed 5%. For the annual adjustments, if the Consumer Price Index decreases during a calendar year, there shall be no adjustment for that calendar year. The transmission by the Prisoner Review Board or the clerk of the circuit court of the information described in Section 11(b) to the clerk of the Court of Claims is conclusive evidence of the validity of the claim. The changes made by this amendatory Act of the 95th General Assembly apply to all claims pending on or filed on or after the effective date.

STATEMENT OF FACTS

Former Chicago Police Sergeant Ronald Watts and former Chicago Police Officer Kallatt Mohammed were arrested in 2012 in an FBI sting relating to the officers' illegal drug trafficking. CI 11; A.2 ¶ 5. It turns out the officers were running their own drugs and guns operation in the Ida B. Wells Homes on Chicago's Southside and ultimately pled guilty to offenses related to their criminal conspiracy. C.11-45; A.1, ¶ 5. Since then, the courts have vacated well over two hundred convictions for people who were framed by Watts and his crew. C.222; A.1, ¶ 5. The Illinois Court of Claims called it "one of the most staggering cases of police corruption in the history of the City of Chicago." Supp. C. 30. The First District Appellate Court concurred, saying the scandal "amounted to one of the most momentous examples of police corruption in Chicago history." A.2, ¶ 5.

The corrupt officers ensnared Gregory Dobbins in their frame-up conspiracy, and on October 7, 2009, Mr. Dobbins was wrongfully convicted of possession of a controlled substance. C.52; A.1 ¶ 1. The criminal court sentenced Mr. Dobbins to thirty months of incarceration. C.52. Long after Mr. Dobbins completed his sentence, on April 22, 2022, with the State's agreement, the circuit court granted Mr. Dobbins' motion to vacate his false conviction, and the State moved to *nolle pros* the charges against him. C.217.

Mr. Dobbins filed a petition for a COI a few weeks later, on May 13, 2022. C.218-19. He filed his petition contemporaneously with the petitions of numerous other Watts victims. C.218; A.2, ¶ 6. The circuit court scheduled Mr. Dobbins' petition to be heard in the circuit court on June 22, 2022, alongside the other contemporaneous Watts-related exonerees' petitions. C.311; A.2, ¶ 6. The State did not oppose any of the COI petitions, and the circuit court granted those of the other Watts exonerees on June 22,

2022, without an evidentiary hearing. A.2, ¶ 6. Indeed, except for Mr. Dobbins, every adult victim of the Watts frame-up conspiracy has received an uncontested COI. C.310.

Mr. Dobbins, however, died on June 8, 2022, two weeks before the June 22 hearing where he would have received his certificate. A.2, ¶ 6; C.311. The circuit court granted the other exonerees' petitions, but continued Mr. Dobbins' case so that his estate could be probated. A.2, ¶ 6; C.307; R.4.

The probate court opened an estate and appointed Mr. Dobbins' domestic partner Appellant Katrina Crawford to serve as the independent administrator for the estate. A.2, ¶ 7; C.311, 316. Appellant was also appointed guardian of the estate of J.D., Appellant and Mr. Dobbins' minor child. A.2, ¶ 7; C.311, 317. The young family had been severely burdened by Mr. Dobbins' false arrest and wrongful incarceration. C.311, 318-19.

Appellant filed a motion to substitute as petitioner in the COI case. A.2, ¶ 7; C.310. The circuit court, however, held that COI claims do not survive a petitioner's death, denied the motion to substitute, and denied the petition. A.3, ¶ 9; R.18-19.

Acknowledging the "unfortunate result," of its ruling and that the court "would prefer to rule otherwise," the appellate court affirmed. A.2, ¶ 3, A.7, ¶ 26. The appellate court found that a COI proceeding is not "an action to recover damages," permitting invocation of the Survival Act, because to receive monetary compensation, a COI petitioner must take the finding of innocence to the court of claims to receive the damages award. A.6-7, ¶¶ 24-26. In the court of claims, "the circuit court's finding of innocence [] is binding"—in other words, the petitioner's entitlement to damages cannot be contested—but the appellate court reluctantly found that this additional step is

nevertheless a “separate action[] taken before [a] separate tribunal[],” a distinction that the court believed bars Survival Act application. A.6, ¶¶ 23, 25-26. This appeal follows.

ARGUMENT

I. The Certificate of Innocence Statute’s Purpose Supports Relief in the Form of a Supervisory Order Instructing the Circuit Court to Enter a *Nunc Pro Tunc* Order Granting Mr. Dobbins a COI

The Certificate of Innocence Statute begins with an express statement of purpose from the legislature about ensuring access to relief for the wrongfully convicted: “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.” 735 ILCS § 5/2-702(a). *See also* 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[.]”).

In light of this goal, the Legislature intended that the process of receiving COI relief to be as simple and streamlined as possible. *See, e.g.*, 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.”). Indeed, courts have interpreted the statute as remedial in nature and have given it as broad a reading as possible to adhere to its express legislative purpose. *See, e.g., People v. Glenn*, 2018 IL App (1st) 161331, ¶ 22 (to avoid an unconstitutional, absurd, and unjust application of the law, the appellate court construed the statute to mean that persons sentenced to probation could qualify for a COI, despite the statutory language limiting relief to those serving “terms of imprisonment”).

Courts are required to issue a COI when petitioners show: (1) they served all or part of a sentence for a felony conviction that was later vacated; (2) the indictment or information was dismissed; (3) they are innocent of the offenses charged in the indictment; and (4) they did not voluntarily cause or bring about the conviction. 735 ILCS § 5/2-702(g); *see also* 730 ILCS § 5/5-5-4(c).

There has never been any dispute that Mr. Dobbins’ filed petition met all these requirements, that the State conceded his entitlement to a COI when he was alive, or that the court required no further evidentiary proof for his COI to issue. But Mr. Dobbins died while awaiting the formality of entry of that order. As argued *infra*, under these circumstances, one appropriate remedy is for this Court to order the lower court to enter the COI order *nunc pro tunc* to a date two weeks earlier, prior to Mr. Dobbins’ death.

The benefits flowing from a COI are instrumental to recovering from a wrongful conviction, which ordinarily upends not just the exoneree, but also anyone he supported, like a spouse or child. *See, e.g., Puneet Pathak & Anshuman Panda, Educational Rights of Children with Incarcerated Parents*, 44 Child. Legal Rts. J. 31, 44 (2024) (“Children with incarcerated parents become ‘collateral damage’ of their parents’ conviction and

imprisonment.”); Emily W. Andersen, “*Not Ordinarily Relevant*”: *Bringing Family Responsibilities to the Federal Sentencing Table*, 56 B.C.L. Rev. 1501, 1501 (2015) (“Incarceration results in negative social, psychological, and economic impacts on an inmate’s family and dependents. These impacts last well beyond the period of incarceration and can cause lifelong challenges.”). Upon receipt of a COI, petitioners are entitled to monetary compensation, with remuneration commensurate with the length of time they were incarcerated, money that can be a lifeline for a struggling family. *See* 705 ILCS § 505/8(c) (West 2020). If a person dies after receiving a COI, the law requires the court to permit his estate’s administrator to substitute in at the court of claims to receive the designated remuneration. *See* 755 ILCS § 5/27-6; 735 ILCS § 5/2-1008(b). So, here, if the court had heard this matter two weeks earlier, Mr. Dobbins’ family could have collected his COI remuneration.

Thus, the goals of the COI statute and its remedial nature support interpreting it expansively to allow for posthumous receipt of the certificate where the petition has been filed and there are no outstanding disputes of fact or issues to resolve after the petitioner dies. *See, e.g., Tunnell v. Edwardsville Intelligencer, Inc.*, 43 Ill.2d 239, 243-44 (1969) (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 *nunc pro tunc* for wife to 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).

The simplest resolution of this appeal would be for the Court to exercise its vast supervisory authority and remand this case for issuance of a Certificate of Innocence, *nunc pro tunc* to a date prior to Mr. Dobbins' death, and avoid interpreting the Survival Act at all. *See* ILL. SUP. CT. R. 615(b). This Court is vested with supervisory authority over all the lower courts of this state. *People v. Coty*, 2020 IL 123972, ¶ 49 (citing Ill. Const. 1970, art. VI, § 16; *In re J.T.*, 221 Ill.2d 338, 347 (2006)). The Court explained in *Coty*, "This authority is unlimited in extent and hampered by no specific rules or means for its exercise. It is an unequivocal grant of power." *Coty*, 2020 IL 123972, ¶ 49 (citations and internal quotation marks omitted).

In this case, the equities align with the goal of the COI statute. The State has conceded that Mr. Dobbins was framed by egregiously abusive police officers for a crime he did not commit. He was entitled to the compensation the Legislature intended for him. Had the circuit court been available to rubber stamp the COI petition on June 7 instead of June 22, Mr. Dobbins' family would have been able to collect the relief promised by the Legislature. The lower court's calendar should not dictate the outcome of this case and deprive a family in need of the compensation it is due. Accordingly, Appellant respectfully asks this Court to invoke its supervisory authority to remand this case for issuance of a *nunc pro tunc* order awarding the COI.

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

A. Legal Precepts for Interpreting the Statutes at Issue

Illinois courts are clear that, like the COI Statute, the Illinois Survival Act, 755 ILCS § 5/27-6, is “remedial in its nature and is to be liberally construed.” *McDaniel v. Bullard*, 34 Ill.2d 487, 492 (1966) (citation omitted). *See also* A.5, ¶ 20; *Williams v. Palmer*, 177 Ill. App. 3d 799, 803 (3d Dist. 1988) (citing *Walter v. Board of Education*, 93 Ill.2d 101 (1982)) (“the Survival Act should be liberally construed as a remedial statute to prevent abatement.”); *Baksh v. Human Rights Comm’n*, 304 Ill. App. 3d 995, 1001 (1st Dist. 1999) (“Both this court and the Illinois Supreme Court have described the Act as remedial.”); *Wasleff v. Dever*, 194 Ill. App. 3d 147, 152 (1st Dist. 1990). In addition to the remedial nature of the Survival Act, more generally, this Court has long since clarified that “abatement of actions because of death is not favored[.]” *Murphy v. Martin Oil Co.*, 56 Ill.2d 423 (1974); *see also Bryant v. Kroger Co.*, 212 Ill. App. 3d 335 (3d Dist. 1991) (discussing this Court’s longstanding disapproval of rule of abatement); *Tunnell*, 43 Ill.2d at 243-44.

Accordingly, the interplay of the COI Statute and the Survival Act should be interpreted with these two intentions at the forefront: both the statutes’ remedial nature and the Court’s goal of avoiding abatement due to death. Within those parameters, under familiar principles, “[t]he most fundamental rule in statutory construction is to give effect to the legislative intent.” *People v. Watkins-Romaine*, 2025 IL 130618, ¶ 25 (quoting *Murray v. Chicago Youth Center*, 224 Ill.2d 213, 235 (2007)). *See also Henderson Square Condo. Ass’n v. LAB Townhomes, LLC*, 2015 IL 118139, ¶ 67 (Court’s “primary

objective in interpreting a statute or ordinance is to ascertain and give effect to the intent of the legislative body.”) (citations omitted); *Doe v. Burke Wise Morrissey & Kaveny, LLC*, 2023 IL 129097, ¶ 46 (“The cardinal rule of statutory construction is to ascertain and give effect to the true intent and meaning of the legislature.”) (citation omitted).

The best indication of legislative intent “is the language used, which must be given its plain and ordinary meaning.” *Henderson Square Condo. Ass’n*, 2015 IL 118139, at ¶ 67 (citing *Metropolitan Life Insurance Co. v. Hamer*, 2013 IL 114234, ¶ 18). But to understand a statute’s plain language, it must be “read in light of the subject it addresses and the apparent intent of the legislature in enacting it.” *People v. Lane*, 2023 IL 128269, ¶ 11 (citation omitted). Accordingly, the Court may “consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another.” *Martin v. Goodrich Corp.*, 2025 IL 130509, ¶ 25 (citation omitted). *See also Dawkins v. Fitness Int’l, LLC*, 2022 IL 127561, ¶ 27 (“In giving effect to the statutory intent, the court should consider, in addition to the statutory language, the reason for the law, the problems to be remedied, and the objects and purposes sought.”).

Finally, the statutes should be interpreted and construed together to avoid absurd or unexpected consequences. *See Watkins-Romaine*, 2025 IL 130618, at ¶ 42 (employing the statutory interpretation that is the “most practical approach, and the only one not leading to absurd and unexpected results”). “When a proffered reading of a statute leads to absurd results or results that the legislature could not have intended, courts are not bound to that construction, and the reading leading to absurdity should be rejected.”

Dawkins, 2022 IL 127561, at ¶ 27 (citation omitted). This Court reviews questions of statutory interpretation *de novo*. *Id.*

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

It serves neither the purpose nor the language of the statutes to interpret them in such a way as to deprive Gregory Dobbins’ family of his Certificate of Innocence simply because the court calendared his COI issuance date for six weeks out instead of four weeks out. Had the court’s calendar allowed for a date two weeks earlier, the order could have been entered before Mr. Dobbins died, and his family would have received the relief intended for them by the Legislature. This Court should interpret the Survival Statute to allow the survival of a pending, uncontested COI petition.

The Illinois Survival Act provides, “In addition to the actions which survive by the common law, the following also survive: ...actions to recover damages for an injury to the person (except slander and libel).” 755 ILCS § 5/27-6. Accordingly, there are two requirements relevant here: (1) whether a COI petition can be construed as an “action to recover damages”; and (2) whether the recovery is for a (non-slandorous, non-libelous) injury to the person. *Id.* The appellate court reluctantly found, as an issue of first impression, that the first requirement was not met. A.2, ¶ 3, A.7, ¶ 26.

To be clear, there was no dispute below that if a petition for a COI can be considered an action to recover damages, the COI recovery is for an injury to the person. The COI Statute is indisputably designed to address damages for “an injury to the person,” namely a wrongful conviction. *See, e.g., People v. Washington*, 2023 IL 127952, ¶ 43 (“The aim of the statute is to provide a certificate of innocence to petitioners who are innocent of the crimes for which they were convicted. A certificate of innocence is issued

to benefit men and women that have been falsely incarcerated through no fault of their own.”) (internal quotation marks omitted, quoting *People v. Dumas*, 2013 IL App (2d) 120561, ¶ 19, quoting 95th Ill. Gen. Assem., House Proceedings, May 18, 2007, at 12 (statements of Representative Flowers)). Thus, the only question here is whether, honoring both the liberal construction of the Survival Act and COI Statute, and in keeping with the Court’s disfavor for abatement of actions, COI petitions can be construed actions to recover damages.

A COI proceeding should be considered an action for damages for Survival Act purposes because the issuance of a COI results in the monetary compensation required by statute. Every single one of the hundreds of overturned Watts-related convictions resulted in the *pro forma* award of statutory compensation. This is because upon issuance of a COI, the court of claims determines *how much* compensation should be recovered, not *whether* compensation is required.

Quite simply, the court of claims is statutorily barred from determining whether compensation is warranted because that issue is resolved by the issuance of the COI itself, and the issuance of the COI is 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 calculates how much to award, but the COI is the necessary vehicle to ensure recovery of damages. 705 ILCS § 505/8(c). *See, e.g., People v. Moore*, 2020 IL App (1st) 190435, ¶ 37 (“[a] successful petitioner, armed with a COI, walks into the court of claims with conclusive evidence of his or her innocence, making it all but certain that the petitioner can obtain a money judgment against the State for wrongful incarceration”); *People v. Warner*, 2022 IL App (1st) 210260, ¶ 32 (same); *People v. Smith*, 2021 IL App (1st) 200984, ¶ 11 (same); *People v. Pursley*, 2022 IL App (2d) 210558, ¶ 63 (“Where a petitioner obtains a certificate of innocence, it is ‘all but certain that the petitioner can obtain a money judgment against the State for wrongful incarceration.’”) (quoting *Moore*). At the risk of stating the obvious, a person cannot go into the court of claims seeking compensation for a wrongful conviction without a COI in hand. It is that order alone that entitles him to collect his money damages.

The conclusion that COI adjudication determines entitlement to damages, and the court of claims merely calculates the amount of the award is supported by the fact that appellate counsel could not find a single case where the Illinois Court of Claims has ever denied the compensation warranted by the issuance of a COI. Counsel challenges appellee counsel to find any published case law suggesting that appearing in the court of claims after obtaining a COI for a wrongful period of incarceration involves anything other than a determination of *how much* compensation should be recovered, as opposed to *whether* compensation is required. *See also* 705 ILCS § 505/8(c) (court of claims is instructed that it “shall” award compensation); 735 ILCS § 5/2-702(j) (court of claims is statutorily barred from relitigating the petitioner’s innocence or entitlement to damages).

The extra step of collecting this judgment in the court of claims is *pro forma* and should be deemed insufficient to alter the Survival Act analysis. Indeed, every adult victim of Watts' criminal scheme, upon receiving a COI, has received the statutorily delineated compensation from the court of claims. And had Gregory Dobbins died two weeks later, the court of claims would have been required to allow Petitioner's substitution before that court as a matter of right for collection of the authorized compensation. *See* Ill. Admin. Code tit. 74, § 790.80 (dictating procedures in the court of claim when a claimant dies during a suit). *See also* 735 ILCS § 5/2-1008(b)(1) (Illinois Abatement Act).

It is the ultimate form-over-substance to deny relief because of the two-step collection procedure, particularly given the Legislature's express desire to create a streamlined procedure. *See* Illinois House Transcript, 2013 Reg. Sess. No. 66 (May 29, 2013, statement of Rep. Monique Davis) (in discussing 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 ... is intended to help this particular group of the wrongly convicted receive a certificate of innocence without going through an additional civil process.").

Alternatively, the appellate court's ruling overlooks that the COI petition, in and of itself, is an intangible property interest. *See* 735 ILCS § 5/2-702(j) (finding of innocence is binding on the court of claims); *Baksh v. Human Rights Comm'n*, 304 Ill. App. 3d 995, 1000 (1st Dist. 1999) ("the Survival Act includes intangible property, such as rights of action under statutes or the common law that had accrued prior to the

decedent's death.") (citing *McDaniel v. Bullard*, 34 Ill.2d 487 (1966); *Bryant v. Kroger Co.*, 212 Ill. App. 3d 335 (3d Dist. 1991); and *Stonestreet v. Iroquois Cnty. Sheriff's Merit Comm'n*, 150 Ill. App. 3d 1092 (3d Dist. 1986)). Thus, because the right to bring an already-accrued COI is "personal property" under the Illinois Survival Act, this is an independent basis for finding that the claim survives.

As an issue of first impression, the governing statutes, legislative history, case law, and equities all align in this case. This Court should determine that a COI petition is an action to recover damages and/or an intangible property interest that survives a petitioner's death under the Illinois Survival Act. 755 ILCS § 5/27-6.

CONCLUSION

The State had consistently conceded—as the facts certainly warrant—that Mr. Dobbins was a victim of the Ronald Watts Chicago Police Department scandal and that he had sufficiently proven his innocence to warrant a Certificate of Innocence. Indeed, the State's only objection below to his COI petition was that he had the misfortune of dying a couple of weeks before it could issue. C.325-27. Until Mr. Dobbins' death, the State had expressly agreed not to intervene to oppose his certificate of innocence. R.9. And it was on the State's own motion that it *nolle prossed* the charges against Mr. Dobbins. C.217; *see also* C.206 (the circuit court calling the Watts scandal "a blight on our criminal justice system"). This Court has an easy remedy so that the circuit court's calendar availability does not dictate whether a family can receive the money due to them. Ordering issuance of the COI *nunc pro tunc* is a just remedy to this injustice.

Alternatively, there is no question that if Mr. Dobbins' claim survives his death, he was entitled to a certificate of innocence. And the law is clear that this is the sort of

claim that should survive. Accordingly, Mr. Dobbins' estate respectfully asks this Court to reverse the lower court order and award a Certificate of Innocence.

Respectfully submitted,

KATRINA DOBBINS, AS
ADMINISTRATOR OF THE ESTATE
OF GREGORY DOBBINS

/s/ Debra Loevy
Attorney for Appellant

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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 18 pages.

Respectfully submitted,

/s/ Debra Loevy
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Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of March 2025, I caused a copy of the foregoing Proof of Service and accompanying Appellant's Opening Brief to be served upon the following via the Court's Odyssey electronic filing system:

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

VERIFICATION BY CERTIFICATION

Under penalties provided by the law pursuant to section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements in this instrument are true and correct.

DATED: March 5, 2025

/s/ Debra Loevy
Attorney for Appellant

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2024 IL App (1st) 230566

SECOND DIVISION
September 30, 2024

No. 1-23-0566

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<p>THE PEOPLE OF THE STATE OF ILLINOIS,</p> <p style="padding-left: 40px;">Plaintiff-Appellee,</p> <p>v.</p> <p>GREGORY DOBBINS,</p> <p style="padding-left: 40px;">Defendant</p> <p style="padding-left: 40px;">(Katrina Dobbins, as Administrator of the Estate of Gregory Dobbins, Appellant).</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Appeal from the Circuit Court of Cook County, Criminal Division.</p> <p>No. 08 CR 11379(01)</p> <p>Hon. Erica L. Reddick, Judge Presiding.</p>
---	---	---

JUSTICE ELLIS delivered the judgment of the court, with opinion.
Presiding Justice Van Tine and Justice McBride concurred in the judgment and opinion.

OPINION

¶ 1 Gregory Dobbins was convicted of possession of a controlled substance in 2009. His conviction was vacated after it was discovered, years later, that the police officers involved had framed him (along with hundreds of others) for a crime he did not commit. Gregory filed a petition for a Certificate of Innocence (COI) but died before a ruling on the petition. Katrina Crawford, Gregory's life partner and mother of his child, was appointed administrator of his estate. The estate moved to substitute into the COI proceedings.

¶ 2 The circuit court denied the motion and dismissed the COI petition. The estate appeals, arguing that the COI action survived Gregory's death under the Illinois Survival Act.

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¶ 3 As much as we would prefer to rule otherwise, we agree with the State that the COI action does not survive Gregory’s death under the Survival Act’s plain language. We thus affirm the circuit court’s judgment.

¶ 4 BACKGROUND

¶ 5 In 2009, Gregory Dobbins was incarcerated for 30 months after he pleaded guilty to unlawful possession of a controlled substance. Two officers involved in the arrest, former Chicago Police Sergeant Ronald Watts and former Chicago Police Officer Kallett Mohammed, were arrested in 2012 for their involvement in a criminal conspiracy involving drug trafficking in the Ida B. Wells Homes. Among other things, Sergeant Watts and his tactical team framed numerous innocent people, including Gregory, resulting in over 200 overturned convictions in what amounted to one of the most momentous examples of police corruption in Chicago history.

¶ 6 In April 2022, a decade after this large-scale police corruption came to light, the circuit court vacated Gregory’s conviction. That May, Gregory filed a petition for a COI, which was scheduled to be heard on June 22, along with other Watts-related exonerees’ petitions.

Unfortunately, Dobbins died before that June 22 hearing. The circuit court granted the other Watts exonerees’ petitions but continued Gregory’s case to allow his estate to be opened.

¶ 7 Katrina Crawford was appointed to serve as the independent administrator for the Estate of Gregory Dobbins. Crawford had a child with Gregory and was his domestic partner from his arrest until his death. The estate filed a motion to substitute as petitioner in the COI proceedings. See 735 ILCS 5/2-1008(b) (West 2022).

¶ 8 The State objected to the substitution, relying on this court’s earlier decision in *Rudy v. People*, 2013 IL App (1st) 113449. In *Rudy*, this court held that the COI statute did not permit the estate of a wrongly convicted individual to seek the certificate; the COI was “personal to the

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individual who was wrongly convicted rather than to one suing on his or her behalf.” *Id.* ¶ 13.

Just as the estate in *Rudy* could not obtain a COI there, argued the State, likewise Gregory’s estate here was not entitled to seek a COI.

¶ 9 The estate tried to distinguish *Rudy*, as the wrongly convicted individual in that case had not filed a petition for a COI before her death. Here, in contrast, Gregory had already filed his petition before his death, so the estate was not asking the court to allow a new COI action to be initiated but to allow an existing matter to survive the petitioner’s death. The circuit court found that *Rudy* applied as a matter of precedent and was “not a matter of discretion at all.” The court thus denied the motion to substitute and dismissed the COI petition.

¶ 10 ANALYSIS

¶ 11 The estate claims the circuit court erred in denying its motion to substitute and dismissing the COI petition. 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.

¶ 12 I

¶ 13 We first address the issue of forfeiture. The State argues that we should not reach the question of whether the Survival Act applies, as the estate never raised it below.

¶ 14 An appellant must preserve its claims and issues for appeal to avoid forfeiture. *Brunton v. Kruger*, 2015 IL 117663, ¶ 76. But *arguments* in support of preserved issues or claims are not similarly limited by forfeiture. *Id.* (“We require parties to preserve issues or claims for appeal; we do not require them to limit their arguments here to the same arguments that were made below.”); *1010 Lake Shore Ass’n v. Deutsche Bank National Trust Co.*, 2015 IL 118372, ¶ 18 (same). The estate has always argued that this pending action should continue after Gregory’s

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death. And in fairness, though it never cited the Survival Act, the estate's distinction of the *Rudy* decision was essentially a survival argument without the statute.

¶ 15 We would further note that forfeiture is a limitation on the parties, not this court, and we may relax the forfeiture rule where we deem it appropriate in the interests of justice. *Deutsche Bank National Trust Co. v. Cortez*, 2020 IL App (1st) 192234, ¶ 32; *Duniver v. Clark Material Handling Co.*, 2021 IL App (1st) 200818, ¶ 18. 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. *1010 Lake Shore Ass'n*, 2015 IL 118372, ¶ 14.

¶ 16 Neither concern is present here. This is not a situation where the estate's failure to raise the Survival Act prevented the trial court from making findings, factual or otherwise, that would be necessary to our disposition of this question on appeal. Even had the estate raised that argument below, it is a question of statutory interpretation subject to *de novo* review; we would not defer to the circuit court's legal interpretation. *Unzicker v. Kraft Food Ingredients Corp.*, 203 Ill. 2d 64, 74 (2002). Regardless of whether the estate raised this issue below, both the parties and this court would be in precisely the same position as we now find ourselves—the parties having fully briefed the issue on appeal, and this court reviewing the matter with fresh eyes. Reviewing this question does not prejudice the State. It does not advantage the estate. Nor does it undermine judicial economy in the least. We will consider the merits of this argument.

¶ 17

II

¶ 18 Substitution of parties, as the estate sought here, is permitted when “the action is one which survives.” 735 ILCS 5/2-1008(b) (West 2022). That begs the question of whether a COI

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proceeding is an action that “survives” the petitioner’s death. *Id.* That, in turns, requires an interpretation of the Survival Act, a question we review *de novo*. *Unzicker*, 203 Ill. 2d at 74.

¶ 19 We construe a statute to give effect to the legislature’s intent, first by examining the plain language of the statute. *People v. Pullen*, 192 Ill. 2d 36, 42 (2000); *People v. Gutman*, 2011 IL 110338, ¶ 12. If the plain language admits of one interpretation, our inquiry ends, and we enforce the statute as written. *Gutman*, 2011 IL 110338, ¶ 12. We “may not drastically rewrite the language to find a result that we prefer.” *People v. Moore*, 2020 IL App (1st) 190435, ¶ 42.

¶ 20 The Survival Act does not create an independent cause of action; rather, it allows an estate to maintain certain causes of action that accrued before the decedent’s passing. *Moon v. Rhode*, 2016 IL 119572, ¶ 38. The Act “is a remedial statute and is liberally construed in order to prevent abatement.” *Walter v. Board of Education of Quincy School District No. 172*, 93 Ill. 2d 101, 108 (1982).

¶ 21 Relevant here, the Survival Act allows for the survival of “actions to recover damages *** for an injury to the person” and “actions to recover damages for an injury to real or personal property.” 755 ILCS 5/27-6 (West 2022). The estate cites each of these bases for survival. In each event, however, the estate must first establish that a petition for a COI is an “action[] to recover damages” (*id.*), so we begin with that threshold question.

¶ 22 The estate claims that the COI proceeding is an action to recover damages in that one of the COI’s principal purposes is to allow unjustly incarcerated individuals to obtain monetary compensation before the Court of Claims for their time in prison. *Moore*, 2020 IL App (1st) 190435, ¶ 37; *People v. McClinton*, 2018 IL App (3d) 160648, ¶ 17. The State argues that, while a COI may be an integral *step* in a bid to obtain damages from the Court of Claims, that COI

No. 1-23-0566

proceeding is not, itself, an action before the Court of Claims or an action for damages in any other way.

¶ 23 Subsection (h) of the COI statute provides the remedy for a successful petitioner: “If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.” 735 ILCS 5/2-702(h) (West 2022). Upon the granting of the COI, in addition to the court expunging the individual’s arrest record, “the clerk of the court shall transmit a copy of the certificate of innocence to the clerk of the Court of Claims.” *Id.* The granting of a COI—the circuit court’s finding of innocence—is binding on the Court of Claims. *Id.* § 2-702(j).

¶ 24 But nothing in the COI statute provides for an award of damages to the successful petitioner. A petitioner armed with a COI must file an action in the Court of Claims pursuant to its enabling statute. See 705 ILCS 505/8(c) (West 2022). Like the COI statute, the Court of Claims Act provides that the granting of a COI is “conclusive evidence of the validity of” the petitioner’s claim. *Id.* So a petitioner armed with a COI is all but certain to receive an award of damages as determined by the Court of Claims and as capped by statute. *Id.*

¶ 25 But there is no denying that these are separate actions taken before separate tribunals. An individual who obtains a COI can derive many benefits, including expungement of his arrest and relief from any legal disability caused by his wrongful conviction. But he is not automatically entitled to damages when he receives the COI. He must take that next step by filing with the Court of Claims.

¶ 26 We fully appreciate that Gregory was imprisoned for 2½ years for a crime he did not commit, and we recognize that, during his lifetime, he would have been overwhelmingly likely to obtain a monetary judgment via the Court of Claims for the time he unjustly served. But no

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matter how unfortunate the result, we must interpret the statute as written, not rewrite it to reach an outcome we would prefer. An action for a COI is clearly not an “action[] to recover damages” under the Survival Act. 755 ILCS 5/27-6 (West 2022). So a COI action is not “one which survives” under the substitution statute. 735 ILCS 5/2-1008(b) (West 2022). The circuit court properly denied substitution to the estate and dismissed the COI petition.

¶ 27

CONCLUSION

¶ 28 The judgment of the circuit court is affirmed.

¶ 29 Affirmed.

No. 1-23-0566

People v. Dobbins, 2024 IL App (1st) 230566

Decision Under Review: Appeal from the Circuit Court of Cook County, No. 08-CR-11379(01); the Hon. Erica L. Reddick, Judge, presiding.

**Attorneys
for
Appellant:** Joshua Tepfer and Debra Loevy, of the Exoneration Project at the University of Chicago Law School, of Chicago, for appellant.

**Attorneys
for
Appellee:** Kimberly M. Foxx, State's Attorney, of Chicago (Enrique Abraham, Su Wang, and Paul E. Wojcicki, Assistant State's Attorneys, of counsel), for the People.

1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF C O O K)

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT - CRIMINAL DIVISION

4 THE PEOPLE OF THE)
 5 STATE OF ILLINOIS,)
 Plaintiff,)
 6)
 -vs-) No. 08 CR 11379
 7)
 8 GREGORY DOBBINS,)
 Defendant.)

9
 10 REPORT OF VIDEO CONFERENCE PROCEEDINGS had
 11 before the HONORABLE ERICA REDDICK, Judge of the
 12 Criminal Division, heard on the 15th day of March, 2023.

13 APPEARANCES:

14 HON. KIMBERLY M. FOXX,
 State's Attorney of Cook County, by:
 15 MS. CHRISTA BOWDEN,
 Assistant State's Attorney,
 16 Appeared for the People;

17 MR. JOSHUA TEPFER and MR. SEAN STARR,
 Attorneys at Law,
 18 Appeared for the Defendant.

19
 20 Lisa Collins, CSR
 Official Court Reporter
 21 2650 South California, Room 4C02
 Chicago, Illinois 60608
 22 License No. 084-004240

1 THE COURT: Gregory Dobbins.

2 MR. TEPFER: Josh Tepfer, T-e-p-f-e-r.

3 THE COURT: You are Attorney Sean Starr?

4 MR. STARR: Yes, your Honor.

5 THE COURT: Representing the State?

6 MS. BOWDEN: Assistant State's Attorney Christa
7 Bowden.

8 THE COURT: The matter is here for ruling.

9 This matter is here on the defendant's
10 motion to substitute. In essence the petitioner who
11 filed for the certificate of innocence is now deceased.
12 The petitioner became -- or passed away before there was
13 an actual ruling with respect to the relief sought on
14 the certificate of innocence.

15 I have reviewed the pleadings which
16 included the State's written objection. There was
17 argument had on the last court date.

18 After review and consideration, this
19 really is not a matter of discretion at all. There is
20 case law on point that speaks to that the right to
21 obtain a petition for a certificate of innocence is a
22 personal right and it is meant to remedy a personal
23 matter.

24 As a consequence and just based on that

1 authority, there does not appear to be a right for the
2 case to survive beyond the life of the actual petitioner
3 because it is, in fact, intended as relief to the
4 individual in personal relief.

5 So based on a review of the law as it
6 appears to stand now, the request for substitution for
7 the case to continue is denied, and the petition for a
8 certificate of innocence is dismissed.

9 MR. TEPFER: Thank you.

10 (Which were all the proceedings had in
11 the above-entitled cause on this date.)
12
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24

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
5
6 COUNTY DEPARTMENT - CRIMINAL DIVISION

7 I, LISA COLLINS, an Official Court Reporter
8 for the Circuit Court of Cook County, County
9 Department - Criminal Division, do hereby certify
10 that I reported in shorthand the proceedings had in
11 the above-entitled cause; that I thereafter caused
12 the foregoing to be transcribed into typewriting,
13 which I hereby certify to be a true and accurate
14 transcript of the Report of Video Conference
15 Proceedings had before the HONORABLE ERICA REDDICK,
16 Judge of said Court.
17
18
19
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21
22
23
24



Lisa Collins, CSR
License No. 084-004240
Circuit Court of Cook County

DATED: 3/30/23

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

FILED
3/15/2023 4:39 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
08CR1137901
Hooks, William H
21886000

KATRINA DOBBINS AS)	
ADMINISTRATOR OF ESTATE OF)	
GREGORY DOBBINS,)	No. 08-CR-11379(01)
<i>Petitioner.</i>)	
v.)	Honorable Erica L. Reddick,
)	Judge Presiding.
PEOPLE OF THE STATE OF ILLINOIS)	
)	
<i>Respondent.</i>)	

NOTICE OF FILING

TO: Cook County State's Attorney's Office	Christa Bowden,
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50 West Washington Street, 3rd Floor	Division Chief, Juvenile Justice Bureau
Chicago, IL 60602	1100 South Hamilton Ave.
eserve.criminalappeals@cookcountyil.gov	Chicago, IL 60612
	christa.bowden@cookcountyil.gov

PLEASE TAKE NOTICE that on March 15, 2023, I caused to be filed the attached Notice of Appeal with the Clerk of the Circuit Court of Cook County, a copy of which is hereby served upon you.

/s/ Josh Tepfer
Counsel for Petitioner

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Joshua A. Tepfer
Exoneration Project
311 N. Aberdeen Street, 3rd Floor
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(312) 789-4955
josh@exonerationproject.org
Attorney No. 44407

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of March, I caused a copy of the attached Notice of Appeal to be served upon counsel of record via email to the above-mentioned addresses.

/s/ Josh Tepfer
Counsel for Petitioner

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CRIMINAL DIVISION**

KATRINA DOBBINS AS)	
ADMINISTRATOR OF ESTATE OF)	
GREGORY DOBBINS,)	No. 08-CR-11379(01)
)	
<i>Petitioner,</i>)	Honorable Erica L. Reddick,
)	Judge Presiding.
v.)	
)	
PEOPLE OF THE STATE OF ILLINOIS)	
)	
<i>Respondent.</i>)	

NOTICE OF APPEAL

An appeal is taken from the order or judgment described below.

(1) Court to which appeal is taken:

Illinois Appellate Court, First District

(2) Name of appellant and address to which notices should be sent:

Katrina Dobbins as Administrator of Estate of Gregory Dobbins (deceased)
[notices should be sent to Attorney at address below]

(3) Name and address of appellant's attorney:

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Joshua A. Tepfer
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Chicago, IL 60607
(312) 789-4955
debra@exonerationproject.org
josh@exonerationproject.org

(4) Date of judgment or order:

March 15, 2023 – denial of motion to substitute Administrator for deceased petitioner in certificate of innocence proceeding, and, thereby, dismissal of certificate of innocence petition.

(5) Offenses of which convicted:

Possession of a controlled substance – vacated April 22, 2022.

(6) Sentence:

30 months in prison.

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

Denial of motion to substitute administrator for deceased certificate of innocence petitioner and corresponding dismissal/denial of certificate of innocence petition.

Respectfully Submitted,

/s/ Joshua Tepfer

Attorney for Petitioner

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SUPREME COURT OF ILLINOIS

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FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
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TDD: (312) 793-6185

January 29, 2025

In re: People State of Illinois, Appellee, v. Gregory Dobbins (Katrina Dobbins, etc., Appellant). Appeal, Appellate Court, First District.
131187

The Supreme Court today ALLOWED the Petition for Leave to Appeal in the above entitled cause. We call your attention to Supreme Court Rule 315(h) concerning certain notices which must be filed with the Clerk's office.

With respect to oral argument, a case is made ready upon the filing of the appellant's reply brief or, if cross-relief is requested, upon the filing of the appellee's cross-reply brief. Any motion to reschedule oral argument shall be filed within five days after the case has been set for oral argument. Motions to reschedule oral argument are not favored and will be allowed only in compelling circumstances. The Supreme Court hears arguments beginning the second Monday in September, November, January, March, and May. Please see Supreme Court Rule 352 regarding oral argument.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

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(755 ILCS 5/27-6) (from Ch. 110 1/2, par. 27-6)

Sec. 27-6. Actions which survive.) In addition to the actions which survive by the common law, the following also survive: actions of replevin, actions to recover damages for an injury to the person (except slander and libel), actions to recover damages for an injury to real or personal property or for the detention or conversion of personal property, actions against officers for misfeasance, malfeasance, nonfeasance of themselves or their deputies, actions for fraud or deceit, and actions provided in Section 6-21 of "An Act relating to alcoholic liquors".

(Source: P.A. 82-783.)

(735 ILCS 5/2-702)

Sec. 2-702. Petition for a certificate of innocence that the petitioner was innocent of all offenses for which he or she was incarcerated.

(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. The General Assembly further finds misleading the current legal nomenclature which compels an innocent person to seek a pardon for being wrongfully incarcerated. It is the intent of the General Assembly that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of evidence submitted pursuant to this Section, shall, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by such persons or those acting on their behalf.

(b) Any person convicted and subsequently imprisoned for one or more felonies by the State of Illinois which he or she did not commit may, under the conditions hereinafter provided, file a petition for certificate of innocence in the circuit court of the county in which the person was convicted. The petition shall request a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.

(c) In order to present the claim for certificate of innocence of an unjust conviction and imprisonment, the petitioner must attach to his or her petition documentation demonstrating that:

(1) he or she has been convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence; and

(2) his or her judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either he or she was found not guilty at the new trial or he or she was not retried and the indictment or information dismissed; or the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois; and

(3) his or her claim is not time barred by the provisions of subsection (i) of this Section.

(d) The petition shall state facts in sufficient detail to permit the court to find that the petitioner is likely to succeed at trial in proving that the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State of Illinois, and the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction. The petition shall be verified by the petitioner.

(e) A copy of the petition shall be served on the Attorney General and the State's Attorney of the county where the conviction was had. The Attorney General and the State's Attorney of the county where the conviction was had shall have the right to intervene as parties.

(f) In any hearing seeking a certificate of innocence, the court may take judicial notice of prior sworn testimony or evidence admitted in the criminal proceedings related to the

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convictions which resulted in the alleged wrongful incarceration, if the petitioner was either represented by counsel at such prior proceedings or the right to counsel was knowingly waived.

(g) In order to obtain a certificate of innocence the petitioner must prove by a preponderance of evidence that:

(1) the petitioner was convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;

(2) (A) the judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either the petitioner was found not guilty at the new trial or the petitioner was not retried and the indictment or information dismissed; or (B) the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois;

(3) the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State; and

(4) the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction.

(h) If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated. Upon entry of the certificate of innocence or pardon from the Governor stating that such pardon was issued on the ground of innocence of the crime for which he or she was imprisoned, (1) the clerk of the court shall transmit a copy of the certificate of innocence to the clerk of the Court of Claims, together with the claimant's current address; and (2) the court shall enter an order expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Illinois State Police be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The court shall enter the expungement order regardless of whether the petitioner has prior criminal convictions.

All records sealed by the Illinois State Police may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, the court upon a later arrest for the same or similar offense, or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the person whose records were expunged and sealed.

(i) Any person seeking a certificate of innocence under this Section based on the dismissal of an indictment or information or acquittal that occurred before the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the effective date of this amendatory Act of the 95th General Assembly. Any person seeking a certificate of innocence under this Section based on the

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dismissal of an indictment or information or acquittal that occurred on or after the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the dismissal.

(j) The decision to grant or deny a certificate of innocence shall be binding only with respect to claims filed in the Court of Claims and shall not have a res judicata effect on any other proceedings.

(Source: P.A. 102-538, eff. 8-20-21.)

(735 ILCS 5/2-1008) (from Ch. 110, par. 2-1008)

Sec. 2-1008. Abatement; change of interest or liability; substitution of parties.

(a) Change of interest or liability. If by reason of marriage, bankruptcy, assignment, or any other event occurring after the commencement of a cause or proceeding, either before or after judgment, causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after commencement of the action, it becomes necessary or desirable that any person not already a party be before the court, or that any person already a party be made party in another capacity, the action does not abate, but on motion an order may be entered that the proper parties be substituted or added, and that the cause or proceeding be carried on with the remaining parties and new parties, with or without a change in the title of the cause.

(b) Death. If a party to an action dies and the action is one which survives, the proper party or parties may be substituted by order of court upon motion as follows:

(1) If no petition for letters of office for the decedent's estate has been filed, the court may appoint a special representative for the deceased for the purpose of prosecuting the action. The appointment shall be on verified motion of any party who appears entitled to participate in the deceased's estate, reciting the names and last known addresses of all known heirs and the legatees and executor named in any will that has been filed. The court's determination that a person appears entitled to participate in the deceased's estate shall be solely for purposes of this Section and not determinative of rights in final disposition. Within 90 days after appointment, the special representative shall notify the heirs and legatees of the following information by mail: that an appointment has been made, the court in which the case was filed, the caption of the case, and a description of the nature of the case. The special representative shall publish notice to unknown heirs and legatees as provided in the Probate Act of 1975. If a will is filed within 90 days after the appointment of the special representative, the same notice shall be given to any additional executors and legatees named in the will. At any time that an estate is opened with a representative other than the special representative, the court may upon motion substitute the representative for the special representative. In this case, the court shall allow disbursements and fees of the special representative and his or her attorney as a claim against any proceeds received. The proceeds of any judgment or settlement shall be distributed under the provisions of the Probate Act of 1975. This paragraph (1) does not apply to actions pending under the Wrongful Death Act.

(2) If a person against whom an action has been brought dies, and the cause of action survives and is not otherwise barred, his or her personal representative shall be substituted as a party. If no petition has been filed for letters of office for the deceased's estate, the court, upon the motion of a person bringing an action and after the notice to the party's heirs or legatees as the court directs and without opening an estate, may appoint a special representative for the deceased party for the purposes of defending the action. If a party elects to have a special representative appointed under this paragraph (2), the recovery shall be limited to the proceeds of any liability insurance protecting the estate and shall not bar the estate

from enforcing any claims that might have been available to it as counterclaims.

If a motion to substitute is not filed within 90 days after the death is suggested of record, the action may be dismissed as to the deceased party.

In the event of the death of a party in an action in which the right sought to be enforced survives only as to the remaining parties to the action, the action does not abate. The death shall be suggested of record and the action shall proceed in favor of or against the remaining parties.

No action brought for the use of another abates by reason of the death of the plaintiff whose name is used but may be maintained by the party for whose use it was brought in his or her own name upon suggesting the death of record and the entry of an order of substitution.

(c) Legal disability. If a party is declared to be a person under legal disability, that fact shall be suggested of record and the prosecution or defense shall be maintained by his or her representative, guardian ad litem or next friend, as may be appropriate.

(d) Trustees; public officers. If any trustee or any public officer ceases to hold the trust or office and that fact is suggested of record, the action shall proceed in favor of or against his or her successor.

(e) Service of process. Parties against whom relief is sought, substituted under subsection (a) hereof, shall be brought in by service of process. Service of process on parties substituted under subsections (b), (c), and (d) hereof is not required, but notice shall be given as the court may direct.

(Source: P.A. 90-111, eff. 7-14-97.)