No. 131382

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, -vs- GERMAN CRUZ AGUILAR, Defendant-Appellee.	))))))))))	Appeal from the Appellate Court of Illinois, No. 5-22-0651. There on appeal from the Circuit Court of the Sixth Judicial Circuit, Champaign County, Illinois, No. 21-CF-671. Honorable Adam M. Dill, Judge Presiding.

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLEE

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ISSUE PRESENTED FOR REVIEW

Whether it was proper for the circuit court to dismiss the aggravated DUI charges under section 11-501(d)(1)(H) of the Illinois Vehicle Code against German Cruz Aguilar for "not possess[ing] a driver's license" with prejudice, where he had a license that was suspended for a reason not enumerated in section 11-501(d)(1)(G).

STATUTE INVOLVED

625 ILCS 5/11-501(a) (2022): Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof

(a) A person shall not drive or be in actual physical control of any vehicle within this State while:

> (1) the alcohol concentration in the person's blood, other bodily substance, or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2 [or while]
>
> (2) under the influence of alcohol;
>
> ***

(c) Penalties.

> (1) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.
>
> ***

(d) Aggravated driving under the influence of alcohol. . .

> (1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol . . . if:
>
> ***
>
> (G) the person committed a violation of subsection (a) during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a) or a similar provision, Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012; [or]
>
> (H) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit[.]
>
> ***
>
> (2)(A) Except as provided otherwise, a person convicted of aggravated driving under the influence of alcohol . . . is guilty of a Class 4 felony.

STATEMENT OF FACTS

On June 10, 2021, the State filed an information with two counts of aggravated driving under the influence (DUI) of alcohol against German Cruz Aguilar where the aggravating factor was that he was not in possession of a driver's license pursuant to section 11-501(d)(1)(H) of the Illinois Vehicle Code. (C. 8-9); 625 ILCS 5/11-501(a)(1), (2), 11-501(d)(1)(H). The first charge alleged that Cruz drove a vehicle when the concentration of alcohol in his blood was 0.08 or more, and the second, that Cruz drove under the influence of alcohol. (C. 8-9) Cruz had a driver's license but it was suspended because of an unpaid insurance financial responsibility; his license was not expired. (R. 7)

In May 2022, Cruz filed a motion to dismiss the information for failure to state an offense pursuant to section 114-1(a)(8) of the Code of Criminal Procedure of 1963. (C. 18-19) He argued that an unexpired suspended license due to an insurance suspension did not satisfy the aggravating factor in section 11-501(d)(1)(H), because he did in fact possess a driver's license. Cruz cited to *People v. Hartema*, 2019 IL App (4th) 170021-U, where the Fourth District Appellate Court held that subparagraph (H) – defendant "did not possess a driver's license" – does not apply to suspended licenses; otherwise subparagraph (G), which explicitly lists the types of suspensions that would render a license suspension an aggravating factor, would be superfluous. (C. 18-19)

In response, the State claimed that the trial court was obligated to follow the Second District Appellate Court's published opinion in *People v. Rosenbalm*, 2011 IL App (2d) 100243, where the defendant was charged with aggravated DUI based

on an expired driver's license. (C. 20-22) The State argued that even though Cruz had a driver's license, he did not possess a "valid" driver's license in satisfaction of subparagraph (H). (C. 20-22)

At the hearing on the motion to dismiss, the parties stipulated that "the reason for the alleged suspension [] was an SR-22 violation [and that Cruz's] license is otherwise not expired." (R. 7) The trial court admitted that it found the analysis in *Hartema* to be persuasive. (R. 13) But the court was hesitant to rule on the issue without doing its own research and continued the case in order to do so. (R. 14-16)

In its ruling issued on the following court date, the court first addressed the proper vehicle to rule on Cruz's motion to dismiss. The trial court found that the counts in the complaint were vague – they only indicated that Cruz did not possess a driver's license – and that dismissal under section 114-1(a)(8) was limited to the four corners of the document. (R. 24-27) Section 111-3(c)(5) of the Criminal Code of Procedure of 1963, however, allowed the court to dismiss the charges for lack of specificity, and the court would interpret Cruz's motion to be asking for dismissal under this provision. (R. 27) After research and thorough consideration, the court dismissed the charges "without prejudice" and granted the State leave to refile additional counts with more specificity using the same felony case number. (R. 28) The court suggested that the State include the stipulated facts in the new charges and that Cruz file a new motion to dismiss. (R. 29) It was important for the court to obtain an answer from the appellate court addressing whether any suspension could be an aggravating factor for a DUI offense under subparagraph

(H). Other judges in the circuit court had dismissed similar charges relying on *Hartema.* The court's concern was that if the State did not amend the charges, the court's agreement with *Hartema* could result in a conviction only on a misdemeanor charge, and the State would not be able to appeal that decision. (R. 30) The court also suggested that the State add the misdemeanor count to the complaint. (R. 32)

The State then filed two additional counts alleging that Cruz's driver's license, "while not expired, was suspended pursuant to a financial responsibility insurance suspension[.]" (C. 23-24) Defense counsel moved again to dismiss the information. In a written order dismissing the charges against Cruz with prejudice, the trial court found that the issue was whether Cruz's suspension for an insurance violation could elevate the charge to a Class 4 felony under subparagraph (H). (C. 35) The court agreed with the analysis set forth in *Hartema*, noting that the appellate court's mention of license suspensions in *Rosenbalm* was *dicta.* (C. 35, 37) The court reasoned that including license suspensions for any reason in subparagraph (H) would render subparagraph (G) superfluous. (C. 36) Both subparagraphs could coexist where subparagraph (H) only applied to those who had never obtained a license or those whose license was expired and the court's holding was consistent with the specific facts and limited holding in *Rosenbalm*. (C. 37)

State's Appeal

The State appealed the circuit court's dismissal, arguing that the trial court's judgment should be reversed because it relied on an unpublished decision with no precedential value. *People v. Cruz Aguilar,* 2024 IL App (5th) 220651, ¶ 11.

Even though the appellate court's ruling in *Rosenbalm* regarding suspended licenses was *dicta,* it was judicial *dicta* that the circuit court was required to follow. *Cruz Aguilar,* 2024 IL App (5th) 220651, ¶ 16. The appellate court affirmed the dismissal of the charges finding that *Rosenbalm's dicta* was erroneous and not entitled to much weight. *Id.* at ¶ 22. The appellate court agreed with the reasoning in *Hartema,* that only the type of suspensions enumerated in subparagraph (G) can be aggravating factors for the aggravated DUI offense. *Id.* at ¶¶ 21-22.

State's PLA and Opening Brief

In its petition for leave to appeal, the State asked this Court to resolve the conflict between *Rosenbalm's dicta* and the appellate court's holdings in this case and in *Hartema,* by providing the proper meaning of "did not possess a driver's license" in subparagraph (H). (St. PLA 2, 7) The State also asked that this Court "reaffirm that the trial court lacks authority to depart from binding appellate precedent[.]" (St. PLA 7)

In its opening brief, the State additionally requests that this Court modify the circuit court's judgment to dismiss the charges against Cruz without prejudice. (St. Br. 6-17)

ARGUMENT

The circuit court correctly dismissed the charges against German Cruz Aguilar with prejudice because the charges failed to properly allege a violation of section 11-501(d)(1)(H) of the Illinois Vehicle Code.

The question in this case is whether the circuit court properly dismissed the charges against German Cruz Aguilar under section 11-501(d)(1)(H) of the Illinois Vehicle Code – driving under the influence of alcohol without possessing a driver's license – where it was undisputed that Cruz had a driver's license, albeit one suspended for failure to maintain proof of financial responsibility. (C. 20, 23-24) Under the plain meaning of the statutory language, the circuit court and appellate court judgments should be affirmed.

In its brief, the State posits that possessing a driver's license under subparagraph (H) necessarily means a "valid" driver's license because it must encompass all situations where an individual did not have permission to operate a motor vehicle. (St. Br. 6-11) This interpretation of the statute, however, is incorrect. First, the statute's text involves the lack of possession of a driver's license or permit (individuals never authorized to drive in the first place), and does not use the word "valid." Second, read in conjunction with other provisions, it is clear that only certain suspensions are specified as aggravating factors for a DUI offense under subparagraph (G), and, as a result, subparagraph (H) cannot encompass licenses that are suspended for other reasons. *People v. Cruz Aguilar,* 2024 IL App (5th) 220651, ¶ 21. Because Cruz's suspension was for an unpaid financial obligation and not for a reason listed in subparagraph (G), his suspension is not an aggravating factor for the DUI charge and the circuit court was right to dismiss the charges

against him. This Court should affirm.

Statutory interpretation is a question of law that must be reviewed *de novo*. *People v. Walker*, 2018 IL App (4th) 170877, ¶ 16. The statute's plain language is the best evidence of legislative intent. If the text is clear, courts apply it as written without resorting to other interpretive aids. If ambiguous, courts may consider legislative purpose, history, and the problem the law seeks to address. *Gruszeczka v. Ill. Workers' Comp. Comm'n*, 2013 IL 114212, ¶ 12. Words must be read in context, not isolation, and statutes should be construed to avoid rendering any term meaningless. *Wisnasky-Bettorf v. Pierce*, 2012 IL 111253, ¶ 16. Even when provisions appear to conflict, courts strive to harmonize them. *1010 Lake Shore Ass'n v. Deutsche Bank Nat. Tr. Co.*, 2015 IL 118372, ¶ 36. And, under the rule of lenity, ambiguous penal statutes are strictly construed in favor of the accused. *People v. Perry*, 224 Ill. 2d 312, 333 (2007).

Here, the language of the aggravated DUI statute is clear, the State's suggested interpretation renders other parts of the of the statute superfluous, the legislative history does not support the State's reading of the statute, and, even if ambiguous, the rule of lenity should control.

A. The text of section 11-501(d)(1)(H) does not encompass the facts in this case – a suspended driver's license for failure to have financial responsibility insurance – where the statute does not use the word "valid" and other provisions of the statute demonstrate that not possessing a driver's license is not the same as having a suspended license.

The circuit court properly dismissed the charges against Cruz because he possessed a driver's license on the day of his arrest. Section 11-501(d)(1)(H) provides that a person may be charged with aggravated DUI if he "committed [a DUI

misdemeanor offense] while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit[.]" 625 ILCS 5/11-501(d)(1)(H). The statute does not qualify the meaning of driver's licence and the possession of a driver's licence, even a suspended one, places Cruz outside the purview of subparagraph (H). Thus, under the plain meaning of the statute, which requires that Cruz not possess a driver's licence, the necessary aggravating factor was absent in this case. Because the circuit court's decision to dismiss his charges was correct, the appellate court's order, adopting the circuit court's reasoning, should be affirmed.

The State, though, argues that subparagraph (H) elevates a misdemeanor DUI offense to a felony if the DUI offense occurs at a time when the defendant does not possess a "valid" driver's license. (St. Br 11-13) Giving the statutory language "its fullest, rather than the narrowest, possible meaning to which it is susceptible," the State concludes that possessing a suspended driver's license is tantamount to not possessing a driver's license at all. (St. Br. 7, citing *People v. Simpson,* 2015 IL 116512) According to the State, this is because the definition of a driver's license includes the physical license as well as driving privileges, and when those driving privileges are suspended, an element of what constitutes a driver's license is missing, making it impossible for an individual to "possess a driver's license." (St. Br. 7-9)

But the application of "the fullest, rather than the narrowest," meaning, to "driver's license," does not necessarily result in the State's desired reading. The factors in aggravation listed in the statute in fact distinguish between "not

possess[ing] a driver's license" (subparagraph (H)) and when " driving privileges are revoked or suspended" (subparagraph (G)). *People v. Hunter*, 2017 IL 121306, ¶ 48 (finding that courts will presume the legislature's choice to exclude or include language was intentional and that the legislature intended different results). Subparagraph (G) specifically refers to only one aspect of the State's definition of "driver's license." It states that it is an aggravating factor if the DUI occurs "during a period in which the defendant's driving privileges are revoked or suspended." 625 ILCS 5/11-501(d)(1)(G). Subparagraph (H), instead, mentions the possession of a driver's license or certain permits, indicating that it is referring to something different from "driving privileges." 625 ILCS 5/11-501(d)(1)(H). The legislature's use of different language shows it "intended different results." *See In re Marriage of Ellinger,* 378 Ill. App. 3d 497, 499 (3d Dist. 2008). Thus, it is clear that the legislature was not equating having driving privileges with possessing a driver's license.

Furthermore, cases that quote this fullest-versus-narrowest-meaning of statutory language do not necessarily indicate that the use of the most encompassing definition of a word or term is the one that must prevail. For example, in *Simpson,* the case cited by the State for this proposition, this Court found that the narrower interpretation of "an event or condition of which the witness had personal knowledge" in section 115-10.1 of the Code of Criminal Procedure of 1963, was the correct one. *Simpson,* 2015 IL 116512, ¶ 34; 725 ILCS 5/115-10.1. The State argued that a recorded statement by a witness who said the defendant admitted to the crime was admissible as substantive evidence against the defendant as an out-of-court

recorded statement pursuant to section 115-10.1. *Id.* at ¶ 31. According to the State, in order to be admissible, it was not required that the witness have personal knowledge of the crime itself, but that the "event or condition" described could also include the fact that the defendant simply made the statement. *Id.* This Court rejected the State's more inclusive interpretation of the statute holding that such interpretation would render the "personal knowledge" requirement superfluous, and that a quarter of a century of consistent interpretation that disagreed with the State's proposed reading would not be changed without legislative action. *Id.* at ¶¶ 31-32; *see also Mahon v. Nudelman,* 377 Ill. 331, 333-335 (1941) (giving narrow interpretation of "sale at retail" in the Retail's Occupation Tax Act). In this case, the plain language of the statute excludes individuals who have a driver's license and, under the rule of lenity, the language should be construed in favor of the accused.

Notably, subparagraph (H) does not contain the word "valid," a word the legislature could have easily used if it meant what the State believes it does and that the legislature in fact used in many other statutes. *See, e.g.,* 625 ILCS 5/6-104(a) ("valid current Illinois driver's license"); 625 ILCS 5/11-501.1(f)(1.5) ("valid driver's license"); 625 ILCS 5/11-1426.2(g) (same); 625 ILCS 5/11-208.6(j-3) ("valid commercial driver's license"); 625 ILCS 5/11-502(c) ("possession of a valid Illinois driver's license"). And there are other ways in which a driver's license would not be "valid" under the Illinois Vehicle Code that do not involve suspension, revocation, or expiration. A license can be invalidated by voluntary surrender, court order, or administrative rule, nullifying the holder's privileges. 625 ILCS 5/6-301.3. A

license issued to a minor may be cancelled at the parent's request or after certain types of convictions. 625 ILCS 5/6-108. And, interestingly, the Administrative Code allows for the suspension or revocation of a driver's license if the driver is convicted "of driving without a valid driver's license[.]" 92 Ill. Adm. Code 1040.25; 625 ILCS 5/6-101(a), (b). These types of license statuses, where the privilege to drive is lacking, are never mentioned in subparagraph (G), demonstrating that the legislature chose to elevate a DUI to a felony based only on a subset of "invalid" driver's licenses and further narrowed that subset to more specific types of suspensions and revocations.[1] Under the doctrine of *expressio unius*, where a statute lists the thing to which it refers, there is an inference that all omissions should be understood as exclusions. *People v. Roberts,* 214 Ill. 2d 106, 117 (2005).

Cruz had a driver's license and under the plain text of subparagraph (H), there is no aggravating factor. The appellate court's order, adopting the circuit court's reasoning in dismissing the charges, should be affirmed.

B. The rule against superfluous reading requires an interpretation consistent with the circuit court's ruling.

The State asks this Court to apply subparagraph (H) to individuals driving with a suspended license even if doing so would render subparagraph (G) superfluous. (St. Br. 9-10) It argues that "[c]anons of statutory construction, like that against surplusage, 'are not mandatory rules.'" (St. Br. 9) And here, according

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[1]The Illinois Administrative Code provides a definition for "'Valid driver's License or Permit' – a license or permit issued by the Secretary of State that is of the proper classification for the purposes for which it is being used and that has not been invalidated, denied, cancelled, revoked, suspended, disqualified or used after curfew or during a night time driving restriction." 92 Ill. Adm. Code 1040.1.

to the State, the legislature's inclusion of subparagraph (G) was a drafting redundancy. (St. Br. 10) The State does not deny that the rule against superfluous reading is "one of the most basic interpretive cannons[.]" *Corley v. United States,* 556 U.S. 303, 314 (2009). A statute "should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Id.*; *see also People v. Plank*, 2018 IL 122202, ¶ 18 (reviewing courts "must give effect to every phrase in the statute and should not render any part of it superfluous"). Under the doctrine of *in pari materia,* "two statutes, or two parts of one statute, concerning the same subject must be considered together in order to produce a harmonious whole." *People v. Rinehart,* 2012 IL 111719, ¶ 26. But the State asks that this Court reject this principle because, after the appellate court's decision in *Rosenbalm,* the legislature has allegedly acquiesced to *Rosenbalm*'s interpretation of the statute by failing to amend subparagraph (H). (St. Br. 9-10) This Court should decline from dispensing with this canon of statutory construction in favor of alleged acquiescence from the legislature based on *dicta* from a single appellate court case.

Even if subparagraph (H) were deemed ambiguous when read alone, it must be interpreted in conjunction with subparagraph (G), as the appellate court did in *Hartema* and in this case. *Cruz Aguilar,* 2024 IL App (5th) 220651, ¶ 22. Courts follow the doctrine of *in pari materia* because legislatures are presumed to consider existing laws when enacting new provisions. *See People v. Burge*, 2021 IL 125642, ¶ 31. When a general and a specific provision address the same subject, the specific governs. *Moore v. Green*, 219 Ill. 2d 470, 480 (2006). Limiting language in one

section signals legislative intent; if lawmakers intended the same limitation elsewhere, they would have included it. *People v. Robinson*, 172 Ill. 2d 452, 461 (1996).

Under Illinois law, DUI is ordinarily a misdemeanor unless an aggravating factor applies. *See People v. Martin*, 2011 IL 109102, ¶ 24. Subparagraph (G) identifies four specific suspensions and revocations – prior DUI, statutory summary suspension following a DUI arrest, leaving the scene of an accident involving injury or death, and reckless homicide – that elevate DUI to a felony. 625 ILCS 5/11-501(d)(1)(G). By enumerating these limited scenarios, the legislature signaled its intent to narrowly define when a suspended license triggers felony liability. *See Moore v. Green*, 219 Ill. 2d 470, 480 (2006).

Importantly, if, after reading subparagraphs (G) and (H) together, a court still finds ambiguity, the rule of lenity applies: penal statutes must be strictly construed in favor of the accused, and courts may not infer conditions beyond the statute's plain language. "[A]mbiguities about the breadth of a criminal statute should be resolved in the defendant's favor." *United States v. Davis*, 588 U.S. 445, 464 (2019); *see also Snyder v. United States,* 603 U.S. 1, 20 (2024) ("[J]udges are bound by the ancient rule of lenity to decide the case . . . not for the prosecutor but for the presumptively free individual.") (Gorsuch, J., concurring). This rule applies not only to criminal prohibitions but also to the penalties that may be imposed. *Bifulco v. U. S.*, 447 U.S. 381, 387 (1980).Thus, the phrase "does not possess a driver's license" in subparagraph (H) cannot be expanded to mean "does not possess a valid driver's license." The State's interpretation violates this rule.

See People v. Keys, 2025 IL 130110, ¶ 99 (holding that where the language of the statute is ambiguous, the doctrine of lenity must be applied in the defendant's favor).

Further, the legislative history does not call into question this reading of the statute. (St. Br. 11-14) To start, that two legislators referred to the no-license provision "as encompassing circumstance where a person commits a DUI while his license is suspended" is not strong evidence of legislative intent. (St. Br. 12) "[F]loor statements by individual legislators rank among the least illuminating forms of legislative history." *N.L.R.B. v. SW General, Inc.,* 580 U.S. 288, 307 (2017); *see also McKinley Foundation at Univ. of Illinois v. Ill. Dep't of Labor*, 404 Ill. App. 3d 1115, 1127–28 (4th Dist. 2010) (Steigmann, J., specially concurring). The legislature instead speaks with "the language of the public act." *People v. Jones*, 318 Ill. App. 3d 1189, 1193 (4th Dist. 2001). Put another way, the reading of the act should lead to non-superfluous results.

Moreover, the appellate court's analysis of the legislative history in *Rosenbalm*, which the State adopts, is fundamentally erroneous. The *Rosenbalm* court concluded that the perceived redundancy in the aggravated DUI provisions stemmed from confusing and contradictory amendments to the DUI statute. *See Rosenbalm*, 2011 IL App (2d) 100243, ¶ 12; *see also People v. Maldonado*, 402 Ill. App. 3d 1068, 1073–75 (2d Dist. 2010) (noting Public Acts 94-114 and 94-116 "irreconcilably conflict"); *People v. Prouty*, 385 Ill. App. 3d 149, 154 (2d Dist. 2008) (finding conflict between Public Acts 94-116 and 94-609, though not irreconcilable). But in reality, the final list of aggravating factors resulted from legislation designed

to resolve those prior inconsistencies and restructure the statute into a unified framework. *See* Public Act 95–578, § 5 (eff. June 1, 2008) (repealing eight earlier enactments, including those addressed in *Maldonado* and *Prouty*, and replacing them with new text). As part of this overhaul, the legislature moved the suspended license provision previously in a different section of the statute, and turned it into an aggravating factor under section 11-501(d). *See* Public Act 95–578; *cf.* 625 ILCS 5/11-501(c-1)(1) (eff. Jan 1, 2008, to Aug. 3, 2008) with 625 ILCS 5/11-501(d)(1)(G), (eff. Jun 1, 2008, to Aug. 3, 2008). The legislature also added the no-license provision into the list of aggravating factors in the same Public Act, a provision that was previously added in 2007 but then deleted for a brief period of time from the statute in 2008. *See* Public Act 95–578. Therefore, the legislature intentionally incorporated those two provisions as separate aggravating factors, indicating separate meanings. Had the legislature intended for all "invalid" licenses to aggravate the DUI offense, and for possession of a driver's licence to mean a "valid" driver's license, it could have simply inserted the word "valid" to what is now subparagraph (H). Instead, the legislature chose to maintain the exclusive list of suspensions and revocations that elevate the DUI to a Class 4 felony.

Finally, the legislature's alleged acquiescence to *Rosenbalm*'s interpretation of subparagraph (H) is nonexistent. Acquiescence is recognized only when the terms in question "have acquired a *settled* meaning through judicial construction[.]" *In re Q.P.,* 2015 IL 118569, ¶ 14 (emphasis added). And "settled meaning" does not involve *dicta* in a single appellate court case. In *In re Q.P.,* for example, this Court found the meaning of the word "apprehension" settled because it had been

determined by this Court in 1899, and subsequently adopted by the appellate court since. *Id.* at ¶¶ 15-22. In *Simpson,* this Court noted that what it means to have personal knowledge of an event has been *consistently applied* for a quarter of a century, making it clear that the phrase has a settled meaning. *Simpson*, 2015 IL 116512, ¶ 33. Importantly, the courts' decisions interpreting those terms, or applying the settled meaning, relied on those definitions to resolve the case. *People v. Young,* 2011 IL 111886, ¶¶ 12-15; *Simpson*, 2015 IL 116512, ¶ 32; *Q.P.,* 2015 IL 118569, ¶¶ 14-22. The court in *Rosenbalm* did not need to decide whether having any suspended license was an aggravating factor under subparagraph (H) to resolve the case, and the States cites to no appellate court decision interpreting subparagraph (H) in the same way as in *Rosenbalm*. Thus, the interpretation of what it means to have a driver's license is far from settled, leaving nothing for the legislature to acquiesce to. And again, under the rule of lenity, ambiguous penal statutes must be interpreted in a way that benefits the accused. *Perry*, 224 Ill. 2d at 333.

C. The appellate court's interpretation below does not lead to absurd results.

The consequences of any given interpretation of a statute may also be used as a guide of interpretation. *People v. Hoffman*, 2025 IL 130344, ¶ 37. The State claims that limiting the scope of subparagraph (H) to its plain meaning yields absurd results because, under other provisions, driving without ever possessing a driver's license is punished less harshly – a Class B misdemeanor – than driving with a suspended or revoked license. (St. Br. 15) But, under the State's logic, the result in *Rosenbalm* – that an expired license is an aggravating factor under

subparagraph (H) – would also be absurd. 2011 IL App (2d) 100243, ¶ 9. Driving with an expired license, if the period of expiration is greater than one year, is also a Class B misdemeanor. 625 ILCS 5/6-601(c)(2). And the broad interpretation proposed by the State, that subparagraph (H) applies to all "invalid" license would have even more illogical results. For example: a temporary visitor's driver license is considered "invalid" if the holder cannot provide proof of liability insurance. 625 ILCS 5/6-105.1(d-5). However, the penalty for driving with such an "invalid" license, is just a petty offense. 625 ILCS 5/6-601(c)(3).

Notably, there are other portions of the Vehicle Code that also treat the types of revocations listed in subparagraph (G) more harshly than others. For example, an individual whose license is suspended or revoked for any reason will be guilty of a Class A misdemeanor if they drive. 625 ILCS 5/6-303(a). But if the revocation is a result of offenses such as reckless homicide, or aggravated driving under the influence of alcohol, among others, the offense is a Class 4 felony. 625 ILCS 5/6-303(a-5).

That someone who has never obtained a license to drive and drives while intoxicated is subject to a higher penalty than a licensed driver who had his privilege suspended because of an unpaid financial obligation is not absurd. *See Hartema,* 2025 IL App (4th) 170021-U, ¶¶ 39-41. And to attempt to compare the aggravating factors of a DUI offense based on the penalties imposed for those factors as offenses in other parts of the Vehicle Code, bears a strong resemblance to the cross-comparison analysis for a proportionate penalties challenge long ago rejected by this Court. *See People v. Sharpe,* 216 Ill. 2d 481, 514 (2005) (finding that the cross-

comparison analysis is "largely subjective [and] not a good test for judging which of two offenses is more serious"). This Court should therefore reject the State's assertion that the plain reading of the statute creates in absurd results, and affirm the appellate court's interpretation of the statute.

D. The State forfeited any challenge to the circuit court's dismissal "with prejudice," and the dismissal was, in large part, the result of the State's desire to appeal the court's interpretation of the statute.

The State claims that it was improper for the circuit court to dismiss the information in this case with prejudice pursuant to 725 ILCS 5/114-1(a)(8) because section 114-1(a)(8) applies to the sufficiency of the pleadings, not to the sufficiency of the evidence. (Op. Br. 16-17) But this Court should decline to review the circuit court's dismissal with prejudice and affirm.

First, the State has forfeited this issue where it failed to raise it below. *People v. Blair,* 215 Ill. 2d 427, 444 (2005) (finding that a forfeited issue is one "that could have been raised, but [was] not, and [is] therefore barred"); *People v. Artis,* 232 Ill. 2d 156, 178 (2009) (noting that "the rules of forfeiture in criminal proceedings are applicable to the State"). In the circuit court, the State did not challenge the nature of the dismissal. (R. 35-40) It has thus forfeited any challenge to the remedy ordered.

Moreover, Supreme Court Rule 315(c) mandates that a petition for leave to appeal provide the issues for review. Ill. S. Ct. R. 315(c)(3), (5). When the State, as in this case, requests review of an issue it fails to raise in the trial and appellate courts and in its petition for leave to appeal before of this Court, it is attempting to circumvent the Rule. *See*, *e.g.*, *People v. Urzua*, 2023 IL 127789, ¶ 67 (State

forfeited issue where it failed to raise it in its petition for leave to appeal); *People v. Guy*, 2025 IL 129967, ¶¶ 58-60 (same). This Court's rules "are not mere suggestion"; "[t]hey have the force of law, and they should be followed." *People v. Glasper*, 234 Ill. 2d 173, 189 (2009). The State's petition for leave to appeal never mentioned the circuit's court dismissal with prejudice as a reason for this Court's review. (St. PLA) Nor did the State object to the circuit court's dismissal with prejudice at the time of the dismissal or include this issue on direct appeal below. The issue is therefore forfeited.

Second, it is not surprising that the State did not bring up the dismissal with prejudice earlier: the State *wanted* the dismissal with prejudice so that it could appeal the circuit court's interpretation of the statute. The State, thus, invited the error. *See, People v. Carter,* 208 Ill. 2d 309, 319 (2003); *People v. Rokita,* 316 Ill. App. 3d 292, 299 (5th Dist. 2000) ("The State cannot now deny on appeal a fact it admitted in the trial court."). "Under the invited error doctrine, a [party] may not request to proceed in one manner and then later contend on appeal that the course of action was in error." *Id.* The circuit court, before dismissing the charges with prejudice, gave the State the opportunity to amend them. (R. 31) The circuit court initially granted Cruz's motion to dismiss but it "[did] not grant[ ] it with prejudice." (R. 29) It then proposed that the State amend the charges to include a misdemeanor charge and to allege more specificity "as to why [the State] believe[s] this is a class four felony . . . based on the stipulations." (R. 29)

Notably, the record indicates that it was the desire of the State and the circuit court for the interpretation of section 11-501(d)(1)(H) to be resolved on

appeal, and the most efficient way to obtain appellate review was to dismiss with prejudice and give the State the right to appeal. (R. 30) The court understood that given the stipulated facts in this case, it could not find Cruz guilty of aggravated DUI. (R. 29-30) As a result, the court suggested the amendment of the Class 4 felonies with the stipulated facts, so that it could make a ruling under section 114-1(a)(8). (R. 28-29) The State followed the circuit court's suggestion – it amended the charges in the information to include the reason for Cruz's suspension, and that his license was not expired – but it declined to add a misdemeanor offense against him. (C. 23-24) Given the State's actions after the circuit court's dismissal without prejudice, it is clear that the result obtained was the result desired and the State cannot now complain and seek reversal. This Court should decline to review this issue and affirm the circuit court's judgment because this claim was forfeited and the error was invited by the State.

E. Where the judicial *dicta* in *People v. Rosenbalm* is erroneous, the circuit court was not required to follow it.

The State contends that "the circuit court lacked authority to depart from *Rosenbalm*" because the appellate court's finding that a person does not possess a license to drive under subparagraph (H) when his license is suspended, is judicial *dicta.* (St. Br. 17) However, this Court has held that though "judicial *dictum* is entitled to much weight," it should not be followed if it is "erroneous." *Cates v. Cates,* 156 Ill. 2d 76, 80 (1993). And both the circuit court and the appellate court found that *Rosenbalm*'s *dicta* was indeed erroneous because it conflicted with the plain language of subparagraph (H). *Cruz Aguilar,* 2024 IL App (5th) 220651, ¶¶21-22. Thus, under *Cates,* they were not required to follow the analysis in

Rosenbalm.

The State relies primarily on *People v. Williams,* 204 Ill. 2d 191, 206 (2003), to suggest that the dicta in *Rosenbalm* was binding authority for the circuit court as "an inferior court." (St. Br. 17) But the decision in *Williams* only referred to *dicta* from this Court's decisions, and did not address the effect of erroneous appellate court *dicta* on circuit court decisions. Importantly, where a judicial interpretation of a statute is incompatible with its plain language, judicial *dicta* can be "afforded no weight." *Paper Source LLC v. Sugar Beets, Inc.,* 2025 IL App (1st) 231878, ¶ 27 (finding judicial *dicta* in a prior appellate court opinion to be inapplicable where its statements were inconsistent with settled principles of contract law). Here, as the appellate court explained, the plain language of sections 11-501(d)(1)(G) and (H) is incompatible with the appellate court's *dicta* in *Rosenbalm,* and it was thus appropriate for the circuit court and the appellate court to reject it.

In sum, the plain meaning of the statute supports the dismissal of the charges against Cruz. The State's argument to the contrary departs from the plain text and cannot be reconciled with the rule against superfluous readings. The judgment of the circuit and appellate courts should therefore be affirmed.

CONCLUSION

For the foregoing reasons, German Cruz Aguilar, Defendant-Appellee, respectfully requests that this Court affirm the appellate court's judgmentin this case, affirming the circuit court's dismissal with prejudice of the charges.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 23 pages.

/s/Manuela Hernandez
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No. 131382

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, -vs- GERMAN CRUZ AGUILAR, Defendant-Appellee.	))))))))))	Appeal from the Appellate Court of Illinois, No. 5-22-0651. There on appeal from the Circuit Court of the Sixth Judicial Circuit, Champaign County, Illinois, No. 21-CF-671. Honorable Adam M. Dill, Judge Presiding.

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 December 15, 2025, the Brief and Argument for Defendant-Appellee in Support of Rule 604(h) Appeal was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the Defendant-Appellee in an envelope deposited in a U.S. mailbox in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument for Defendant-Appellee in Support of Rule 604(h) Appeal to the Clerk of the above Court.

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