



**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

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

LAURA A. WEILER
DIRECTOR OF TRAINING

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
jdrcc@osad.state.il.us

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

September 28, 2022

Via Email

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

**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