No. 125722

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- ANDREW SALAMON, Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, No. 1-16-0986. There on appeal from the Circuit Court of Cook County, Illinois , No. 12 CR 2706. Honorable Erica L. Reddick, Judge Presiding.

REPLY BRIEF FOR DEFENDANT-APPELLANT

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ARGUMENT

Where Police Procured Andrew Salamon's Statement by Employing a Tactic of Keeping Him in Isolated Detention and Denying Him His Statutory Right to a Phone Call for the Purpose of Securing Counsel for Approximately 24 Hours, at Which Time He Acquiesced and Made a Statement, the Police Conduct Rendered Salamon's Statement Involuntary.

The question before this Court is whether procedures employed by the police rendered Andrew Salamon's statement involuntary. This question is premised on the facts elicited at the suppression hearing, *i.e.*, leaving Salamon in a locked interrogation and ignoring his requests for a phone call in order to contact an attorney for approximately 24 hours. The State responds that the issue was not adequately preserved, that Salamon's statement was voluntary, and that any error was harmless.

A. The Question of the Voluntariness of Salamon's Statement Is Preserved.

The State first responds that Salamon did not properly preserve the issue now presented, asserting that Salamon did not "press an involuntariness argument at his suppression hearing." (St. Br. 15) The State complains that Salamon is making a claim that is factually and legally distinct from that made at the suppression hearing, so that it did not have an opportunity to respond with evidence of its own, thereby depriving the reviewing court of an adequately developed record. (St. Br. 16) To the contrary, the issue before this Court is based on the same factual underpinnings elicited at the suppression hearing. Indeed, appellant's opening brief sets forth the mostly undisputed facts elicited below on which Salamon now relies on appeal. (Deft. Br. 14-15)

In support of his motion to suppress statement, Salamon testified that after the police arrested and Mirandized him, he repeatedly asked for a phone call in order to contact a lawyer, and that they told him he would have to wait. (R. KK14-17, 27) After being in isolated custody for approximately 24 hours, he agreed to give a statement. (R. KK16-17, 32) The prosecution had every opportunity to and in fact did present evidence in response. Detective Thompson testified that it was police procedure to not allow a phone call until after a suspect is processed and that they processed Salamon once he gave a statement. (R. KK39) The prosecution both cross-examined Salamon and elicited testimony from police as to whether the police stopped asking questions once he asked for an attorney, whether they took him to the bathroom, gave him food and drink, and provided him with contact solution. (R. KK22-23, 32-33) The prosecutor reiterated these facts in its argument, presumably to establish that Salamon's statement was voluntary. (R. KK47)

The State attempts to equate this case with *People v. Hughes,* 2015 IL 117242, where this Court held that the defendant had not properly preserved the issue raised on appeal. But *Hughes* does not control here. In *Hughes*, trial counsel offered a "wholly distinct" factual basis for suppression than that offered on appeal. The basis of defendant's involuntariness claim at trial was that his handcuffs were too tight and he had not been Mirandized. *Id*. at ¶40. On appeal, the factual basis for his claim was related to his age, education, sleep deprivation, distress and substance abuse. *Id*. at ¶41. This Court opined that presenting "new factual theories" on appeal deprived the "formerly prevailing party to present evidence on that point," resulting in an

inadequately developed record on which the reviewing court could base its ruling. *Id*. at ¶38, 44, 46.

In contrast here, the factual lynchpin of Salamon's argument both on appeal and at the suppression hearing below, is that he was detained in a locked interrogation room for 24 hours and was prevented from his statutory right to a phone call to contact an attorney. (R. KK46, C.80) In response, the prosecution elicited testimony that the police were acting in accord with procedure. Moreover, the trial court then had an opportunity to make a finding as to this question and ruled that it did "not find improper conduct on the part of the police or conduct violating Miranda warnings or any constitutional rights." (R. KK55)

Nor can it be said that Salamon is now proceeding on a wholly distinct legal theory than presented at the suppression hearing. The State claims that counsel did not advance a voluntariness claim below, but focused on claims that the police improperly reinitiated contact with Salamon and violated his statutory right to make a phone call. (St. Br. 15, 16) However, counsel's claim was broader than the State characterizes it. In his written motion, counsel alleged that "any and all . . . statements by Andrew Salamon were elicited in violation of his constitutional rights under the Fourth, Fifth, Sixth, and Fourteenth Amendments. . .," and that his statutory right to communicate with an attorney was violated. (C. 80)

Indeed, counsel acknowledged that Salamon reinitiated contact and waived his *Miranda* rights. (R. K44, 50) But, as counsel argued, those rights, which are intended to insure the voluntariness of a statement, were rendered

meaningless where he was deprived of any means to access an attorney. (R. KK46) The legal issue presented to the trial court was whether the denial of a phone call while being detained in isolation induced Salamon to waive his *Miranda* rights, forego his right to counsel by reinitiating contact with the police, and subsequently offer a statement. All of these arguments are subsumed in the argument now raised on appeal – whether Salamon's statement to police was involuntary.

In fact, the prosecutor below seemed to understand that the suppression hearing encompassed the question of whether police conduct rendered Salamon's statement involuntary. In her argument on the motion, the prosecutor argued that in ceasing questioning, the police conduct was "textbook behavior," that they gave *Miranda* warnings, and that they have a right to a procedure which only allows a suspect to make a phone call after booking. (R. KK48-49) The prosecutor asserted that "*In fact, we have met our burden to show that [the statement] was indeed voluntary.*" (R. KK49)

Nor can it be said that trial counsel "disavowed" any voluntariness-related claim, and in fact, the portions of the record cited by the State do not support a "disavowal." (St. Br. 18) First, when counsel elicited circumstances surrounding Salamon's arrest, the prosecution objected and counsel only noted that he was not eliciting that testimony as evidence of coercion. (R. KK13-14) This can be understood to mean that he was not alleging physical coercion but does not establish that he was abandoning any claims as to the voluntariness of the statement. Second, the State cites to the portion of the record where counsel asked Detective Thompson whether Salamon had been

handcuffed to the wall during his detention. (R. K44)(St. Br. 18) The prosecutor objected based on relevance and counsel responded that "it is relevant that 24 hours after - - 25 hours after he asks for a lawyer, he is physically incapacitated from getting a lawyer not only by being locked in a room but being handcuffed to a wall." (R. K44) The court overruled the prosecutor's objection. It cannot be said that counsel disavowed a voluntariness claim.

Significantly, the State concedes that it did not present a waiver argument in the appellate court. (St. Br. 19) Yet "rules of waiver are applicable to the State as well as the defendant in criminal proceedings, and the State may waive an argument that the defendant waived an issue by failing to argue waiver in a timely manner." *People v. Williams*, 193 Ill.2d 306, 347-348 (2000); *See also*, *People v. Carter*, 208 Ill.2d 309, 318 (2003) (finding waiver by the State where it failed to respond to defendant's argument in appellate court or in petition for leave to appeal and raised the issue for first time in its brief to this Court).

The State asserts that as appellee, it may request that this Court affirm on any ground that is clear from the record. (St. Br. 19) In fact, that is precisely what the appellate court did below, when it found that even if the officers deprived Salamon of a phone call, "the totality of the circumstances do not support a finding that his statement was involuntary. *Salamon,* at ¶62. The appellate court went on to note Salamon's age, his mental capacity, lack of any physical infirmity, and his prior minimal experience with the criminal justice system in support of its affirmance. The appellate court also

observed that Salamon was afforded "food, drink, bathroom breaks, and contact lens solution." *Id.* In other words, the appellate court found the record adequately developed to affirm the trial court's finding based on facts the State now complains were not fully litigated below.

Even though the State did not advance any argument concerning waiver or forfeiture in the appellate court, seemingly acquiescing that the issue was adequately preserved, it now argues that a "fairness rationale" compels that Salamon cannot present a plain error argument. (St. Br. 18-19) Salamon maintains that the issue was properly preserved where the underlying facts were developed and where counsel stated in his post-trial motion that the court erred in refusing to suppress the statement. (C. 151) However, should this Court determine that the issue was not fully preserved, it can reach the error as plain error. *See People v. Ramey*, 239 Ill.2d 342, 412 (2010) (arguing plain error in appellant's reply brief is sufficient to allow for plain error review).

The plain error rule allows a reviewing court to consider unpreserved error when either "the evidence is close, regardless of the seriousness of the error," or "the error is so serious that the defendant was denied a substantial right." *People v. Herron*, 215 Ill. 2d 167, 178-79 (2005); Ill. S.Ct. Rule 615(a) (2017). First, this Court may review the voluntariness of the confession as use of an involuntary statement at trial denied Salamon a fair trial. *See*, *People v. Terrell*, 132 Ill.2d 178, 184 (1989) (Court reviewed as plain error the defendant's allegation that his confession was involuntary and obtained in violation of the due process clause, as it is a matter cognizable on appeal

notwithstanding the lack of any contemporaneous objection).

Second, this Court may review the error as plain error where the evidence was closely balanced, so that admission of the involuntary statement impacted the fairness of the trial. In this case, there was no physical evidence linking Salamon to the offense.[1] The testimony of the witnesses who implicated Salamon was less than reliable. Apolio Retema claimed that Salamon had confessed to him a year after the offense occurred, but his recounting of events differed from Salamon's statement as to the tools used and differed from the police account as to whether the bar was ransacked. (R. TT142-143) Retema credited himself with advising Salamon to turn himself in a year prior to his arrest. (R. TT141, 144) Yet the police testified that they initiated contact with Salamon and asked him to come to the station. He did so, but left without making a statement. (R. KK28-30)

The only other witness to inculpate Salamon was Jose Santos. Santos had five prior theft convictions and had initially agreed to participate in the offense. (R. TT45-46, 55) He had never seen the second participant, who he later identified as Salamon, and described him only as a white male, age 19-25. (R. KK28-29) The State's evidence relied heavily on Salamon's inculpatory statement. Because the evidence was closely balanced, this Court may review the issue as plain error.

Salamon maintains that the question of the voluntariness of his statement was fully preserved as he does not now advance a factually or legally distinct theory and where he presented the issue in his post-trial

[1] The weight of the evidence is more fully discussed in appellant's opening brief in addressing the harmless error analysis. (Deft. Br. 27-30)

motion. Yet, even if the issue was not fully preserved, this Court may address the issue as a matter of plain error.

B. The Impropriety of Police Conduct Induced an Involuntary Statement from Salamon.

The substantive question for this Court is whether Salamon's statement, made only after the police allowed 24 hours to pass without providing access to a phone call to obtain a lawyer, was involuntary. In his opening brief, appellant presented this court with long-standing principles against the inherently coercive practice of incommunicado detention. (Deft. Br. 15-16) In response, the State attempts to undermine the significance of the principles recognized both by federal and Illinois case law and statute. It does so first by decoupling the lengthy detention from law enforcement's withholding of a phone call. Second, the State attempts to vitiate the impropriety of law enforcement's disregard for statutory requirements by pointing to the detectives' technical compliance with *Miranda v Arizona*, 384 U.S. 436 (1966), and *Edwards v. Arizona*, 451 U.S.477 (1981). Finally, the State negates the impact of police conduct by claiming that they did not violate the statute and that the statute does not allow for an express remedy of suppression.

1. Length of detention and deprivation of a phone call cannot be considered separately.

The State separately addresses the impact of a lengthy detention and the denial of a phone call on a person's decision to make a statement. (St. Br. 21-22, 24) However these factors cannot be divorced from each other as it is the interplay of these factors which eviscerates any assurance of the

voluntariness of Salamon's statement. The State's first assertion that Salamon's detention was "proper and not unduly long" and the cases on which it relies, fail to take into account that the lengthy detention was exacerbated by the denial of a phone call. (St. Br. 21-22) It is true that in *People v. Chapman*, 194 Ill.2d 186 (2000), the defendant was in custody for more than 24 hours while, unbeknownst to the defendant an attorney hired by his father was attempting to locate him. *Id*. at 208 . However, Chapman never invoked his right to counsel and repeatedly agreed to speak with the police. *Id*. at 204-206.

Similarly, in *People v. Willis*, 215 Ill.2d 517, this Court found the defendant's statement was voluntary even though he had been detained for 73 hours without a probable cause determination. Again, however, once Willis was *Mirandized*, he immediately waived those rights and spoke to the police, and unlike Salamon, he never invoked his right to counsel or asked to contact an attorney. *Id*. At 542-543. Here, Salamon was not only held for 24 hours, but he immediately invoked his right to counsel and repeatedly asked for a phone call. Ignoring his request for 24 hours conveyed a message that his invocation was futile and that his detention could be indefinite.

The State then addresses the impact of the denial of a phone call, saying that the "mere fact of defendant's inability to make a phone call for approximately 24 hours also did not render his confession involuntary." (St. Br. 24) Salamon's mere "inability to make a phone call" is not a benign or unfortunate circumstance. It was not just that Salamon was "unable" to make a call, but that the police kept him from doing so. Moreover, the

coercive impact of the denial of a phone call is significant due to the length of detention during which that call was withheld. From the outset of his arrest, Salamon requested a phone call to contact an attorney. He was kept in a locked interrogation room, handcuffed to the wall for at least some of the time.[2] Again, the cases cited by the State to minimize the impact of denial of a phone are not analogous to the circumstances presented here. (St. Br. 24)

While the defendants in *People v. Ramey*, 152 Ill.2d 41,58 (1992) and *People v. Terrell*, 132 Ill.2d 178, 200 (1989), each alleged that they had not been allowed to use the phone, they were only in custody for six and eight hours, a third of the time that Salamon was detained in isolation. Moreover, in *Terrell*, the court signified that the defendant did not indicate he wished to remain silent or ask for an attorney. *Terrell*, 132 Ill. 2d at 199. Nor does the decision in *People v. Wicks*, 236 Ill.App. 3d 97, where the defendant was held for 14 hours, shed any light on this case. There, the court found that the defendant was not even in custody when he gave a statement, but noted that even assuming defendant was in custody, there was nothing involuntary about the waiver of his *Miranda* rights where he never invoked those rights and never requested an attorney. *Id*. at 107. The State cites to no case finding a statement to be voluntary where a suspect has been held

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[2]The State notes that the only evidence at the suppression hearing regarding handcuffs was Detective Thompson's testimony that Salamon was handcuffed on some occasions. (St. Br. 23) At trial, Detective Gillespie testified he was handcuffed the entire time while in custody. As this is not a crucial basis for seeking reversal of the trial court's ruling, Salamon asks this Court to consider Gillespie's testimony as it sheds light on the circumstances of the offense. In any case, whether this Court considers Salamon was handcuffed some of the time or the entire time, this distinction does not lessen the impact of the circumstances of Salamon's incommunicado detention.

incommunicado for 24 hours even though he immediately had asked for a phone call and invoked his rights to counsel and to remain silent.

Instead, the State references *In re G.O.*,191 Ill.2d 37 (2000) and suggests that Salamon is asking for greater protections than may be afforded even a juvenile. (St. Br. 25) This case does not present a quest for "greater protections" but rather, it presents a significantly different set of circumstances by which this Court must evaluate the voluntariness of a statement. In *G.O.*, this Court found only that the fact that a juvenile did not have a chance to confer with a concerned adult, without more, did not render the statement involuntary. The minor did not ask to speak to an adult and the police did not actively interfere with any attempts of an adult to see G.O. *Id*. at 56. In contrast here, Salamon asked for an attorney. He asked for a phone call. And the police response was to tell him he would have to wait while they kept him in a locked interrogation room with no access to the outside world.[3]

The State further posits that there was nothing to suggest that the detention without access to a phone call was an intentional tactic intended to induce a statement. (St. Br. 25) To the contrary, in the absence of any justification for such policy, the reasonable inference is that this was a tool used by the police to induce a statement. The State points to Detective

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[3]The State asserts that Salamon did not testify that he thought his family was looking for him. (St. Br. 23) But Salamon would have no way to know if his family was looking for him. Thus, denial of a phone call to contact his mother to obtain a lawyer would still have a coercive effect where he had no means of contact with the outside world. The State's claim that since he was arrested as he left work one of his colleagues may have seen the arrest is wholly speculative and does not affect the analysis of this case.

Thompson's conclusory statement that it is normal procedure at Area North to only allow phone calls after the booking process is complete, and Salamon was not booked until after he gave a statement. (St. Br. 25) In other words, it may be considered acceptable and appropriate procedure to wait 24 hours prior to booking a suspect and prior to allowing a phone call. Normalizing such procedure, without providing any justification as to its purpose defies the rationale of Illinois law.

Nor did the prosecution elicit any specific reason from Detective Thompson as to why it was necessary in this case to delay the booking process. The State speculates about "easy to imagine" legitimate reasons for keeping a suspect from contact with the outside world. (St. Br. 29) Though the record is silent on this point the State suggests that the police may have wanted to keep Salamon from tipping off a co-defendant or influencing witnesses. First, this does not offer a basis to deny a phone call to secure the aid of an attorney. Second, the State did not elicit any evidence that Salamon had any contact with Jackson or other potential witnesses two years after the offense. Third, the State provides no explanation as to why these "reasons" would not have existed 24 hours after Salamon's arrest. Finally, a suggestion that legitimate reasons might exist to delay booking and a phone call contravenes the rationale for the Illinois legislature's enactment of a statute mandating a phone call within a reasonable amount of time. Indeed, common sense supports the conclusion that keeping Salamon detained and isolated from the outside world and allowing 24 hours to pass without providing a phone call under the guise of police procedure was a tactic to

induce a confession.

2. Purported compliance with constitutional requirements does not negate the impropriety of the police conduct.

Next, the State seeks to vitiate law enforcement's non-compliance with Illinois law by noting that the police acted in accord with *Miranda v Arizona*, 384 U.S. 436 (1966), and *Edwards v. Arizona*, 451 U.S.477 (1981) and ceased questioning when Salamon invoked his right to counsel. (St. Br. 23-24) However, the detectives' technical compliance was meaningless when performed in tandem with their non-compliance with Illinois' mandate to provide a phone call to a person who is in custody. *Edwards* holds that police must cease interrogation until counsel has been made available. *Id*. at *484-5. While the police complied with the first part of the procedure contemplated by *Edwards*, blatantly absent was any means to the availability of counsel. Similarly, *Miranda* contemplates that warnings may be given so that a defendant is aware he has a right to counsel, and if he requests counsel, the interrogation must cease until an attorney is present. *Miranda* at 474.

The State recognizes that *Miranda* established that right, but argues that *Miranda* does not require that attorney be "made available, only that interrogation must cease until an attorney is present." (St. Br. 26) While it is true that law enforcement does not have an affirmative responsibility to make counsel available, it cannot block the sole means of accessing available counsel. Rather, Illinois law requires that they facilitate access through the simple task of providing a suspect a phone call within a reasonable time.

The protection that is intended by the requirement that police cease

questioning once an individual invokes his right to counsel is only effective if the individual has a means to access that right to counsel. Law enforcement should not be commended for "ceasing questioning" where, as trial counsel argued below, the lack of access to counsel rendered the purpose of the protection meaningless. (R. KK46, 50) Instead, the minimal contact by the police only reinforced the isolated nature of the detention, and reiterated to Salamon his own powerlessness and dependence on the police to secure an attorney.

3. The *significance of Illinois' codification of access to a phone call should not be undermined in evaluating the voluntariness of a statement*.

The State next attempts to undermine the impropriety of a lengthy incommunicado detention by negating the import of Illinois' statutory mandate that police permit an arrestee a phone call within a reasonable time of arrival at the first place of custody. 725 ILCS 5/103-3(a). The State's initial claim that there was no statutory violation in this case requires a conclusion that 24 hours is a reasonable time to withhold access to a phone call. (St. Br. 29)

The State further attempts to undermine the significance of the statutory violation by noting that a violation does not require suppression. Salamon has acknowledged that the statute in its present form does not require suppression. (Deft. Br. 17-20) But neither does it preclude suppression as a remedy. Rather, it is a factor to be considered in evaluating the voluntariness of a statement. *People v. Sanchez*, 2018 IL App (1st) 143899, ¶ 73 In a case such as this one, where Salamon asked for a phone

call to contact an attorney, and where the detectives allowed 24 hours to pass without providing him with that call, the statutory violation must weigh heavily against admission of the statement.

The State asserts that exclusion should only be used as a last resort and should not be applied in this case where the detectives followed court precedent and police policy, and thus there are no "deterrent benefits" that could outweigh the costs. (St. Br. 30-31) Salamon has distinguished prior precedent and explained in his opening brief that denial of a phone call for the purpose of contacting an attorney implicated a more significant right than in prior cases where an individual was unable to contact a family member. (Deft. Br. 18-19) Moreover, an important deterrent benefit to be achieved here is to keep from normalizing lengthy incommunicado detention as acceptable police policy. Indeed, it could be argued that prior court precedent, which appellant has distinguished from the circumstances here, has encouraged police to maintain and even expand, such practices and procedure.

Finally, the State characterizes appellant's position as asking this Court to "[craft] constitutional limits on allegedly improper police conduct," and to create a sweeping constitutional rule. (St. Br. 31) However, it is the role of this Court to determine when State conduct violates constitutional precepts. Salamon maintains that it is appropriate for this Court find that lengthy incommunicado detention is a factor that weighs heavily against the voluntariness of a statement. Specifically in this case, allowing 24 hours to pass without allowing Salamon a phone call was antithetical to constitutional

protections and also led Salamon to acquiesce into making a statement. While this Court is not to inject itself into the legislative process, it can provide guidance to the lower courts and to the police as to the boundaries of incommunicado detention and instruct that prolonged denial to a phone call must be given significant weight in evaluating the voluntariness of a statement.

C. Admission of the Involuntary Statement Was not Harmless.

Finally, the State has not met its burden of establishing that admission of the statement was harmless beyond a reasonable doubt. *People v. Thurow*, 203 Ill. 2d 352, 363 (2003). First, the State does not dispute that a confession is one of the most powerful and persuasive forms of evidence. *People v. Simpson*, 2015 IL 116512, ¶ 36. Contrary to the State's implication, the remaining evidence did not duplicate Salamon's statement. (St. Br. 32) Nor can it be said that the remaining evidence overwhelmingly supports a conviction.

The State first points to Retema's claim that Salamon confessed to him. However, the State does not fully counter the weaknesses set out in appellant's opening brief. (Deft. Br. 27-28) For example it is unclear why Salamon would confess to Retema a year after the offense, and why, if Retema convinced Salamon to turn himself in, Salamon left the station without making any statements. (Deft. Br. 28) The State also asserts that any inconsistencies between Retema's testimony and Salamon's statement are minor and can be attributed to fading memories or that Salamon did not share certain details. (St. Br. 34) However, any inference to be drawn from

the inconsistencies is for the jury to make. The jury's determination as to the significance of any inconsistencies may be different in the absence of Salamon's statement.

The State cites Retema's testimony as compelling on the basis that he and Salamon were friends for 15 years and cites to *People v. Mitchell*, 152 Ill.2d 274 (1992). (St. Br. 33) First, the record in this case is silent as to the nature of Salamon's friendship with Retema. Moreover, *Mitchell* is distinguishable because there, this Court did not find the testimony compelling solely because of the friendship, but because the friend/witness was with the defendant at the scene on the night of the offense, the defendant confessed on that same night, and physical evidence of the crime was found in defendant's basement. *Id*. at 328-329. There was no such compelling corroboration for Retema's testimony here.

Nor does the State overcome the weaknesses in Santos' testimony to meet its burden of establishing harmless error. The State claims that Santos had nothing to gain from implicating Salamon and there was no evidence that he would shift blame from himself. (St. Br. 33) Again, these are questions for the jury in light of the evidence that it heard regarding Santos' criminal history, the fact that he knew Jackson and was with him on the night of the offense, (R. TT52-54), and participated in the planning of a robbery. (R. TT49-50) The State also argues that there was no testimony that the police doubted Santos' explanation as to why he chose to extricate himself from the offense. (St. Br. 33) It is not for the police to testify as to their assessment of Santos' veracity. Rather, this is a question for the jury,

and the jury may well have made a different determination absent Salamon's statement to law enforcement.

Finally, the State references defense counsel's closing argument to the jury where he seemingly acknowledged that Salamon was at the scene but argued he was not accountable. (St. Br. 34) Of course, closing arguments are not evidence. Further, this was the argument that counsel was left with once the statement was admitted. A closing argument that is based on Salamon's statement only highlights that its admission played an essential role in this case and was not harmless.

Conclusion

Where the underlying basis for the questions presented to this Court were fully developed at the trial level, the issue is preserved for this Court's review. For the reasons set forth in Salamon's opening brief and reply brief, the withholding of a phone call for 24 hours under the guise of police procedure rendered any protections meaningless and must weigh heavily in finding Salamon's statement involuntary. Finally, where the crux of the prosecution relied on Salamon's statement and where the remaining evidence was not similarly compelling, any error is not harmless.

CONCLUSION

For the foregoing reasons, Andrew Salamon, defendant-appellant, respectfully requests that this Court reverse the appellate court's ruling, find that Salamon's statement should be suppressed, and remand for a new trial.

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 19 pages.

/s/Linda Olthoff
LINDA OLTHOFF
Supervisor

No. 125722

IN THE

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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 April 1, 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-appellant in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Reply Brief to the Clerk of the above Court.

/s/Kelly Kuhtic
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