THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 604(h)

No. 130618

IN THE SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, v. **DAMARCO WATKINS-ROMAINE,** Defendant-Appellee.	Appeal from the Appellate Court of Illinois, First District, No. 1-23-2479B There on Appeal from the Circuit Court of Cook County, Illinois No. 23 CR 10584-01 The Honorable Mary Margaret Brosnahan, Judge Presiding

RESPONSE BRIEF OF DEFENDANT-APPELLEE, DAMARCO WATKINS-ROMAINE

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STATEMENT OF FACTS

Defendant-Appellee, Damarco Watkins-Romaine ("Mr. Watkins-Romaine") was charged with the offenses of Attempt First-Degree Murder, Aggravated Battery with a Firearm, and Aggravated Discharge of a Firearm. C3.[1] Mr. Watkins-Romaine was accused of following the complaining witness in his vehicle onto Interstate 57 and shooting at her where it is said that she was hit at least five (5) times. C3. Mr. Watkins-Romaine was originally arrested for this offense back in January of 2023. R20. However, he was not charged at that time. R20. Mr. Watkins-Romaine voluntarily surrendered to the Chicago Police Department on August 31, 2023, where he was subsequently charged in this case. R20-21.

Mr. Watkins-Romaine then appeared before the Honorable Judge Maryam Ahmed for bond court on September 1, 2023, prior to the effective date of the Pretrial Fairness Act[2] (hereinafter, "Act"). SR1-2. The People filed a petition for mandatory no bail alleging that the proof was evident and the presumption was great that Mr. Watkins-Romaine discharged a firearm causing injury to the victim and that a possible life sentence could be imposed. SR5-6. In support of detention, the People primarily relied on their proffer of the allegations of this case. SR3-10. In opposition of detention, the defense argued that the People failed to

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[1] The citations to the record and supplements mirror the format of the People as indicated in their Footnote 2. To reiterate, citations to the supplemental record to the report of proceedings will appear as "SR__", to the report of proceedings will appear as "R__", to the common law record will appear as "C___", and to the appendix as "A__."

[2] In 2021, the General Assembly enacted Public Act 101-625 (eff. Jan. 1, 2023), commonly known as the Safety, Accountability, Fairness, and Equity-Today (SAFE-T) Act or the Pretrial Fairness Act. *Rowe v. Raoul*, 2023 IL 129248, ¶ 4. The SAFE-T Act abolished monetary bail. *Id.* ¶ 5. In December 2022, the General Assembly enacted Public Act 102-1104 (eff. Jan. 1, 2023), known as the Follow-Up Act, which amended various provisions of the SAFE-T Act. *Id.* ¶¶ 4, 10. The SAFE-T Act, as amended by the Follow-Up Act, revised the provisions of article 110 of the Code of Criminal Procedure with respect to pretrial release. *Id.* ¶¶ 4-6. For clarity, this brief refers to the SAFE-T Act and the Follow-Up Act together as the "Act." *See generally Id.*

establish that the proof is evident or the presumption great to support mandatory no bail. SR14. Specifically, the defense argued that the victim in this case described the shooter as only a black male with no specific description which established that there was no identification of Mr. Watkins-Romaine as the shooter who was in the vehicle that day. SR14. The defense further argued that the DNA was present in the car because Mr. Watkins-Romaine had a romantic relationship with the owner of the vehicle with whom he shared two children with which didn't necessarily place him in the vehicle on the day of the shooting. SR15. The defense also argued that Mr. Watkins-Romaine held a valid FOID card, that he lawfully owned his weapons, there was no firearm recovered that was tied to this offense, and that there was no gunshot residue (GSR) that showed that he personally discharged a firearm in this incident. SR15. In mitigation, the defense argued that Mr. Watkins-Romaine was 29 years old, had two minor children with one who had health issues, and was almost their sole caretaker. SR15. The defense further argued in mitigation that Mr. Watkins-Romaine had a high school diploma, went to culinary arts school, was working to obtain his CDL license, and was scheduled to start working at the Chicago Transit Authority (CTA) on Tuesday, that he was productive in society, and did not have a criminal background. SR15. The defense also noted in concluding its argument that the text messages referenced by the People were vague, the phone was not registered to Mr. Watkins-Romaine and reiterated that there was no identification of Mr. Watkins-Romaine as the shooter. SR16-17. The People briefly argued in rebuttal to the defense arguments opposing detention. SR17-18. Judge Ahmed denied the People's petition for mandatory no bail by finding that the People failed to meet their burden by showing that the proof was evident or the presumption was great that Mr. Watkins-Romaine committed the offenses charged. SR. 19-22. Judge Ahmed in her

ruling highlighted the fact that there was no identification of Mr. Watkins-Romaine as the shooter in determining that the People failed to meet their burden to support their petition for mandatory no bail. SR. 21-22. Judge Ahmed also noted the nature of the circumstantial evidence proffered as well as her view of said circumstantial evidence when issuing her ruling. SR19-22. Based upon this, Judge Ahmed ordered that Mr. Watkins-Romaine be released subject to posting a monetary bond of $350,000.00-D. SR22. Upon his release, he would be further required to submit to electronic home monitoring along with other standard and special conditions. SR22-23. Mr. Watkins-Romaine was not released due solely to his inability to post the $350,000.00-D monetary bond previously set. C7.

On October 10, 2023, Mr. Watkins-Romaine's first appearance before Judge Mary Margaret Brosnahan occurred where he was arraigned. Def. Memo. 2. On December 7, 2023, Undersigned Defense Counsel e-filed a Motion to Release under the Act. C3-11. A hearing was conducted on December 13, 2023. R1-34. The People filed a Petition to Detain under 725 ILCS 5/110-6.1, that same day. C13. The People provided a proffer that was substantially similar to what was proffered at the original bond hearing. R6-11. Undersigned Defense Counsel argued that the proof wasn't evident nor was the presumption great that Mr. Watkins-Romaine committed the charged offenses. R11. In support of that argument, Undersigned Defense Counsel argued that there was no identification of Mr. Watkins-Romaine as the shooter, that the victim only provided a general description of a black male highlighting that the person was a light-skinned black male while Mr. Watkins-Romaine is a dark-skinned black male. R11. Undersigned Defense Counsel noted that the victim told Illinois State Police that she believed that her ex-boyfriend was probably the one that shot her. R11-12. Undersigned Defense Counsel further argued that the vehicle was not registered

to Mr. Watkins-Romaine but to his girlfriend, that the DNA results received in discovery showed that the DNA of four unidentified individuals was also found in the vehicle in addition to Mr. Watkins-Romaine. R11. Undersigned Defense Counsel further argued that because Mr. Watkins-Romaine and his girlfriend were in a romantic relationship and that they shared two children together, it showed why his DNA would have been found in the vehicle. R12-13. Undersigned Counsel also argued that the DNA didn't show when Mr. Watkins-Romaine was in the car prior to the shooting or how long the DNA was in the vehicle. R12-13. Undersigned Defense Counsel noted that none of the fingerprints that were found in the vehicle matched Mr. Watkins-Romaine and that at a subsequent interview of Mr. Watkins-Romaine's girlfriend with Illinois State Police, she indicated that her cousin, Kianis Langston, borrowed the vehicle in question during the time period that the shooting occurred. R13. Undersigned Defense Counsel further argued that no weapon was recovered, there was no ballistic evidence connecting any weapon or ammunition or DNA on those items to Mr. Watkins-Romaine or any weapons that he was alleged to have purchased. R13-14. Undersigned Defense Counsel noted that Mr. Watkins-Romaine did not make any incriminating or inculpatory statements, had no GSR on his hands related to this case, and noted the specific weaknesses of the cellphone triangulation data including that just because a cellphone pings off a specific tower doesn't mean that it is in that exact location but could be in a different location. R14. Undersigned Defense Counsel noted in argument in reference to the text message and Facebook posts referenced by the People were contextually vague and did not establish Mr. Watkins-Romaine was the author of the Facebook post. R15. Undersigned Defense Counsel noted in conclusion of arguments in opposition of the first prong that the person said to have a beef with Mr. Watkins-Romaine had not spoken to him

in 6 months prior to the incident and the connection that People were trying to make of that to this incident doesn't exist. R15. Undersigned Defense Counsel also highlighted Judge Ahmed's ruling in the original bond hearing in support of argument opposing the first prong. R15-16. In argument opposing the second and third prongs, Undersigned Defense Counsel noted and expanded upon the mitigation presented at the original bond hearing. R16-20. Undersigned Defense Counsel also noted that Mr. Watkins-Romaine was not a flight risk and that Electronic Home Monitoring is a condition that could mitigate the dangerousness standard. R20-22. The People briefly responded in rebuttal. R22-24. The transcript of the original bond hearing was entered into evidence without objection from either side for the Circuit Court to take under consideration with the arguments presented at the detention hearing. R26. After hearing arguments from both sides under the Act and considering the transcript of the original bond hearing, the Circuit Court found the People met their burden on all three prongs and ordered Mr. Watkins-Romaine be detained. R26-31.

Undersigned Defense Counsel filed a timely Pretrial Fairness Act Notice of Appeal on December 18, 2023. C17-22. The record was subsequently filed on January 22, 2024. C1; R1. A supplement to the record was filed by Undersigned Counsel on February 21, 2024. SR1. Undersigned Defense Counsel thereafter filed a Memorandum pursuant to Illinois Supreme Court Rule 604(h) on January 24, 2024. Def. Memo. 1. The People filed their Memorandum pursuant to Illinois Supreme Court Rule 604(h) on March 5, 2024. Ppl. Mem.1

On March 18, 2024, the First District Appellate Court issued an order reversing the Circuit Court's order detaining Mr. Watkins-Romaine under the Act on the basis that the People's Petition to Detain was untimely. *People v. Watkins-Romaine*, 2024 IL App (1st) 232479, ¶¶ 1-2. The Appellate Court reversed and remanded the case to the Circuit Court to

conduct a conditions hearing pursuant to Section 110-5(e) of the Act to determine if there are conditions available to impose for Mr. Watkins-Romaine's pretrial release. *Id.* ¶¶ 22-23. The First District Appellate Court also acknowledged that there was no objection to the petition in the Circuit Court nor was the issue regarding the untimely petition raised in the notice of appeal but ultimately excused forfeiture by stating: "Defendant did not object to the State's petition for pretrial detention, nor was this issue raised in defendant's Rule 604(h) notice of appeal. However, we may still reach this issue because a misapplication of the law that affects a defendant's fundamental right to liberty constitutes plain error." *Watkins-Romaine*, 2024 IL App (1st) 232479, ¶ 27 (citing *People v. Brown*, 2023 IL App (1st) 231890, ¶ 12 (citing *People v. Smith*, 2016 IL App (1st) 140496, ¶ 15))).

The First District Appellate Court did not reach the remaining issues raised in Mr. Watkins-Romaine's appeal due to its reversal on procedural grounds. *Id.* The deadline to file the Petition for Leave to Appeal ("PLA") was on or about April 22, 2024. The People did not file a petition for rehearing.

On April 17, 2024, the People filed a motion for extension of time to file the PLA. The motion for extension of time was granted over the Defense's objection. The People filed their PLA on May 21, 2024. Undersigned Defense Counsel filed a response to the PLA on June 11, 2024. This Honorable Court accepted the People's PLA on June 18, 2024.

ARGUMENT

I. THIS HONORABLE COURT SHOULD AFFIRM THE APPELLATE COURT'S DECISION REVERSING THE CIRCUIT COURT'S ORDER DETAINING MR. WATKINS-ROMAINE AND HOLD THAT THE PEOPLE'S PETITION TO DETAIN WAS UNTIMELY.

The People's Petition to Detain (hereinafter, "People's Petition" or "Petition") was untimely.

The People assert that their Petition was timely in response to Mr. Watkins-Romaine's Motion to Release. Ppl. Br. 12-24. The People argue the position that they were authorized to file their Petition because Mr. Watkins-Romaine filed a petition to release to reopen considerations related to the conditions of his release under subsections 110-5(e) and 110-7.5(e) of the Act. Ppl. Br. 12. The People further argue that they were authorized to file their Petition as they characterize it as a responsive petition seeking to add or increase conditions of pretrial release, which included denial of pretrial release. Ppl. Br. 12-20. The People argue that the Act's plain text permits them to file their Petition against Mr. Watkins-Romaine who was previously granted conditional release on bond under 110-6.1(c). Ppl. Br. 13. However, this is not so. The plain language of 110-7.5(b) is contrary to the People's position in reference to Mr. Watkins-Romaine's situation.

"The cardinal rule of statutory construction is to ascertain and give effect to the true intent of the legislature." *People v. Whitehead*, 217 N.E.3d 976, 980 (Ill. 2023). "The most reliable indicator of legislative intent is found in the statutory language, given its plain and ordinary meaning." *Whitehead*, 217 N.E.3d at 980. When construing a statute, courts are to assume that the legislature did not intend to produce absurd or unjust results. *Id.* In addition to considering the language chosen by the legislature, the court should also consider the reason for the law, the evil to be remedied, and the purpose to be obtained thereby. *Id.* at 981. The terms in a statute are also not to be considered in a vacuum. *Corbett v. County of Lake*, 2017 IL 121536, ¶ 27. Rather, the words and phrases in a statute must be construed in light of the statute as a whole, with each provision construed in connection with every other section. *Id.*

The language in section 110-7.5(b) clearly indicates that anyone who was previously granted release prior to the implementation of the Act, and was subsequently not released due to not meeting any the imposed conditions of release (i.e. unable to post monetary bond), is entitled to a conditions hearing under subsection 110- 5(e) to determine why that individual was not released. See 725 ILCS 5/110-7.5(b). Subsection 110-5(e) of the Act further indicates that the inability to pay monetary bond is not a sufficient reason to hold someone in continued detention or custody. *Id.* § 110-5(e). Additionally, neither subsections 110-5(e) nor 110-7.5(b) allow for the People or the Court to order a defendant detained. See generally *Id.*, § 110-7.5(b). These subsections specifically limit the court's ability to review of conditions, and nothing more. Further, the People's position that their Petition was a responsive pleading to Mr. Watkins-Romaine's Motion for Release is meritless as their Petition requests relief under subsection 110-6.1 of the Act despite Mr. Watkins-Romaine's Motion for Release requesting a hearing specifically under sections 110-5(e) and 110-7.5(b). C3, 25.

A. The People's Petition is not a responsive pleading to Mr. Watkins-Romaine's Motion for Release and is unauthorized by the Act.

Despite the People's assertion, the People did not file a timely Petition nor a response to Mr. Watkins-Romaine's Motion for Release. The plain and unambiguous language of the Act does not authorize the People to file a 'responsive pleading' within this particular scenario, especially not one arguing elements and requesting relief under the unrelated subsection of 110-6.1. The People assert that their "responsive petition" is authorized under subsections 110-6(g) and 110-6(i). Ppl. Br. 12-13. However, the plain language of the subsections the People cite are contrary to their position and require this Court to read in rules and language not included.

Sections 110-6(g) and 110-6(i) read, respectively:

> (g) The court may, at any time, after motion by either party or on its own motion, remove previously set conditions of pretrial release, **subject to the provisions in this subsection. The court may only add or increase conditions of pretrial release at a hearing under this Section.**
> . . .
> (i) Nothing in this Section shall be construed to limit the State's ability to file a verified petition seeking denial of pretrial release under subsection (a) of Section 110-6.1 or subdivision (d)(2) of Section 110-6.1.

(Emphasis supplied) 725 ILCS 5/110-6(g); (i).

Neither of these sections indicate that the People have authorization or ability to petition to detain a defendant who was already granted pretrial release with the condition of monetary bond. Subsection 110-6(g) indicates that a **Court may only add or increase conditions of pretrial release** on either party's motion to remove previously set conditions of pretrial release. 725 ILCS 5/110-6(g). There is no indication that the Court may deny or revoke a defendant's pretrial release under this subsection. Nothing in the statute can be construed to mean the Court's ability to add or increase conditions means deny previously granted pretrial release. As such, the People's reliance on this particular section to authorize the filing of an untimely petition is flawed.

Additionally, the People's reliance on subsection 110-6(i) is also flawed. While this subsection indicates that it does not limit the People's ability to file a petition to detain, it does not allow for unfettered filing. It only allows for filing under the certain and limited circumstances enumerated in subsections 110-6.1(a) and 110-6.1(d)(2). See *Id.* § 5/110-6(i).

Subsection 110-6.1(a) merely enumerates the offenses for which the People can petition to detain a defendant. *Id.* § 110-6.1(a). Subsection 110-6.1(d)(2) allows the People to file a second or subsequent petition based upon new facts wherein the People "shall be required to present a verified application setting forth in detail any new facts not known or obtainable at the time of the filing of the previous petition." *Id.* § 110-6.1(d)(2). This

subsection is completely inapplicable to the case at bar as the People did not file a subsequent petition with a verified application setting forth new facts unknown upon an initial hearing.

Further, under both subsections 110-6.1(a) and 110-6.1(d)(2), even if the People were to have filed under such subsections, they are constrained by timing requirements of the statute which they violated. See *Id.* § 110-6.1(c). Specifically, under subsection 110-6.1(c)(1), the Act requires a petition to be filed upon the defendant's "first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant." *Id.* § 110-6.1(c)(1). The People's Petition was filed outside of that time period and is therefore untimely and may not be considered by the Court.

The People also cite to and rely on the statutory framework that lays out procedures for seeking revocation of pretrial release in support of their position that they are authorized to file a "responsive petition" seeking a defendant's continued detention after the defendant seeks release and the removal of previously imposed conditions of release. Ppl. Br. 15-16. However, this logic is flawed and appears to conflate issues in an effort to support the People's argument. The People's comparison of their filings in Mr. Watkins-Romaine's case with filings for revocation of a defendant's pretrial release is essentially comparing apples to oranges. The procedures and conditions under which the People are permitted to move to revoke a defendant's pretrial release are extremely limited. See generally 725 ILCS 5/110-6. Revocation of a defendant's pretrial release is **only** allowed when a defendant, who was previously released, is either arrested for committing any felony or Class A misdemeanor while out on pretrial release or has violated an order of protection while out on pretrial release. *Id.* § 110-6(a). These procedures are clearly delineated in the statute and are limited

to these two very specific scenarios. This does not allow the People, under these circumstances, to file their Petition.

Additionally, the People cite several cases to support their position that the People are permitted to file a petition to detain as a responsive pleading in this particular situation. Ppl. Br. 13-20. However, this is not so.

People v. Watson, 2024 IL App (1st) 240207-U, is the case on point which should be followed. As stated in *Watson*, for example:

> The dissent errs by transforming the People's petition to detain under section 110-6.1 into a "response" to *Watson*'s petition. The Code makes clear that petitions to deny pretrial release under section 110-6.1 are distinct from those to revoke pretrial release under section 110-6. Compare 725 ILCS 5/110-6.1 (West 2022) with *id.* § 110-6. Likewise, the Code contains no basis for the dissent's assertion that the trial court could have properly detained Watson when hearing his petition. See *Watkins-Romaine*, 2024 IL App (1st) 232479, ¶ 39 ("If the legislature wanted the hearing triggered by section 110-7.5(b) to include reconsideration of whether a defendant is eligible for release or if it wanted to give the State the ability to file a petition for detention against defendants who had already been ordered released but remained in custody after the effective date of the amended Code, it would have said so.")

Watson, 2024 IL App (1st) 240207-U, ¶18.

The People further argued that the Appellate Court, in its decision, clearly ignored how sections 110-5 and 110-6 operate when it concluded that the People are barred from seeking Mr. Watkins-Romaine's continued detention, and the Circuit Court could not consider whether he was "eligible for release." Ppl. Br. 17. However, the Appellate Court's reasoning was correct and applicable to Mr. Watkins-Romaine's situation.

The People ignore the plain language of 7.5(b) which indicates:

> (b) On or after January 1, 2023, any person who remains in pretrial detention after having been ordered released with pretrial conditions, including the condition of depositing security, shall be entitled to a hearing under subsection (e) of Section 110-5.

725 ILCS 5/110-7.5(b).

The People then ignore the entirety of 5(e):

> (e) If a person remains in pretrial detention 48 hours after having been ordered released with pretrial conditions, the court shall hold a hearing to determine the reason for continued detention. If the reason for continued detention is due to the unavailability or the defendant's ineligibility for one or more pretrial conditions previously ordered by the court or directed by a pretrial services agency, the court shall reopen the conditions of release hearing to determine what available pretrial conditions exist that will reasonably ensure the appearance of a defendant as required, the safety of any other person, and the likelihood of compliance by the defendant with all the conditions of pretrial release. The inability of the defendant to pay for a condition of release or any other ineligibility for a condition of pretrial release shall not be used as a justification for the pretrial detention of that defendant.

Id. § 110-5(e).

Specifically, the language of 110-5(e) requires the Circuit Court to hold a hearing to determine the reason for continued detention if a defendant has been ordered released, and yet remains in custody. That was, in fact, the case with Mr. Watkins-Romaine. He was unable to post the bond of $350,000.00-D. C7. He was specifically not held 'no bail' under the previous bond statute, but rather ordered released in conjunction with a monetary condition that he could not meet. SR19-22. As the statute clearly indicates, a defendant's inability to pay for a condition of pretrial release shall not be used as a justification for the pretrial detention of that defendant. 725 ILCS 5/110-5(e). Consequently, a hearing in Mr. Watkins-Romaine's case should have been limited only to determining the reason for his continued detention, not to reevaluate his eligibility for as much.

The People argue that nothing in subsection 110-5(e) precludes the Circuit Court from determining that no available pretrial conditions exist that will satisfy the standards enumerated in this section. Ppl. Br. 17. However, this is misplaced. There is nothing in the statute that indicates that the Circuit Court can even relitigate, much less consider the

previous finding of a defendant's release is appropriate. In fact, the legislature was clearly intentional with this limitation. They specifically enacted separate and other subsections of the Act that detail specific and tailored procedures for pretrial detention and the ability of the People to move for such detention under a number of specific circumstances. See generally 725 ILCS 5/110-1 *et seq*. The legislature clearly contemplated the issue of defendants remaining in custody upon the passage of the Act due to orders issued under the prior bond laws. In fact, they created an entire and exhaustive section of the Act dedicated to it. *Id.* § 110-5. The People's position essentially requires this Court to read into the statute information, rules, and requirements which do not exist. This is not allowed. "It is a cardinal rule of statutory construction that we cannot rewrite a statute, and depart from its plain language, by reading into it exceptions, limitations or conditions not expressed by the legislature." *People ex rel. Birkett v. Dockery*, 919 N.E.2d 311, 316–17 (Ill. 2009).

Abolition of monetary bail and its inability to be considered a condition justifying detention coupled with the fact that Mr. Watkins-Romaine is entirely eligible for the remaining conditions initially imposed by the Circuit Court leads to the logical procedure of conducting a hearing to release him on the remaining eligible and allowable conditions previously imposed. See 725 ILCS 5-110-5(e) ("If the reason for continued detention is due to the unavailability or the defendant's ineligibility for one or more pretrial conditions previously ordered by the court or directed by a pretrial services agency, the court shall reopen the conditions of release hearing **to determine what available pretrial conditions exist** that will reasonably ensure the appearance of a defendant as required, the safety of any other person, and the likelihood of compliance by the defendant with all the conditions of pretrial release." (Emphasis supplied)).

The wording of the Act includes an initial threshold determination where the Circuit Court must decide the reason for a defendant's continued detention. Here, that determination would ultimately conclude that Mr. Watkins-Romaine was not released because of his inability to post the monetary bail imposed. See *Watkins-Romaine*, 2024 IL App (1st) 232479, ¶ 51. Since inability to post the monetary bail is not a justification to continue detention per the plain language of the Act, and there are no indications in the record that he was ineligible for any of the other conditions previously imposed in bond court, he must be released subject to appropriate conditions. See 725 ILCS 5-110-5(e). In this case, those conditions were decidedly Electronic Home Monitoring, no contact with any occurrence witnesses, and other standard conditions. SR22-23. There was no reason or justification enumerated by the Court or in the record wherein the Circuit Court could reasonably conclude that those previously imposed conditions could not satisfy the standards enumerated in the statute. When an individual reaches a conditions hearing, the determination of whether to release or detain someone pretrial has already been made. The only task left at hand is to determine what conditions of release can and should be imposed.

In this instance, Mr. Watkins-Romaine contends that the People and the Circuit Court would not be entitled to essentially relitigate the issue of pretrial detention or release under these circumstances. The issue of release was already determined in this instance and Mr. Watkins-Romaine was ordered to be released by Judge Ahmed at the initial bond hearing with the conditions of posting monetary bail and other special and standard conditions. SR22-23. Thus, the People would not be allowed to file a responsive petition in the form of a petition to detain in this instance.

The People further criticized the Appellate Court's ruling suggesting that they failed to give effect to the language of subsection 110-6(g) which explicitly allows a Circuit Court to add or increase previously imposed conditions of pretrial release at a hearing. Ppl. Br. 18. The People cite *People v. Jones*, 2023 IL App (4th) 230837, in support of their notion that their Petition "'operates as a motion to increase the pretrial release conditions to the furthest extent' pursuant to the Circuit Court's authority under subsection 110-6(g)." Ppl. Br. 18. (citing *Jones*, 2023 IL App (4th) 230837, ¶ 17). The People further cited in their Footnote 4 the definition of "Increase" as delineated Merriam-Webster.com Dictionary to support their position. Ppl. Br. 18. However, the People's reliance on *Jones*'s reasoning and their interpretation of the language in the statute that "adding or increasing conditions of pretrial release" would include reversing course and detaining a defendant who was already ordered released is clearly absurd on its face. See Ppl. Br. 18. The Merriam Webster definition of 'increase' that the People rely upon also does not save their failing argument to support its erroneous interpretation. Plainly, the furthest extent that you can increase conditions of pretrial **release** is not to bar the **release** of a defendant.

Pretrial detention is not pretrial release. Elimination or denial of pretrial release – pretrial detention, in other words – is not a condition of release, it is quite literally the antonym. The issue of detention is resolved in a situation where a defendant is ordered released and conditions are imposed. Specifically, the resolution is that pretrial detention is denied. They are clearly separate outcomes and not one in the same. Detention and release cannot coexist at the same time. So, to say that detention can work as an 'increased condition' of pretrial release is nonsensical.

The People's argument in Footnote 4, that the Court has unfettered discretion to add so many, and such demanding, conditions of pretrial release so as to alter the conditions to an extent so infinitely demanding that a defendant cannot satisfy them for their rightful and ordered release, is clearly absurd. See Ppl. Br. 18. The People essentially argue that the Court has the power to add or alter conditions to a point where a defendant will face inevitable failure to meet such requirements, and incarceration of the defendant will ultimately, and intentionally result. The People, through such an argument, ask this Court to find that despite the purpose of the Act and the legislature's direct limitation on the Court's ability to detain defendants pretrial, the People and the Court have unlimited power to disregard the Act and do whatever they want in order to keep a defendant detained. They ask this Court to ignore the Act's language and requirements and allow the Court to intentionally employ extensive conditions, knowing that a defendant cannot meet them, with intent to keep him detained. Rather than simply ordering the defendant detained as allowed by the Act, the People want this Court to find that the Court has power to intentionally detain someone by way of 'conditions' of release. Such a ruling would circumvent the need for detention hearings as well as determine the subsections of the Act related to requirements to detain moot and worthless. This argument seems to promote the notion that the Circuit Court has an unfettered license to essentially force or keep someone in pretrial detention irrespective of whether or not they qualify. The People's argument makes no sense in this regard.

Further, the operative language under subsection 110-6(g) regarding the court's authority is: "The court **may only** add or increase conditions of pretrial release at a hearing under this Section." (Emphasis supplied) 725 ILCS 5/110-6(g). This language is unambiguous and clearly limits the Court's authority under this subsection. These limitations

allow for far less than the People claim and attempt to demand this Honorable Court believe. There is nothing in this subsection that gives the Court authority to revoke or deny pretrial release pursuant to a defendant's request to modify his conditions under subsection 110-6(g), or otherwise. The Act's language is clear. The Court may, at its discretion, remove conditions of pretrial **release** upon request by a defendant but is limited under the subsection only to adding or increasing **conditions**. *Id.* If the legislature had intent to allow for the Court, at any time under this subsection, to have the authority to deny or revoke pretrial release under these circumstances, it would have said so just as it plainly had in other subsections. See *Id.* §§ 110-6, 110-6.1.

The People further rely on subsection 110-7.5(a) to support their position that they have the ability to file their Petition as a responsive pleading because this subsection expressly "does not 'limit the State's Attorney's ability to file a . . . petition for revocation . . . under 110-6.'" Ppl. Br. 19 (citing 725 ILCS 5/110-7.5(a)). While subsection (a) may not limit the ability to file a petition for detention under 110-6, it further supports Mr. Watkins-Romaine's argument that subsection 110-6, its elements, and pleadings on its terms are separate and apart from those under subsection 110-7.5(b). Further, the plain language of subsection (a) does not allow for unrestricted filing, it demands compliance with 110-6.

Subsection 110-7.5(a)'s language supports Mr. Watkins-Romaine's argument that subsection 110-6 doesn't additionally apply under subsection 110-7.5(b). Subsection 110-7.5(b) states that: "(b) On or after January 1, 2023, any person who remains in pretrial detention after having been ordered released with pretrial conditions, including the condition of depositing security, shall be entitled to a hearing under subsection (e) of Section 110-5." *Id.* § 5/110-7.5(b).

To start, what is noticeably absent from subsection 110-7.5(b) is the plain language the People rely upon under subsection (a). There is no language which explicitly indicates the People's ability to file a petition to detain or for revocation under subsection (b). Therefore, revocation and filing for as much is limited under the conditions of subsection (a). The statutory language placing no limitations upon the People's filing of a petition to detain is only relevant and limited to scenarios under subsection (a). Subsection (a) and (b) pertain to different categories of defendants. Subsection (a) only applies to defendants who were granted pretrial release and may now qualify for detention whereas subsection (b) only applies to defendants who have been ordered released and yet remain in custody due to their ineligibility to meet certain pretrial conditions –typically an inability to post monetary bond.

Further, if this Honorable Court believes that the language which does not "limit the State's Attorney's ability to file a . . . petition for revocation . . . under 110-6" is applicable even to sections (b), it is further obvious that such pleadings are not responsive and untimely if they are. The Act's language does not limit the People's ability to file a petition for revocation, however they must file under, and in compliance with, a completely separate subsection, 110-6. See *Id.* § 5/110-7.5(a) ("State's Attorney's ability to file a . . . petition for revocation . . . **under 110-6"**). The subsection under which such a request is rightfully brought is subsection 110-6. Not as a responsive pleading to subsection 110-7.5. In fact, again, just because subsection 110-7.5(a) places no limitations on the filing of a petition for revocation does not mean there are no limitations. Subsection 110-7.5(a) does not permit filing in any circumstance. Subsection 110-7.5(a) specifically requires the People's filings to be in compliance with subsection 110-6. As explained, *supra* § I.A, limitations under 110-6 are very strict and very definitive.

In addition, the People's position that their Petition was a responsive pleading based on subsection 110-7.5(a)'s language allowing for filings under 110-6 should not be well taken. Ppl. Br. 19-20. Evidence in the record shows no support for this position, but rather, quite strongly rebuts it. To start, the People's Petition is filed with a title of "PETITION FOR PRETRIAL DETENTION HEARING 725 ILCS 5/110-2, **110-6.1**." C13. Additionally, the contents of the People's Petition itself argue the elements and prongs enumerated specifically and only in subsection 110-6.1. C13. There is no mention of the requirements nor elements of 110-6 and no attempt to argue for revocation of pretrial release in compliance with it, only for detention under subsection 110-6.1. Finally, the People's oral argument upon hearing on Mr. Watkins-Romaine's Motion for Release as well as the People's Petition on December 13, 2023, asserted no argument related to the requirements of subsection 110-6, only those under 110-6.1. R6-11, 23-25. It was not a responsive pleading under 110-6, even if that were allowed.

The People cite *People v. Whitmore*, 2023 IL App (1st) 231807, to support their position that they must be permitted to file a responsive petition to Mr. Watkins-Romaine's Motion for Release. However, this case is distinguishable and instead, *People v. Brown*, 2023 IL App (1st) 231890 is on point and instructive. The majority in *Brown* analyzed *Whitmore*'s decision and notes some severe defects in its conclusions related to filings under 110-7.5(b):

> In our view, the legislature correctly anticipated that there would be individuals who were arrested and granted conditional pretrial release before the Act went into effect but who, for whatever reason, remained in detention after the Act went into effect. The legislature specifically prescribed section 110-7.5(b) for that situation, and section 110-7.5(b) allows only one remedy: a hearing under section 110-5(e). 725 ILCS 5/110-7.5(b) (West 2022). We disagree with *Whitmore* that section 110-7.5(a) allows the State to file a petition to detain a defendant to whom section 110-7.5(b) applies. Section 110-7.5(a) is for a different category of detainees: those who have been released on bond and who are out of jail. *Id.* § 110-7.5(a) (addressing "any

> person having been *previously released* pretrial on the condition of the deposit of security" (emphasis added)). It makes sense that the State can file a petition to detain a person who is out on bond. By contrast, section 110-7.5(b) applies to detainees who have been ordered released but have not actually been released. *Id.* § 110-7.5(b). Allowing the State to file an untimely petition to detain a person who is already in jail is, in our opinion, not a rational reading of section 110-7.5.

Brown 2023 IL App (1st) 231890, ¶ 20.

As applied to Mr. Watkins-Romaine, it is uncontested that he is classified under the category of defendants in subsection (b), defendants who were previously ordered released and remained in custody. 725 ILCS 5/110-7.5(b). Per *Brown*, only subsection (a) gives the People authority to file a petition to detain. *Id.* The plain language is absent from subsection (b). If the legislature wanted to allow the People the ability to file a petition under subsection (b), it would have done so and included that explicit language just as it did for subsection (a). *Brown*'s rationale makes the most logical sense in that filing an untimely petition to detain a person who is already in jail is not a rational reading of section 110-7.5. *Id.*

Whitmore should not be followed as the Court's position that subsection 110-7.5(a) would be superfluous if "subsections 110-6.1(c)'s timing requirements strictly apply to petition to detain defendants arrested prior to the Act's effective date" is nonsensical. See *Whitmore*, 2023 IL App (1st) 231807, ¶ 11. This requires reading into the Act language extending the People's timing requirements or otherwise allowing for the clock to reset at any given time after the Act's passing. There is no language in the Act which allows for that. Next, contrary to *Whitmore*'s position that an absence of such language makes section 110-7.5(a) superfluous, 110-7.5(a) could still be utilized and certainly would not be superfluous without reading in that additional language. For instance, if a defendant were previously issued a bail bond under prior bond laws and he were to post his monetary bond in during

sometime after the passing of the Act – maybe October of 2023 – under the allowances of 110-7.5(a) and 110-6.1(c) the People would still be able to petition for that defendant's detention for up to 21 days after his posting bond and being released. See 725 ILCS 5/110-6.1(c) ("A petition may be filed . . . within the 21 calendar days . . . after arrest and release of the defendant upon reasonable notice to defendant.) The Court should not follow *Whitmore* when it requires reading unintended and unenumerated language into the Act.

Thus, *Whitmore* is inapplicable to Mr. Watkins-Romaine's situation and does not allow the People the ability to file an untimely petition to detain or "responsive pleading."

As here and throughout their argument in this section, the People attempt to ask this Honorable Court to rewrite the Act and ultimately depart from its plain language by reading exceptions, limitations, and conditions into the statute that were not expressed by the legislature. This is directly contrary to the cardinal rule of statutory construction. "It is a cardinal rule of statutory construction that [courts] cannot rewrite a statute, and depart from its plain language, by reading into it exceptions, limitations or conditions not expressed by the legislature." *Dockery*, 235 Ill. 2d. at 81.

The First District Appellate Court's conclusion in this case was not contrary to the General Assembly's intent as expressed by the plain language of the Act. In fact, the plain language of the Act supports Mr. Watkins-Romaine's position as expressed in the arguments herein. The People's Petition was untimely.

B. The timing requirements of subsection 110-6.1(c) do not permit the People to seek continued detention of defendants previously granted conditional release subject to payment of monetary bond, prior to the Act's effective date.

Here the People argue that the statutory interpretation of the timing requirement under subsection 110-6.1(c)(1) permits them to file a petition to deny pretrial release of Mr.

Watkins-Romaine, due to his classification under subsection 110-7.5, at his first appearance before the Judge after the Act's passing. Ppl. Br. 20-21. However, the People conflate two separate classes of defendants, which were specifically delineated in both subsections (a) and (b) of section 110-7.5, as one in the same.

As previously stated, *supra* I.A, each subsection applies to a separate category of defendants. Subsection (a) applies to defendants who were previously ordered released and did, in fact, post bond and become released while subsection (b) applies to the classification of defendants which were ordered released and yet remained in custody. 725 ILCS 5/110-7.5(a), (b). The language granting the People the ability to detain a defendant previously ordered released prior to the effective date of the Act only applies to those individuals classified under subsection (a). *Id.* § 110-7.5(a). Subsection (b) does not authorize the People to file a petition to detain for a defendant under subsection (b). *Id.* § 110-7.5(b).

The People argue that it is irrelevant whether defendants subject to section 110-7.5's provisions had their first appearances before the Circuit Court weeks, months, or even years before the Act took effect. Ppl. Br. 21. They further argue that it would have been impossible in many cases for the People to file petitions to detain defendants under section 110-6.1 within 21 days of the defendant's first appearance before a Judge because the Act had not taken effect. Ppl. Br. 21-22.

However, this argument is clearly misplaced and misdirected. The Appellate Court's reasoning regarding the timeliness of a petition prior to the effective date does not lead to the absurd result that the People suggest. Nor is it applicable here.

The Act was ultimately enacted on September 18, 2023. 725 ILCS 5/110-1 *et seq.*; *Raoul*, 2023 IL 129248, ¶ 4. Mr. Watkins-Romaine's Motion to Release was not filed before

the enactment of the Act, but rather was e-filed on December 7, 2023, which is nearly three (3) months after the Act's enactment. C3-11. There was no court appearance that day. On October 10, 2023, prior to Mr. Watkins-Romaine's filing, but after the enactment of the Act, Mr. Watkins-Romaine first appeared before the Honorable Judge Mary Margaret Brosnahan for arraignment. Def. Memo 2. A subsequent court appearance after the October 10, 2023, appearance occurred on December 13, 2023, when Mr. Watkins-Romaine's Motion for Release was heard, and the People filed their untimely Petition. R1, 34. Thus, the People did not file their petition to detain on the October 10, 2023, date nor within 21 days after his first appearance before Judge Brosnahan after the Act's enactment. Notably, the December 13, 2023, date was the third time Mr. Watkins-Romaine appeared before Judge Brosnahan. R3.

Further, the People's arguments related to the impossibility of enforcement of section 110-6.1 within the context of a defendant who adjudicated their bail bond under the old laws does not account for the legislature's inclusive language in the Act nor its plain meaning and application. Ppl. Br. 20-21. The legislature clearly contemplated that defendants would have been released under the prior bond laws prior to the Act even taking effect. See 725 ILCS 5/110-7.5(a) ("On or after January 1, 2023, any person having been previously released pretrial on the condition of the deposit of security shall be allowed to remain on pretrial release under the terms of their original bail bond"). Section 110-7.5(a) shows us that. Those individuals, however, already went through a hearing process to determine their release under the prior bond laws. The court under the prior bond laws had to consider a number of factors to determine whether a defendant's release was to be permitted, upon what if any conditions, if any monetary bail was required, the amount of bail, or whether denying release by imposing a mandatory or discretionary no bail order was proper. These considerations under

the prior bond laws the Appellate Court in this matter found to be meaningfully indistinguishable from those under the present Act. See *Watkins-Romaine,* 2024 IL App (1st) 232479, ¶ 51 ("In defendant's case, the State already unsuccessfully sought a "no bail" order under [the prior bond laws] a standard that is meaningfully indistinguishable from the first element the State must now prove to justify pretrial detention"). Simply because a new law has been enacted does not require, or even necessarily allow for reevaluation of a defendant in all circumstances. The legislature's intent to limit that power is clear.

Further, the People's argument that the implementation of 110-6.1 is impossible without reading in language not enumerated is unpersuasive and incorrect. Ppl. Br. 20-21. Section 110-7.5(a), again which is not the section applicable to the defendant, states, "[t]his Section shall not limit the State's Attorney's ability to file a verified petition for detention under Section 110-6.1 or a petition for revocation or sanctions under Section 110-6." 725 ILCS 5/110-7.5(a). As previously mentioned, there absolutely is a way that section 110-6.1 can be utilized for defendants previously released. It is not impossible. Subsection 110-6.1(c) allows for the filing of a petition to detain within 21 days after a defendant is released. Id. § 110-6.1(c). This means that if a defendant had been released within 21 days prior to September 18, 2023, a petition could have rightfully been filed within those 21 days. If a defendant posted bond after the implementation of the Act and becomes released, a petition could rightfully be filed within 21 days of his release. Further, if the People were to have filed a petition upon a defendant's first appearance in front of a Judge after the implementation of the Act, a petition would have been proper upon that date of first appearance. The argument that the statute is impossibly applied to every single defendant previously released under the old bond laws is not a relevant consideration. No statute is

applicable to every defendant. The statute can be applied, simply put. Just because the People disagree with a limitation that the legislature placed upon it, restricting filing against every single defendant previously released or ordered released, does not mean the statute is superfluous or unable to be utilized. The legislature wrote what it intended to write which is made obvious by the plain language. See generally *Id.* §§ 110-5, 110-7.5, 110-6, 110-6.1.

Thus, the People's Petition was untimely as it was not filed on October 10, 2023 (Mr. Watkins-Romaine's first appearance for arraignment before Judge Brosnahan), at any time within 21 days of the enactment of the Act (September 18, 2023), or at any time prior to December 13, 2023.

C. To avoid absurd results in this scenario, the People should not be allowed to respond to Mr. Watkins-Romaine's Motion for Release under 5(e) and 7.5(b) with a petition to detain.

The People argue that the Appellate Court made the wrong determination when it decided that the prescribed procedure for individuals in Mr. Watkins-Romaine's position, who have requested a hearing only to determine the reason for their continued detention, is not to allow for consideration of any petition for detention filed by the People. Ppl. Br. 23. The People argue that opinion is erroneous because it deprives them of any opportunity to respond to Mr. Watkins-Romaine's motion seeking removal of a significant condition of pretrial release. Ppl. Br. 23. The People's argument is misplaced. Despite the People's assertion, this is not an absurd result intended by the General Assembly. Ppl. Br. 22. Given the wording and language of subsection 110-7.5(b), the intent is clear. See 725 ILCS 5/110-7.5(b). Subsection 110-7.5(b) clearly and specifically states that those individuals who were ordered released and otherwise remained in custody were to immediately proceed to a conditions hearing under 110-5(e) to determine why that defendant remained in custody. Id.,

§ 110-5(e). This subsection did not indicate that a new detention hearing was to be conducted. In Mr. Watkins-Romaine's case, just as in the case of anyone else proceeding under subsection 110-7.5(b), the issue of detention had already been litigated and determined. SR21-22. The original bond court Judge, Judge Ahmed, denied the People's Petition for Mandatory No Bail and ordered Mr. Watkins-Romaine to be released with conditions including a $350,000.00-D bond, Electronic Home Monitoring, and no contact with occurrence witnesses. SR19-22. Yet, he remained in custody. It is only logical to determine that an individual under this subsection would immediately proceed to a conditions hearing as required in order to determine why, despite being granted release, he remains in custody. See 725 ILCS 5/110-7.5(b).

In their brief, the People rely on the Circuit Court's observation that the monetary bail condition set in Mr. Watkins-Romaine's original order of release had the effect of ensuring his continued detention. Ppl. Br. 23. They reiterated specifically that "a $350,000.00-D bond functioned 'as a de facto "no bail" order" as suggested by the Circuit Court. Ppl. Br. 23. The People used this statement to advance their argument that upon the filing of Mr. Watkins-Romaine's Motion for Release, a detention hearing should have been triggered because the purpose of high bail was to ensure a defendant's continued detention, so he was essentially held "no bail" and his motion required arguing to overturn that finding. Ppl. Br. 23.

However, this observation in an effort to support their position is ill conceived. The purpose and spirit of the Act was to eliminate the inequities of cash bail. Further, the purpose of the prior bond laws was not to allow for the setting of bail so high as to act as a "no bail." The courts had the ability to set no bail at the time of the prior laws, and in this case at the initial bond hearing, and yet Judge Ahmed specifically denied the People's request to enter a

no bail order in this case. SR19-22. Instead, the bond court Judge found Mr. Watkins-Romaine fit to be released upon conditions which would ensure his appearance in court and the safety of the community, i.e. a $350,000.00-D bond with electronic monitoring and no contact with occurrence witnesses. SR22.

Additionally, the fact that the current version of the Act under subsection 110-5(e) prohibits any defendant from being held due solely to their inability to post monetary bond does not give the People justification or permission to file a response in opposition to a defendant's request to rectify the effective denial of his release under the prior code. As such, the People unjustifiably attempt to use the condition of high bail as a basis to respond, fails.

The People's assertion that "there exists a strong presumption that the People may respond to a motion filed by a defendant, particularly when that motion is dispositive as to whether a defendant is released from custody," is not absolute. Ppl. Br. 24. The People cite *People v. Shellstrom*, 345 Ill. App. 3d 175 (2d Dist. 2003) to support their position. Ppl. Br. 24. This matter is distinguishable from Mr. Watkins-Romaine's as it involves a **defendant's** right to notice or opportunity to be heard regarding his own post-conviction *pro se* pleading. *Shellstrom*, 345 Ill. App. 3d. at 866. Specifically, the issue for the *Shellstrom* Court was to consider whether the trial court based its dismissal a post-conviction petition without the defendant's opportunity to be heard and respond. *Id.* This had nothing to do with the People being able to respond to a defendant's request for release nor did it establish any right that the People have to respond to a defendant's petition in these circumstances. In fact, the People's right to respond to a defendant's pleading or inquiry is not absolute. There are circumstances where the People cannot respond to a defendant's pleading or inquiry.

One such instance is that the People are not allowed to respond to a motion for leave to file a successive post-conviction petition. The Illinois Supreme Court held that "it is premature and improper for the State to provide input to the court before the court has granted a defendant's motion for leave to file a successive petition." *People v. Bailey*, 2017 IL 121450, ¶ 20. The *Bailey* Court reasoned that the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 et seq. (West 2014)) contemplated an independent determination by the circuit court. *Id.* ¶ 24.

Another situation where the People are not allowed an opportunity to respond would be during a *Krankel* hearing.

> Although a trial court's method of inquiry at the *Krankel* hearing is somewhat flexible (by virtue of its ability to ask questions of the defendant, the defendant's counsel, etc.), and we can envision a situation where the State may be asked to offer concrete and easily verifiable facts at the hearing, no case law suggests that the State should be an active participant during the preliminary inquiry. In fact, typically, virtually no opportunity for State participation is offered during the preliminary inquiry. If the State's participation during the initial investigation into a defendant's *pro se* allegations is anything more than *de minimis*, there is a risk that the preliminary inquiry will be turned into an adversarial proceeding, with both the State and trial counsel opposing the defendant.

People v. Fields, 2013 IL App (2d) 120945, ¶ 40.

The finding that the People may not respond to Mr. Watkins-Romaine's request does not invite or create an absurd result as the option for the People to respond is never absolute. In this context, it makes sense that the People cannot file a responsive petition or pleading when a defendant exercises his right to be released under 110-7.5(b). As such, section 110-7.5(b) was specifically created by the legislature to address issues arising for defendants who were released on bail or otherwise held prior to the effective date of the Act. See 725 ILCS 5/110-7.5(b). The language in subsection (b) is clear. It requires that a defendant who was

ordered released and otherwise remaining in custody is to proceed to a conditions hearing where the Court determines why a defendant hasn't been released. The statute does not contemplate or allow the People to file a petition to detain or send defendants back to proverbial square one. As the issue of detention has already been determined, the only logical procedure would be to proceed to a conditions hearing. The People should not be allowed to again try to detain the defendant or have a second bite at the apple, per se. Especially in this instance when a Petition for Mandatory No Bail under the prior law was previously sought by the People and denied by Judge Ahmed at the initial bond hearing.

Section 110-6 does not authorize the People to file a responsive petition seeking continued pretrial detention of a defendant under subsection 110-7.5(b). See 725 ILCS 5/110-6. The plain language of the statute under these circumstances does not permit the People a second bite at the apple. Subsection 110-6.1(c) does not permit the People to file a petition to deny pretrial release at the defendant's first appearance before a judge after the filing of his own motion. See *Id.* § 110-6.1(c). Even if this Honorable Court determines that it does, under the People's reasoning, this argument still fails as the People did not file their Petition within 21 days of the Act's effective date. This Court should affirm the Appellate Court's decision and rule that the People's petition was untimely under all theories and rationales.

II. MR. WATKINS-ROMAINE'S FORFIETURE OF HIS CLAIM THAT THE PEOPLE'S PETITION TO DETAIN WAS UNTIMELY SHOULD BE EXCUSED AS IT IS REVIEWABLE UNDER THE PLAIN ERROR DOCTRINE.

The People untimely filed a petition to detain Mr. Watkins-Romaine, however, his failures to raise the issue in the Circuit Court or upon his notice of appeal are excusable and reviewable by this Court. His claims withstand any prior failure to object as they resulted in such an egregious and total loss of his right to liberty that they squarely fall into

consideration under the plain error doctrine. Mr. Watkins-Romaine's claims strongly survive prior failures to object as they are subject to review under the plain error doctrine. The Appellate Court correctly took this position concisely, and with no hesitation, when it stated in two sentences:

> Defendant did not object to the State's petition for pretrial detention, nor was this issue raised in defendant's Rule 604(h) notice of appeal. However, we may still reach this issue because a misapplication of the law that affects a defendant's fundamental right to liberty constitutes plain error. P*eople v. Brown*, 2023 IL App (1st) 231890, ¶ 12 (citing *People v. Smith*, 2016 IL App (1st) 140496, ¶ 15).

Watkins-Romaine, 2024 IL App (1st) 232479, ¶ 27.

Such a position was so quickly formed because, simply put, the error is so obvious. The issue at hand is much simpler than the People make it out to be. The People's improper filing of their Petition was unquestionably volitive of the plain language of the Act and directly affected Mr. Watkins-Romaine's physical liberty, a right so fundamental it is considered a pinnacle of the United States and Illinois constitutions.

A. Mr. Watkins-Romaine did not forfeit his claim that the People's Petition to detain was untimely.

> "Waiver" is a well-established term of art in the legal field. This court has long recognized that we may, in appropriate cases, reach issues notwithstanding their waiver. At least as long ago as 1957, this court had held that the general rule is that where a question is not raised or reserved in the trial court, or where, though raised in the lower court, it is not urged or argued on appeal, it will not be considered and will be deemed to have been waived. However, this is a rule of administration and not of jurisdiction or power, and it will not operate to deprive an accused of his constitutional rights of due process. The court may, as a matter of grace, in a case involving deprivation of life or liberty, take notice of errors appearing upon the record which deprived the accused of substantial means of enjoying a fair and impartial trial, although no exceptions were preserved or the question is imperfectly presented.

(Internal citations omitted) *People v. De La Paz*, 791 N.E.2d 489, 493 (Ill. 2003). The Supreme Court of Illinois in *De La Paz* went on to recognize that "waiver is an admonition to

the parties, not a limitation upon the powers of this court," and that "this court has 'the responsibility * * * for a just result and for the maintenance of a sound and uniform body of precedent [that] may sometimes override the considerations of waiver that stem from the adversary character of our system.'" *De La Paz*, 791 N.E.2d at 493.

The Court's power to consider claims not brought to the lower courts' attention is not limited simply because the issues were "not fairly raised" though a notice of appeal. See Ppl. Br. 26. The interest of justice, due process, and protection of a defendant's constitutional rights reign to allow for continued jurisdiction by the Court on appeal.

The same applies for forfeiture. "[F]orfeiture is a limitation on the parties and not the reviewing court, and we may overlook forfeiture where necessary to obtain a just result or maintain a sound body of precedent." *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 65.

Notably, in addition to the *Brown* case previously cited, there have been other cases wherein this exact issue of forfeiture was excused. Take for example *People v. Gray*, 2023 IL App (3d) 230435, *People v. Robinson*, 2024 IL App (5th) 231099, *People v. Shockley*, 2024 IL App (5th) 240041, *People v. Turner*, 2024 IL App (5th) 230961-U, and *People v. Wetzel-Connor*, 2023 IL App (2d) 230348-U.

In *Gray*, on appeal, the defendant argued that the Court should have denied the People's petition and granted his request to release him from the monetary condition of his bond. *Gray*, 2023 IL App (3d) 230435, ¶ 8. Specifically, Gray contended the People were not permitted to move to revoke a previously set bond for a detained defendant. *Id.*

At the outset, the People argued that Gray forfeited this issue by not raising this specific argument in the Circuit Court. *Id.* However, "forfeiture is a limitation on the parties and not the reviewing court, and we may overlook forfeiture where necessary to obtain a just

result or maintain a sound body of precedent." *Id.* ¶ 9 (citing *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 65). The Court in *Gray* went on to acknowledge the importance of excusing forfeiture in matters litigated so soon after the passing of the Act. *Id.* The *Gray* Court was especially concerned with the novelty of the Act and the fact that case law would necessarily be undecided or yet to be created on issues under the Act. *Id.* Specifically, the Court opined:

> We note that the proceedings in this case occurred within days of the implementation of Public Act 101-652, § 10-255 (eff. Jan. 1, 2023) (adding 725 ILCS 5/110-1.5), commonly known as the Pretrial Fairness Act (Act), which significantly amended the sections of the Code regarding monetary bail. See *Rowe v. Raoul*, 2023 IL 129248, ¶ 52. We hold it would be inequitable to find defendant forfeited this issue when case law and arguments on the change in the law had still not been formed.

Id. Although the Court did mention that their opinion reference above "applies only to the case before us, and we take no position on forfeiture in future cases," *Id.* its logic was followed in subsequently decided cases due to the recent enactment of the Act.

Notably, *Robinson* followed *Gray*'s rationale regarding forfeiture related to the exact situation wherein claims were not raised in the Trial Court nor included in the notice of appeal:

> In this matter, the defendant failed to object to the State's petition to detain and failed to raise the issue of timeliness of the State's petition in the circuit court. Thus, the defendant has forfeited this issue on appeal. Forfeiture, however, is a "'limitation on the parties and not the reviewing court, and we may overlook forfeiture where necessary to obtain a just result or maintain a sound body of precedent.'" *People v. Gray*, 2023 IL App (3d) 230435, ¶ 9, Ill.Dec. ——, —— N.E.3d —— (quoting *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 65, 400 Ill.Dec. 236, 48 N.E.3d 185). **Given the recent enactment of the Act and the developing case law, we elect to overlook the defendant's forfeiture of this issue but take no position on forfeiture in future cases.**

(Emphasis supplied) *Robinson*, 2024 IL App (5th) 231099, ¶ 21.

Again, *Gray*'s rational was followed by *Shockley*, a matter decided in March of 2024 related to filings and hearings taking place between November and December of 2023 (even later than the events in Mr. Watkins-Romaine's case):

In *Shockley*:

> [T]he defendant failed to object to the circuit court's consideration of pretrial detention where no verified petition was filed by the State. Thus, the defendant has forfeited this issue on appeal. Forfeiture, however, is a " 'limitation on the parties and not the reviewing court, and we may overlook forfeiture where necessary to obtain a just result or maintain a sound body of precedent.'" *People v. Gray*, 2023 IL App (3d) 230435, ¶ 9 (quoting *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 65). Given the recent amendment of the [Act] and the developing case law, **we elect to overlook the defendant's forfeiture of this issue, but take no position on forfeiture in future cases.**

(Emphasis supplied) *Shockley*, 2024 IL App (5th) 240041, ¶ 9.

The Court in *Turner* found the same:

> In this matter, the defendant failed to object to the State's petition to detain and failed to raise the issue of timeliness of the State's petition in the circuit court. Thus, the defendant has forfeited this issue on appeal. Forfeiture, however,"' is a limitation on the parties and not the reviewing court, and we may overlook forfeiture where necessary to obtain a just result or maintain a sound body of precedent.'" *People v. Gray*, 2023 IL App (3d) 230435, ¶ 9 (quoting *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 65). In *Gray*, the Third District held that where the proceedings occurred within the days of implementation of the Act, it would be inequitable to find that the defendant forfeited this issue when case law and arguments on the change in the law had still not been formed. *Id.* Given the recent enactment of the Act and the developing case law, **we elect to overlook the defendant's forfeiture of this issue but take no position on forfeiture in future cases.**

(Emphasis supplied) *Turner*, 2024 IL App (5th) 230961-U, ¶ 13.

Finally, *People v. Wetzel-Connor* is also instructive as it was relied upon by the Court in *Robinson* and describes a similar situation where forfeiture was excused wherein an argument was not raised in the trial court and not raised on the notice of appeal. There, the defendant did not elaborate upon his grounds for requested relief in notice of appeal but

opted to file a memorandum describing those grounds, thus the court and the People were in receipt of the defendant's grounds for requested relief. See *People v. Wetzel-Connor*, 2023 IL App (2d) 230348-U.

Based on these cases that address the exact situation of Mr. Watkins-Romaine, or a situation very close to it, forfeiture in this matter is excusable. Primarily given the recent enactment of the Act and the developing case law surrounding it. Most notably, the line of cases that Mr. Watkins-Romaine relied upon from the First District to support his substantive argument related to the claims themselves did not exist prior to the hearing on the motion and Petition before the Circuit Court in this case nor prior to his filing of his notice of appeal. See *Brown*, 2023 IL App (1st) 231890; *Watson*, 2024 IL App (1st) 240207-U.

Further, on appeal, the Illinois legislature has specifically allowed that "[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the trial court." ILCS S. Ct. Rule 615(a). This statute was later interpreted by Illinois Courts and the plain error doctrine was established. The plain error doctrine allows for consideration of claims not properly brought before lower courts, if they affect a substantial right.

Accordingly, Mr. Watkins-Romaine's claims that the People's petition was untimely, whether or not they were raised in prior courts or pleadings, are not forfeited and should be reviewed by this Court.

B. Mr. Watkins-Romaine's claims are reviewable under the second-prong of the plain error doctrine.

Mr. Watkins-Romaine's claims are subject to review because the People's error clearly violated a substantial right to life and liberty, satisfying the second-prong of the plain error doctrine. The plain language of Rule 615(a), the basis of the plain error doctrine,

immediately allows for review in this matter. The People's brief convolutes the simple rule and incorporates case law from lower courts which adds unnecessary and unprecedented restrictions that the legislature and years of case law did not intend.

The statutory allowance enumerated in Rule 615(a) was examined, at length, in the seminal case of *People v. Herron*, 830 N.E.2d 467 (Ill. 2005). To start, the Court recognized two instances of plain error, now referred to as the two prongs of the plain error doctrine. *Herron*, 830 N.E.2d at 479.

To establish prong one, "the defendant must show both that there was plain error and that the evidence was so closely balanced that the error alone severely threatened to tip the scales of justice against him." *Id.* For the second prong, "the defendant must prove there was plain error and that the error was so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process." *Id.* at 479-80.

Under the second prong, "[p]rejudice to the defendant is presumed because of the importance of the right involved, regardless of the strength of the evidence." (Internal quotations omitted) *Id.* at 480.

The Supreme Court in *Herron* further recognized that Illinois Rule 615(a) not only copied, verbatim, a federal rule of procedure but brought with it a four-prong federal test used for interpretation. *Id.* at 478. "[A]ll four prongs of the federal test find root in Illinois law," directing the court in pursuit of identification of plain errors. *Id.* The test requires (1) determining whether any error occurred, (2) that the error was plain, (3) that it effected a substantial right, and (4) consideration of the fairness, integrity, and public reputation of judicial proceedings. *Id.* at 478-79.

Despite the differences in the physical verbiage of the Illinois and federal prongs, the *Herron* Court noted that both are to be used and to mean the same thing. *Id.* "The differences between the federal and the state plain-error tests are a function of the common law process. Over time, different justices of different courts have added their **idiosyncratic** language to the case law, but changes in the language of plain error have not resulted in changes in the meaning of plain error." (Emphasis supplied) *Id.* at 479.

It was an error for trial counsel to fail to object to the filing of the People's Petition. It was an error for the People to untimely file their petition. It was an error by the Circuit Court to entertain the Petition despite its untimeliness. All errors related to the Petition were plain, as the plain language of the Act was violated, *see supra* § I.A for a detailed explanation. The Act required the filing be made within a certain time period, and that requirement was violated by the People resulting in a severe repercussion: denial of Mr. Watkins-Romaine's previously, properly granted release from custody. Life, liberty, and pretrial release under proper conditions are essential and substantial rights under the constitutions of this country and this state. See U.S. Const. amend. V.; See also Ill. Const. 1970, art. I, § 2; Ill. Const. 1970, art. I, § 9. Any argument otherwise is meritless.

1. The errors complained of were plain as required for the court to review them under the plain error doctrine.

The People argue that, despite the direct language of the Act, the error was not clear or obvious because the lower courts have presented a split in authority on the topic of timeliness. Ppl. Br. 27. It is under this argument that the People attempt to place unnecessary constraints on this Court's ability to review plain errors, a doctrine based significantly on fairness and integrity.

The People cite to a number of appellate cases which add superfluous interpretations of the plain error doctrine and include the 'clear and obvious' language despite this Supreme Court having already determined the doctrine's standards in *Herron* and its companion cases. Ppl Br. 27-30. The additional language is not idiosyncratic with prior interpretations and instead changed the meaning of plain error. See *Herron*, 830 N.E.2d at 479. The overly technical analysis of a commonsense conclusion attempts to draw the Court's attention away from the plain error that the People's Petition violated timing requirements which unjustly resulted in a deprivation of life and liberty of Mr. Watkins-Romaine.

Even if this Court were to analyze this matter under the People's offered case law, the same conclusion would be reached. The People's error in untimely filing their Petition is clear and obvious. Again, not only does the plain language of the Act enumerate the timing requirements, but the interpretation of those requirements was completed by the First District, from where this case stems, and is consistent with a finding of plain error. See *Brown*, 2023 IL App (1st) 231890; *Watson*, 2024 IL App (1st) 23-2143-U. This was reiterated in the Appellate Court's decision. *Watkins-Romaine*, 2024 IL App (1st) 232479, ¶¶ 27-53. The Appellate Court started by emphasizing that the question of timeliness stems from statutory construction wherein we are to give effect to the legislature's intent and the plain language of the statute. *Watkins-Romaine*, 2024 IL App (1st) 232479, ¶¶ 28-29 (citing *People v. Taylor*, 2023 IL 128316, ¶ 45; *DeLuna v. Burciaga*, 223 Ill. 2d 49, 59 (2006); *Sigcho-Lopez v. Illinois State Board of Elections*, 2022 IL 127253, ¶ 27.). "Where the statutory language is clear and unambiguous, we will enforce it as written." *Sigcho-Lopez,* 2022 IL 127253, ¶ 27. The Appellate Court submitted a lengthy opinion related to the 'split' in authority. See *Watkins-Romaine*, 2024 IL App (1st) 232479. The Court essentially indicated

there was no true 'split' in authority, but rather that all the cases that the People relied upon in their appellate argument were either wrongly decided because they impermissibly read language into the statute or were distinguishable from the case at bar. *Id.* ¶¶ 35-53.

Further, the Appellate Court considered the case of *Brown*, 2023 IL App (1st) 231890, when coming to its decision. *Watkins-Romaine*, 2024 IL App (1st) 232479, ¶¶ 27, 33-34, 37. *Brown* is entirely synonymous with Mr. Watkins-Romaine's situation and conclusively provides for the unequivocal finding that an error occurred. In *Brown*, the defendant was ordered released with a condition of bail prior to the initiation of the Act. *Brown*, 2023 IL App (1st) 231890, ¶ 3. Upon passage of the Act, the People petitioned for, and were granted, detention of *Brown*, but ultimately the Appellate Court reversed as the petition was untimely filed three months after the defendant's first appearance in front of a judge. *Id.* at ¶¶ 4-8, 20-26.

The Appellate Court's position was correct and inclusive enough to rebut the People's position related to split authority. There is no split, only improper misreading of the statute.

Further, the People's argument that the Circuit Court does not commit plain error by taking one side of a split in authority is unpersuasive. Ppl. Br. 28. The Circuit Court had no opportunity to address nor resolve the issue of timeliness in one direction or another. They were never presented or warned of any case law in one direction or the other. They had, in their access, just as much as the parties, the plain language of the Act. In fact, as was alluded to in the People's brief in Footnote 6, the Circuit Court did not even contemplate the People's filing as a petition to detain, but rather a responsive petition (yet another error). See Ppl. Br. 30. The Circuit Court, accordingly, incorrectly acquiesced to the People's Petition, with no objection. It was for the Appellate Court and is for this Court to decide if that acquiescence

was a plain error. The Appellate Court's lengthy opinion should be considered with great weight, especially when considering that the authority the People rely on to suggest a 'split' is plainly, wrongly decided, only adding to the obviousness of the error in this case.

a. The untimely petition to detain affected substantial constitutional rights allowing for review under second prong plain error.

Although the People's brief contains argument related to the first requirement under the second prong of the plain error doctrine – whether or not the error was plain, or open and obvious as the People suggest it should be – they specifically do not address whether their untimely filing of a petition to detain under 110-6.1, and the Circuit Courts entertainment of as much, on its own, was an error affecting substantial rights. The Petition affected the life and liberty of Mr. Watkins-Romaine, a constitutional right. He has been held in custody, indefinitely, with no option of release. But for the untimely filing, the Court would have been prohibited from restricting his detainment.

2. The circuit court's consideration of the People's Petition under section 110-6.1, rather than 110-5(e), was plain and effects a substantial right allowing for review under the second-prong of the plain error doctrine.

To start, the People failed to address any issue related to the Circuit Court's treatment of their Petition under certain subsections until this filing. Further, although the Circuit Court's error in reviewing the People's Petition under 110-6.1 rather than under subsections 110-5(e) and 110-7.5(b) was certainly a plain error, it is a separate error from that argued in the prior sections of their brief. The primary error was the filing of, and the Circuit Court's consideration of, the untimely filing of the People's Petition. That untimely filing, and the Court's consideration of that filing, generally, are plain errors reviewable under the second-

prong of the plain error doctrine. If this Court reaches that conclusion, analysis should end, and this further claim need not be reached.

If the Court finds it necessary, however, to proceed with analysis of the People's claim, then it is clear that the error in reviewing the People's Petition under the incorrect subsection of the Act is a significantly plain error that affected Mr. Watkins-Romaine's constitutional right to liberty and undermines the integrity of the judicial process.

a. The Circuit Court's consideration of the People's Petition under section 110-6.1, rather than 110-5(e), is a structural error affecting constitutional rights and undermining the integrity of the judicial process.

The Circuit Court's error in evaluating the People's Petition under the incorrect subsection of the Act resulted in an infringement upon Mr. Watkins-Romaine's constitutional rights as required to consider the matter under the plain error doctrine. This comports entirely with the People's recitation of the definition of structural error. See Ppl. Br. 26-27 ("Second prong plain errors are structural, meaning they are fundamental constitutional errors that defy harmless error analysis").

Subsections 110-5(e) and 110-7.5(b) do not allow for detention. 725 ILCS 5/110-5(e), 110-7.5. Section 110-6.1 does. *Id.* § 110-6.1. Under 110-5(e) and 110-7.5(b), the physical freedom of remaining out of custody, cannot be **revoked**. Specifically, subsection 110-7.5(b) stated that "any person who remains in pretrial detention after having been ordered released with pretrial conditions, including the condition of depositing security, shall be entitled to a hearing under subsection (e) of Section 110-5." *Id.* § 110-7.5(b). Upon moving to subsection 110-5 as the statute demands, the Act reads:

> If the reason for continued detention is due to the unavailability or the defendant's ineligibility for one or more pretrial conditions previously ordered by the court or directed by a pretrial services agency, the court shall reopen the

> conditions of release hearing **to determine what available pretrial conditions exist** that will reasonably ensure the appearance of a defendant as required, the safety of any other person, and the likelihood of compliance by the defendant with all the conditions of pretrial release. The inability of the defendant to pay for a condition of release or any other ineligibility for a condition of pretrial release shall not be used as a justification for the pretrial detention of that defendant.

Id. § 110-5(e).

At no point does either subsections 110-5 or 110-7.5 allow for pretrial detention of a defendant who was previously ordered released. Consequently, contrary to the People's position, hearings on subsections 110-5 and 110-7.5 are entirely different, do not address the same issues as, and cannot and do not result in the same outcome as hearings under subsection 110-6.1. One results in a denial of the freedoms of pretrial release, life, and liberty (110-6.1), while the others (110-5 and 110-7.5) demand the granting of such freedoms. These are fundamental constitutional rights. See Ill. Const. 1970, act. I, § 9. See also Ppl. Br. 32. The hearing was in no way substantively correct.

Again, the People were entirely restricted from filing a petition under 110-6.1 due to untimeliness. Due process is significantly impeded when the People are allowed to assert a claim of detention that they have no right to. Their only option was to proceed in response to Mr. Watkins-Romaine's request, and their filings exceeded the scope of their response.

Further, Mr. Watkins-Romaine's detention was not under review. The People's attempt to distract from the unfair and unprecedented proceeding, which affected his constitutional rights, should be disregarded. "The fundamental requirement of due process is the opportunity to be heard **at a meaningful time and in a meaningful manner**. Due process is not a technical conception with a fixed content unrelated to time, place and circumstances." (Emphasis supplies) (internal quotations omitted) *In re Bernice B.*, 815

N.E.2d 778, 785 (Ill. App. 1st Dist. 2004). This is particularly true when the issue is of pretrial release affecting a defendant's physical liberty. Timing requirements related to detention are of the utmost importance because of the fundamental constitutional right at stake. This is fairly obvious even by the shortened timing requirements related to appealing under the Act. Mr. Watkins-Romaine already received his fair hearing related to detention on September 1, 2023. Further hearing is improper.

b. The Circuit Court's error in consideration of the People's Petition under section 110-6.1, rather than 110-5(e), was not a harmless error as it involved infringement upon a constitutional right.

For the reasons explained above, *supra* II.2.a, the Circuit Court's error was not harmless, but one of plain error. Further, the People cite to *People v. Nevitt*, 135 Ill. 2d 423 (1990) and *Chapman v. California*, 386 U.S. 18 (1967) to define when a Court may find error to be harmless. See Ppl. Br. 36. Citing to *Nevitt* the People cite the rule to be "nonconstitutional error is harmless 'where there is no reasonable probability' of a different outcome absent the error" and under *Chapman* they cite, "before a federal constitutional error can be held harmless, the court must be able to declare a belief that it was harmless beyond a reasonable doubt." Ppl. Br. 36. However, their argument fails under both considerations.

Under *Nevitt*, there is no question that, had the hearing been held under the proper subsection of the Act, the outcome would have differed. There is no relief in the form of detention under 110-5 nor 110-7.5 whereas under 110-6.1, detention is allowed. 725 ILCS 110-5, 110-7.5, 110-6.1. Consequently, had the proper proceeding taken place, the People would have, under no circumstances, been able to detain Mr. Watkins-Romaine, and he would have been released.

Further, under *Chapman*, the Court cannot find, beyond a reasonable doubt, that it is harmless to deny physical liberties to an individual who followed all the proper procedure,

was granted release, and then, arbitrarily, without submission of new facts, and under the guise of an untimely hearing on an inapplicable subsection of the Act, had his freedoms revoked. The error is one affecting constitutional rights and simply cannot be held harmless.

III. IF THIS HONORABLE COURT REVERSES THE FIRST DISTRICT APPELLATE COURT'S DECISION IN THIS MATTER, THIS COURT SHOULD REMAND THIS MATTER TO THE FIRST DISTRICT APPELLATE COURT TO CONSIDER ARGUMENTS MADE IN BOTH THE NOTICE OF APPEAL AND IN THE MEMORANDUM WHICH WERE NOT ADDRESSED.

Mr. Watkins-Romaine respectfully requests that if this Honorable Court does indeed reverse the First District Appellate Court's decision in this matter, that this matter should be remanded back to the First District Appellate Court to consider the remaining issue raised in his notice of appeal and Rule 604(h) Memorandum. C17-22.

"In all appeals the reviewing court may, in its discretion, and on such terms as it deems just . . . make any other and further orders and grant any relief, including a remandment . . . that the case may require." ILCS S. Ct. Rule 366. "[W]here errors were raised but not ruled upon in the appellate court, it is appropriate for this [Supreme] court to remand the cause to the appellate court for resolution of the issues that remain." *Employers Ins. of Wausau v. Ehlco Liquidating Tr.*, 708 N.E.2d 1122, 1133 (Ill. 1999).

Although the unaddressed issues were not referenced or noted by the People, the notice of appeal raised a separate issue related to the People's standard of proof at the detention hearing which was also not addressed by the First District Appellate Court. The First District Appellate Court stated "[b]ecause we resolve this appeal on procedural grounds, we need not address defendant's argument that the State failed to meet its burden of proof at the hearing on its petition for pretrial detention. Accordingly, we reverse the trial court's

December 13, 2023, order and remand this matter for further proceedings consistent with this opinion." *Watkins-Romaine*, 2024 IL App (1st) 232479, ¶ 54.

If this Honorable Court reverses the First District Appellate Court's decision, this case should be remanded back to the First District Appellate Court to address the remaining unaddressed issue that the People failed to meet their burden of proof at the detention hearing in reference to all three prongs under the Act.

CONCLUSION

For the foregoing reasons, Damarco Watkins-Romaine, Defendant-Appellee respectfully requests that this Honorable Court affirm the First District Appellate Court's decision under *People v. Watkins-Romaine*, 2024 IL App (1st) 232479 and remand back to the Circuit Court for Defendant-Appellee to be released, consistent with the opinion of the First District Court of Appeals. Or in the alternative, if this Honorable Court reverses the First District Appellate Court's decision, reverse and remand back to First District Appellate Court to address the remaining unaddressed issues as noted in its decision.

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 containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the petition under Rule 342(a), is 44 pages.

Respectfully submitted,

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NOTICE OF FILING AND PROOF OF SERVICE

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant	)	
vs.	)	No: 130618
DAMARCO WATKINS-ROMAINE Defendant-Appellee	)	

CERTIFICATE OF SERVICE

Under the penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that on July 30, 2024, the foregoing Law Offices of James F. DiQuattro's Response Brief of Defendant-Appellee Watkins-Romaine was electronically via Odyssey e-file filed with the Clerk, Supreme Court of Illinois, thereby causing service to be effected electronically to:

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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.

/s/ James F. DiQuattro
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