

No. 124832

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Appellate Court of Illinois, No. 4-16-0882.
)	
Petitioner-Appellant,)	There on appeal from the Circuit Court of the Sixth Judicial Circuit, Champaign County, Illinois, No. 15-CF-1388.
-vs-)	
)	
HAYZE L. SCHOONOVER,)	Honorable Thomas J. Difanis,
)	Judge Presiding.
Defendant-Appellee.)	

**APPELLEE'S REPLY IN SUPPORT
OF REQUEST FOR CROSS-RELIEF**

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ORAL ARGUMENT REQUESTED

ARGUMENT**This Court should review Hayze Schoonover’s cross-relief claims.**

The State argues that this Court should decline to consider Hayze Schoonover’s cross-relief claims and instead remand this case to the appellate court for consideration of the claims. (St. Reply 17) This Court has stated that ordinarily it is appropriate to remand a case to consider issues not yet decided by the appellate court. *People v. Illgen*, 145 Ill. 2d 353, 378 (1991). However, this Court has also stated that in the interest of judicial economy, it may “consider an alleged error where the parties have fully briefed the question and the law on the issue is well settled.” *Illgen*, 145 Ill. 2d 378. Here, the issues raised in the cross-relief brief concern well-settled law—specifically, the cross-relief brief addressed claims of ineffective assistance of counsel and whether the trial judge applied a personal sentencing policy and failed to properly consider mandatory sentencing factors. See *Strickland v. Washington*, 466 U.S. 668 (1984); *People v. Bolyard*, 61 Ill. 2d 583, 585 (1975); *Hitchcock v. Dugger*, 481 U.S. 393, 398–99 (1987); *People v. Maxwell*, 148 Ill. 2d 116, 147 (1992).

Further, these claims were fully briefed in the lower court, *People v. Schoonover*, 2019 IL App (4th) 160882, ¶ 45, and Mr. Schoonover has fully briefed the claims in his cross-relief brief. (Def. Br. 23–48) The State also had the opportunity to address these claims in its reply. However, the State has chosen not to address the merits of these claims. (St. Reply 17–18) Accordingly, the State has forfeited responding to these claims. Ill. Sup. Ct. R. 341(h)(7) (“Points not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.”); *People v. Holman*, 2017 IL 120655, ¶ 28 (quoting *People v. Lucas*, 231 Ill. 2d 169, 175 (2008) (“The doctrine of forfeiture applies to the State as well as to the defendant . . .”).

Mr. Schoonover's direct appeal has been litigated since 2016. The State's failure to respond to the arguments on appeal should not be an excuse to further extend this appeal. Moreover, the State should not be able to defeat Mr. Schoonover's right to raise cross-relief claims by simply refusing to address the claims and then noting that the issues were not fully briefed, when the State had the opportunity to respond to the cross-relief claims. See Ill. S. Ct. R. 318(a) ("In all appeals, by whatever method, from the Appellate Court to the Supreme Court, any appellee, respondent, or coparty may seek and obtain any relief warranted by the record on appeal without having filed a separate petition for leave to appeal or notice of cross-appeal or separate appeal").

Therefore, this Court should still vacate Mr. Schoonover's conviction and remand for a new trial based on Argument II of the cross-relief brief, or, alternatively, vacate Mr. Schoonover's 85-year sentence and remand for a new sentencing hearing based on Argument III of the cross-relief brief.

CONCLUSION

For the foregoing reasons, Hayze L. Schoonover, defendant-appellee, respectfully requests that this Court affirm the appellate court's judgment. However, if this Court reverses the appellate court's judgment, this Court should still vacate Mr. Schoonover's conviction and remand for a new trial based on Argument II, or, alternatively, vacate Mr. Schoonover's 85-year sentence and remand for a new sentencing hearing based on Argument III.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this reply brief conforms to the requirements of Rules 341(a) and (b). The length of this reply brief, excluding pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 3 pages.

/s/Akshay Mathew
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Defendant-Appellee.)	

NOTICE AND PROOF OF SERVICE

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Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On August 30, 2021, the Reply Brief was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellee in an envelope deposited in a U.S. mail box in Ottawa, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Reply Brief to the Clerk of the above Court.

/s/Esmeralda Martinez
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