

No. 132018

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 1-24-0121.
	)	
Respondent-Appellee,	)	There on appeal from the Circuit
	)	Court of Cook County, Illinois , No.
-vs-	)	01 CR 2943802.
	)	
	)	Honorable
MICHAEL SMITH,	)	Thomas Joseph Hennelly,
	)	Judge Presiding.
Petitioner-Appellant.	)	

REPLY BRIEF FOR PETITIONER-APPELLANT

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ARGUMENT

Pursuant to *People v. Brown*, 225 Ill. 2d 188 (2007), Michael Smith is entitled to a new transfer hearing because his transfer from juvenile court was based on a facially unconstitutional and void *ab initio* statute.

The State acknowledges that *People v. Brown*, 225 Ill. 2d 188 (2007), upon which Michael Smith relies, controls the outcome of this case. (St. Br. 25-29). It also concedes that a challenge to a void judgment is “exempt from the ordinary procedural bars.” (St. Br. 18, quoting *People v. Thompson*, 2015 IL 118151, ¶¶ 31-32). Despite these concessions, the State maintains that Smith is not entitled to relief.

After asserting that his claim of a void judgment is nevertheless waived and untimely, it alternatively argues that *Brown* “reflects an outdated understanding of the voidness doctrine, is an outlier, and should be overruled in part.” (St. Br. 29). The State’s argument fails on all fronts. Its recommendation to deny Smith relief on procedural grounds is squarely foreclosed by this Court’s long-standing precedent. *See In re N.G.*, 2018 IL 121939, ¶¶ 57-59 (underscoring that void *ab initio* challenges “are not subject to forfeiture or any other ordinary procedural bar”). And the State offers no compelling reason to overrule *Brown*’s well-reasoned holding that, when a defendant is transferred from juvenile court pursuant to a void *ab initio* statute, “[t]he transfer is void just as the transfer statute is void,” and he is “entitled to a new transfer hearing.” *Brown*, 225 Ill. 2d at 199-200. Accordingly, this Court should adhere to *Brown* and grant Smith a new transfer hearing.

A. Smith did not waive his claim of a void judgment by pleading guilty to attempt murder.

The State argues that Smith “waived any claim that he should have been tried in juvenile court when he unconditionally pleaded guilty in criminal court.” (St. Br. 13). However, the State acknowledges that, in *Brown*, this Court found that the defendant’s guilty plea did not “alter [its] analysis” because “[a] guilty plea does not preclude a defendant from challenging a circuit court’s judgment as void *ab initio*.” (St. Br. 15, citing *Brown*, 225 Ill. 2d at 199). The State responds that this portion of *Brown* should be overruled. (St. Br. 17).

According to the State, Smith “argues only that the circuit court erred procedurally in transferring his case,” and such a claim “falls squarely within the categories of claims waived by a guilty plea.” (St. Br. 14, 17). The State therefore concludes that *Brown* “is inconsistent with settled precedent that a knowing and intelligent guilty plea waives all non-jurisdictional constitutional and statutory claims that arose prior to entry of the plea, except for claims that the State lacked the constitutional authority to prosecute the conduct or impose the punishment.” (St. Br. 15-16). It urges this Court to instead follow *People v. Castleberry*, 2015 IL 116916, in which this Court held that a court’s “failure to satisfy a certain statutory requirement or prerequisite” does not “constitute a nonwaivable condition precedent to the circuit court’s jurisdiction.” (St. Br. 16, quoting *Castleberry*, 2015 IL 116916, ¶ 15).

The State distorts Smith’s claim to suit its argument, and its reliance on *Castleberry* is a red herring. Smith does not argue that the juvenile court “erred procedurally in transferring his case” by “fail[ing] to satisfy a certain statutory requirement or prerequisite.” (St. Br. 16-17, quoting *Castleberry*, 2015 IL 116916).

Rather, he argues that his transfer from juvenile court occurred via facially unconstitutional, void *ab initio* statute, which “*never had any legal force.*” *Brown*, 225 Ill. 2d at 199 (emphasis added). Thus, it “necessarily follows” that “the transfer itself can be afforded no legal recognition,” regardless of his subsequent guilty plea. *Id.* *Brown*’s holding on this point is therefore not “inconsistent with settled precedent,” as the State argues. (St. Br. 15). It is entirely consistent with this Court’s long-standing principle that a facially unconstitutional statute “confers no right, imposes no duty and affords no protection. It is *** as though no such law had ever been passed.” *People v. Gersch*, 135 Ill. 2d 384, 399 (1990), quoting *People v. Shraeberg*, 347 Ill. 392, 394 (1932). While a guilty plea may waive non-jurisdictional defects, it cannot ratify a statute that was “fatally infirm from the moment of its enactment.” *N.G.*, 2018 IL 121939, ¶ 39. Indeed, though the State cites a number of cases in which defendants waived challenges to their transfers by pleading guilty, none of these cases involved a void *ab initio* statute. (St. Br. 14-15 (collecting cases)).

The State is also incorrect in asserting that the void *ab initio* statute at issue must be a “statute of conviction or sentence” in order for a defendant’s voidness challenge to be exempt from procedural barriers such as waiver. (St. Br. 10). This Court has held that the voidness exception to procedural barriers applies to any judgment that is “based on a facially unconstitutional statute that is void *ab initio*,” without further qualification. *Thompson*, 2015 IL 118151, ¶ 32. The State cites several cases that concerned void *ab initio* statutes of conviction or sentence, but none of them held that the voidness exception *only* applies to judgments based on this type of statute. (St. Br. 10, 15-16, citing *Class v. United States*, 583 U.S.

174, 177-83 (2018), *People v. Johnson*, 2019 IL 122956, ¶ 54, and *N.G.*, 2018 IL 121939, ¶¶ 49, 71); *see also infra* at 8-9.

In sum, *Brown*'s holding that a guilty plea does not waive a defendant's claim of a void transfer should not be overruled. It is entirely consistent with this Court's mandate that a judgment based on a void *ab initio* statute "must be treated by the courts as if it did not exist, and it cannot be used for any purpose *under any circumstances*." *N.G.*, 2018 IL 121939, ¶ 36, citing *Ex parte Siebold*, 100 U.S. 371, 376 (1879) (emphasis added). Accordingly, Smith did not waive his claim of a void transfer by pleading guilty to attempt murder.

B. Smith did not waive his claim of a void judgment by pleading guilty to unlawful use of a weapon by a felon.

Likewise, Smith's plea of guilty to unlawful use of a weapon by a felon (UUWF) did not waive his claim of a void judgment. The State asserts that, by pleading guilty to UUWF, Smith "admitted that he was guilty of all the elements of that crime," including that he had been convicted of attempt murder. (St. Br. 11). It therefore concludes that, even if Smith's attempt murder conviction is ultimately vacated, he "waived his challenge to his UUWF conviction." (St. Br. 12).¹

The State is incorrect. This Court has addressed, and rejected, this precise claim in *In re N.G.*, 2018 IL 121939. In that case, the defendant's parental rights

¹ In accepting Smith's plea of guilty to UUWF, the trial court noted that his adult criminal record consisted only of his attempt murder conviction. (R. 28). Smith does not have another felony conviction which could have served as the predicate felony for UUWF. (C. 119-30). *See also* <https://idoc.illinois.gov/offender/inmatesearch.html> (inmate selector Michael Smith, #K72924). This Court may take judicial notice of IDOC records. *People v. Johnson*, 2021 IL 125738, ¶ 54.

to his child were terminated because, *inter alia*, he had previously been convicted of aggravated unlawful use of a weapon (AUUW). *N.G.*, 2018 IL 121939, ¶ 1. However, that AUUW conviction was based on a statute that was later deemed facially unconstitutional and void *ab initio*. *Id.* at ¶ 15. Because the defendant's AUUW conviction was "a nullity to which no court may give adverse effect in any proceeding against the defendant," this Court affirmed the appellate court's reversal of the judgment terminating the defendant's parental rights. *Id.* at ¶¶ 73, 86-88. Importantly, this Court noted that, regardless of whether a defendant pleads guilty to the challenged conviction, "the same underlying principle applies." *Id.* at ¶ 49. If a defendant's conviction derives from a facially unconstitutional, void *ab initio* statute, he "may challenge the conviction at any time, even after a guilty plea." *Id.*; see also *People v. Barefield*, 2019 IL App (3d) 160516, ¶¶ 4, 17 (holding that the defendant's conviction for armed habitual criminal, to which he had pled guilty, must be vacated upon a showing that his predicate AUUW conviction was based on a void *ab initio* statute).

Accordingly, this Court should reject the State's argument that, by pleading guilty to UUWF, Smith has waived any challenge to that conviction based on the invalidity of his predicate felony conviction.

C. Because Smith's UUWF conviction ultimately derives from his void transfer, his petition may not be dismissed as untimely as to that conviction.

This Court has explained, "Simply put, under Illinois law, there is no fixed procedural mechanism or forum, *nor is there any temporal limitation* governing when a void *ab initio* challenge may be asserted." *N.G.*, 2018 IL 121939, ¶ 57 (emphasis added). Despite this clear mandate, the State argues that Smith's "petition

was untimely as to the UUWF conviction.” (St. Br. 19). The State contends that Smith’s “UUWF conviction does not depend on the continued validity of his attempted murder conviction, so even if the attempted murder conviction were vacated due to the procedural irregularity, such vacatur would not render [his] UUWF conviction void.” (St. Br. 19). Therefore, according to the State, Smith “cannot avoid the time-bar [for section 2-1401 petitions] under the voidness exception.” (St. Br. 19).

As outlined above, this is incorrect. *See supra* at 4-5. If this Court grants Smith a new transfer hearing, and the circuit court finds that he should *not* have been transferred from juvenile court, his attempt murder conviction would be void “because absent a transfer, there is no lawful basis for a conviction under this state’s criminal laws.” *Brown*, 225 Ill. 2d at 202-03. It follows that his subsequent conviction for UUWF would be rendered void because a conviction based on a void *ab initio* statute “can give rise to no criminal status.” *N.G.*, 2018 IL 121939, ¶ 73.

To support its argument that Smith’s UUWF conviction could not be rendered void, the State cherry-picks this Court’s decision in *N.G.* It cites this Court’s discussion of *Lewis v. United States*, 445 U.S. 55 (1980), in which the Supreme Court of the United States examined a statute of conviction in which a prior felony was an element of the offense, and “concluded that its prohibitions were triggered by any felony conviction, not merely ‘valid’ convictions.” (St. Br. 20, citing *N.G.*, 2018 IL 121939, ¶ 69). But the State ignores that the predicate felony at issue in *Lewis* was “obtained in violation of a defendant’s right to counsel.” *N.G.*, 2018 IL 121939, ¶ 69. This Court in *N.G.* distinguished *Lewis* from the case before it,

underscoring that “*Lewis* did not present a situation where the prior offense was based on a facially unconstitutional statute.” *Id.* at ¶ 71. This “distinction is a critical one,” as convictions based on facially unconstitutional, void *ab initio* statutes “are illegal and void, a nullity to which no court may give adverse effect in any proceeding against the defendant.” *Id.* at ¶¶ 72-73. Accordingly, *N.G.* does not support the State’s argument – it *directly contravenes* it.

The State also repeatedly cites *People v. McFadden*, 2016 IL 117424, in which this Court found it immaterial whether a defendant’s predicate conviction for UUWF was later found to be void *ab initio* – all that mattered was his “felon status” at the time he possessed a firearm. (St. Br. 20-21); *McFadden*, 2016 IL 117424, ¶ 29. The State notes that *N.G.* later “questioned” whether the felon-status rule outlined in *McFadden* should apply when the predicate conviction is based on a void *ab initio* statute. (St. Br. 23). This is quite an understatement – *N.G.* found that the felon-status rule *should not apply* in such cases, and explicitly overruled *McFadden* in this regard. *N.G.*, 2018 IL 121939, ¶ 84 (overruling *McFadden*). The State nevertheless argues that, to the extent that *N.G.* “carved out a limited exception to the felon-status rule,” the exception does not apply in Smith’s case because “the attempted murder statute under which [Smith] was convicted is not facially unconstitutional.” (St. Br. 23). But, as explained above (*see supra* at 3-4), the voidness exception to procedural barriers applies to any judgment that is “based on a facially unconstitutional statute that is void *ab initio*.” *See Thompson*, 2015 IL 118151, ¶ 32. This Court has never qualified that the void *ab initio* doctrine and its exception to procedural barriers are only applicable to statutes of conviction or sentence.

In sum, should this Court grant Smith a new transfer hearing, and the circuit court determines that he should *not* have been transferred from juvenile court, Smith's UUWF conviction would be rendered void. He therefore raises a voidness challenge that is exempt from the two-year statute of limitations for section 2-1401 petitions.

D. *Brown* remains good law, and pursuant to *Brown*, Smith's petition may not be dismissed as untimely as to his attempt murder conviction.

The defendant in *Brown* raised his claim in a successive post-conviction petition several years after his void transfer and plea of guilty to attempt murder. *Brown*, 225 Ill. 2d at 194. This Court decided to forgo a cause-and-prejudice analysis for his claim because "an attack on a void judgment may be raised at any time," and therefore, it "does not depend on the Post-Conviction Hearing Act for its viability." *Id.* The State acknowledges this holding, but argues that this Court should overrule *Brown*, find that Smith's claim is not exempt from procedural barriers, and dismiss his section 2-1401 petition as untimely. (St. Br. 29).

According to the State, *Brown* is an "outlier," because "other than *Brown*, the Court has found convictions void on collateral review only where the statutes defining the offenses or punishments were facially unconstitutional." (St. Br. 27). The State claims that Smith's void transfer was a mere "procedural error," and such errors do not "deny a defendant any constitutional rights, much less implicate the State's constitutional power to prosecute the conduct and impose the punishment." (St. Br. 26-27). It therefore urges this Court to find that "a conviction is void only if the circuit court lacked jurisdiction or the statute defining the offense or penalty is facially unconstitutional," and *Brown*'s holding should therefore be overruled. (St. Br. 29).

First, the State's summary of the case law is incorrect. This Court has never held that the void *ab initio* doctrine applies exclusively to judgments based on facially unconstitutional statutes which "deny a defendant *** constitutional rights." (St. Br. 26). And while this Court has more frequently addressed the void *ab initio* doctrine in relation to facially unconstitutional statutes of conviction or sentence, it has never held that the doctrine *only* applies to such statutes, as the State repeatedly suggests throughout its brief. (St. Br. 8, 10, 16, 18, 19, 23, 25, 27, 29). Here, *People v. Carrera*, 203 Ill. 2d 1 (2002), is instructive.

In *Carrera*, Chicago Police Department officers arrested the defendant outside city limits pursuant to an extraterritorial arrest statute. 203 Ill. 2d at 7-8. Several months later, the statute was declared void *ab initio* in violation of the single-subject clause. *Id.* at 16. The circuit court granted the defendant's motion to quash arrest and suppress evidence and, pursuant to the void *ab initio* doctrine, stated that "it would view the facts of the case as though the statute never existed." *Id.* at 9. The State appealed, arguing that "the good-faith exception to the exclusionary rule applies because the police officers did not violate defendant's substantive constitutional rights in effectuating the extraterritorial arrest," even though the arrest was authorized by a void *ab initio* statute. *Id.* at 13.

The appellate court and this Court affirmed. *Id.* at 17. This Court first noted that "the void *ab initio* doctrine applies equally to legislative acts which are unconstitutional because they violate substantive constitutional guarantees and those that are unconstitutional because they are adopted in violation of the single subject clause of our constitution." *Id.* at 14-15 (internal citations omitted); *see also People v. Reedy*, 186 Ill. 2d 1, 13 (1999) (collecting cases that "illustrate the seriousness with which this court regards single subject clause violations"). It

opined that “to give effect to the historical fact that the [extraterritorial arrest statute] existed at the time of the defendant’s arrest” would “run counter to our single subject clause and void *ab initio* jurisprudence – specifically, that once a statute is declared facially unconstitutional, it is as if it had never been enacted.” *Id.* at 16. This Court then held that because the extraterritorial arrest statute was void *ab initio*, “the police officers effectuated an unlawful arrest” and the good-faith exception to the exclusionary rule could not be applied. *Id.* at 17.

Eviscerating the State’s argument on this point, *Carrera* illustrates that this Court has previously applied the void *ab initio* doctrine to situations that did not involve a void *ab initio* statute of conviction or sentence. (St. Br. 27). Contrary to the State’s appellate representations, *Brown* is not an “outlier” in this regard. (St. Br. 27). Further, this Court in *Brown* expressly relied on *People v. Pena*, 321 Ill. App. 3d 538 (1st Dist. 2001), in reaching its decision. Under a similar fact pattern as in *Brown*, the First District found – and the State conceded – that the defendant’s transfer from juvenile court was void, as it was authorized by the void *ab initio* Public Act 88-680. *Pena*, 321 Ill. App. 3d at 540-41. Thus, this Court in *Brown* simply cemented what was already assumed at an appellate level – the void *ab initio* doctrine applies to *all* judgments based on facially unconstitutional statutes, including transfers from juvenile court.

The State also contends that “[a]dhering to *Brown* will merely perpetuate confusion in future cases.” (St. Br. 29). But just the opposite is true. The State’s recommendation to carve out exceptions to the void *ab initio* doctrine would create needless complications. As it stands, the doctrine is straightforward: “When a statute is found to be facially unconstitutional in Illinois, it is said to be void *ab initio*; that is, it is as if the law had never been passed and never existed.” *N.G.*,

2018 IL 121939, ¶ 50. There is “no fixed procedural mechanism or forum” for attacking a void judgment, and such challenges “are not subject to forfeiture or any other ordinary procedural bar.” *Id.* at ¶ 57. And the doctrine is simple to apply: a judgment based on a void *ab initio* statute “must be treated by the courts as if it did not exist, and it cannot be used for any purpose *under any circumstances.*” *N.G.*, 2018 IL 121939, ¶ 36, citing *Ex parte Siebold*, 100 U.S. 371, 376 (1879) (emphasis added).

Further, “prior decisions should not be overruled absent ‘good cause’ or ‘compelling reasons.’” *People v. Colon*, 225 Ill. 2d 125, 146 (2007) (citations omitted). Here, there is neither good cause nor compelling reasons to overturn *Brown* and give legal recognition to the facially unconstitutional, void *ab initio* statute that authorized Smith’s transfer. Accordingly, Smith properly alleges a void judgment, and his claim is exempt from the two-year statute of limitations for section 2-1401 petitions.

E. Smith and the State agree on the appropriate remedy.

The State contends that it is “possible that [Smith] was transferred under a statutory provision other than the one held unconstitutional by *Cervantes*,” such as 705 ILCS 405/5-4(3)(a) (1994) (discretionary transfer), *id.* § 5-4(3.1) (gang transfer), or *id.* § 5-4(3.2) (gang transfer). (St. Br. 30). Therefore, the State argues, Smith “has not yet proven that he was transferred under a facially unconstitutional statute,” and “has not shown that a new transfer hearing is warranted.” (St. Br. 30). However, Smith could not have been transferred under subsection (3)(a), the discretionary transfer provision, due to his age and the nature of his offense. The presumptive transfer statute at issue states:

“If the State’s Attorney *files a motion under subsection 3(a)* to permit prosecution under the criminal laws *and the petition alleges the commission by a minor 15 years of age or older of: (i) a class X felony other than armed violence **** and, if the juvenile judge designated to hear and determine motions to transfer a case for prosecution in the criminal court determines that there is probable cause to believe that the allegations in the petition and motion are true, *there is a rebuttable presumption that the minor is not a fit and proper subject to be dealt with under the Juvenile Court Act of 1987*, and that, except as provided in paragraph (b), the case should be transferred to the criminal court.”

705 ILCS 405/5-4(3.3)(a) (West 1996) (emphasis added). Because Smith was over the age of 15 and was charged with a Class X felony other than armed violence, any motion for transfer filed under subsection (3)(a) would be treated as a presumptive transfer under the void *ab initio* subsection (3.3)(a). *See* 705 ILCS 405/5-4(3)(a), (3.3)(a).

Smith acknowledges that it is theoretically possible that he was transferred under subsection (3.1) or (3.2), both of which allow for the transfer of a juvenile to criminal court upon a showing that, *inter alia*, the alleged offense was committed in furtherance of gang activity. *See* 705 ILCS 405/5-4(3.1, 3.2) (1994). But it seems unlikely that the State would go to the trouble of making this showing, considering that Smith’s age and the nature of his charged offense already allowed for the possibility of transfer and, indeed, created a rebuttable presumption of transfer under subsection (3.3)(a). *See* 705 ILCS 405/5-4(3.3)(a) (1994). In light of this, Smith’s claim that he was transferred under the void *ab initio* presumptive transfer provision has never been challenged. Further, the State has forfeited this issue by failing to raise it in its motion to dismiss Smith’s petition. *See People v. Pinkonsly*, 207 Ill. 2d 555, 564 (2003) (concluding that the State waived its timeliness argument,

stating, “If the State wished to argue that the defendant's section 2-1401 petition was untimely, it should have done so before the trial court, where any amendments could have been made and any factual disputes could have been resolved.”); *People v. Cruz*, 2013 IL 113399, ¶¶ 20-25 (finding that the State forfeited its challenge to whether an unnotarized affidavit supported petitioner’s claim, as it failed to raise the “alleged pleading deficiency” in its motion to dismiss).

This aside, Smith and the State agree that, if this Court does not deny Smith’s petition on procedural grounds, the proper relief is a new transfer hearing in criminal court, governed by the Juvenile Court Act’s transfer provision in effect before the enactment of the void *ab initio* Public Act 88-680. (St. Br. 31, citing *Brown*, 225 Ill. 2d at 202). If the circuit court, at the new hearing, finds that Smith would not have been transferred under that provision (or via subsection 3.1 or 3.2, as discussed *supra*), his attempt murder conviction must be vacated. (St. Br. 31, citing *id.* at 202-03). Smith and the State also agree that there is no jurisdictional bar to holding this hearing in criminal court. (St. Br. 31).

F. Conclusion

In sum, the State’s argument that Smith’s claim of a void judgment may be dismissed on procedural grounds is squarely foreclosed by long-held precedent. *See N.G.*, 2018 IL 121939, ¶¶ 57-59 (void *ab initio* challenges are not subject to “ordinary procedural bar[s]”). And it offers no compelling reason to overturn *Brown* and find that Smith’s claim of a void judgment is not exempt from the two-year statute of limitations. Under a nearly identical fact pattern, the question before this Court has been “deliberately examined and decided,” and therefore, it “should be considered as settled and closed to further argument.” *Colon*, 225 Ill. 2d at 146 (citations and internal quotations omitted). *Brown*’s holding – that because

a void *ab initio* statute “can be afforded no legal recognition,” a defendant transferred pursuant to such a statute is “entitled to a new transfer hearing” – is well-reasoned. *Brown*, 225 Ill. 2d at 199-200. It comports with the axiom that “[a]n unconstitutional law is void, and is as no law,” a principle that is “deeply embedded in our jurisprudence.” *N.G.*, 2018 IL 121939, ¶ 37, quoting *Ex parte Siebold*, 100 U.S. 371, 376 (1879) and citing 16A Am. Jur. 2d Constitutional Law § 195 (1998). Therefore, in accordance with *Brown*, Smith respectfully requests that this Court remand his case for a new transfer hearing.

CONCLUSION

For the foregoing reasons, Michael Smith, Petitioner-Appellant, respectfully requests that this Court reverse the appellate court's decision and remand his case for a new transfer hearing.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this reply brief conforms to the requirements of Rules 341(a) and (b). The length of this reply brief, excluding pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 15 pages.

/s/Victoria Rose
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	)	Honorable
MICHAEL SMITH,	)	Thomas Joseph Hennelly,
	)	Judge Presiding.
Petitioner-Appellant.	)	

NOTICE AND PROOF OF SERVICE

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On July 28, 2026, the Reply Brief was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the petitioner-appellant in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Reply Brief to the Clerk of the above Court.

/s/Nicholas Duarte
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