



**OFFICE OF THE STATE APPELLATE DEFENDER  
ADMINISTRATIVE OFFICE**

400 West Monroe • Suite 202  
Springfield, Illinois 62704  
Telephone: 217/782-7203 • Fax: 217/782-5385  
www.illinois.gov/osad/ • E mail: osad@osad.state.il.us

**JAMES E. CHADD**  
STATE APPELLATE DEFENDER

September 28, 2022

**KERRY J. BRYSON**  
**SHAWN O'TOOLE**  
DEPUTY STATE APPELLATE DEFENDERS

**Via Email**

**LAURA A. WEILER**  
DIRECTOR OF TRAINING

Committee Secretary  
Supreme Court Rules Committee  
222 N. LaSalle Street, 13th Floor  
Chicago, Illinois 60601

**AGENCY OFFICES:**

**FIRST JUDICIAL DISTRICT**  
203 North LaSalle Street, 24th Floor  
Chicago, IL 60601  
(312) 814-5472  
1stDistrict@osad.state.il.us

**SECOND JUDICIAL DISTRICT**  
One Douglas Avenue  
2nd Floor  
Elgin, IL 60120  
(847) 695-8822  
2ndDistrict@osad.state.il.us

**THIRD JUDICIAL DISTRICT**  
770 E. Etna Road  
Ottawa, IL 61350  
(815) 434-5531  
3rdDistrict@osad.state.il.us

**FOURTH JUDICIAL DISTRICT**  
400 West Monroe Street, Suite 303  
Springfield, IL 62704  
(217) 782-3654  
4thDistrict@osad.state.il.us

**FIFTH JUDICIAL DISTRICT**  
909 Water Tower Circle  
Mt. Vernon, IL 62864  
(618) 244-3466  
5thDistrict@osad.state.il.us

**JUVENILE DEFENDER RESOURCE CENTER**  
400 W. Monroe Street, Suite 202  
Springfield, IL 62704  
(217) 558-4606  
jdro@osad.state.il.us

**EXPUNGEMENT / SEALING UNIT**  
400 W. Monroe Street, Suite 202  
Springfield, IL 62704  
(866) 787-1776  
Expungement@osad.state.il.us

**Re: Office of the State Appellate Defender's Response to  
Proposal No. 21-04**

The Office of the State Appellate Defender ("OSAD") writes in support of proposal 21-04. This amendment to Rule 23 will allow for partial summary remands in cases where the defendant is clearly entitled to sentencing relief, but has other appealable issues that require full briefing.

The appellate process can take months and even years. Most defendants spend that time in prison, serving the sentence imposed by the trial court. In some cases, however, that sentence is erroneous. For example, the judge may have applied the wrong statute, relied on an improper prior conviction, or miscalculated the amount of sentencing credit. Sometimes, this error will make the difference as to whether a defendant will wait out the appeal in prison or at home.

While Rule 23(c) provides for a motion for a summary order to remedy these obvious errors quickly and efficiently, this route requires the defendant to forego issues that are not amenable to summary disposition, including allegations of trial error that may result in a reversal of the conviction or remand for a new trial. Defendants who are entitled to sentencing relief are thus given a choice: pursue your full appeal while serving an improper sentence, or obtain your rightful sentence more quickly by sacrificing your constitutional right to a full appeal.

OSAD has long concluded that an easy solution in such cases is the partial summary remand. Defendants can seek immediate sentencing relief via motion, explaining why a remand is needed to

remedy the clear and obvious error, while preserving the right to appeal the remaining non-sentencing issues. The appellate court could grant the motion and remand for a new sentencing hearing, while retaining jurisdiction over the remainder of the case. Retaining jurisdiction is nothing new for the appellate court; it does so routinely in cases involving remands for *Krankel* hearings, *Batson* hearings, and attenuation hearings.

Unfortunately, most attempts at this solution have faced resistance because Rule 23(c) does not explicitly provide for partial summary remands. Adopting Proposal 21-04 would leave no doubt as to the appellate court's ability grant a motion for partial summary remand and retain jurisdiction over the case. It would be a major step forward in this Court's goal of making the appellate process more equitable and more efficient.

Sincerely,

**James E. Chadd**

JAMES E. CHADD  
State Appellate Defender

**Kerry J. Bryson**

KERRY J. BRYSON  
Deputy State Appellate Defender

**Shawn O'Toole**

SHAWN O'TOOLE  
Deputy State Appellate Defender