No. 131340

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	On Appeal from the Appellate of Illinois, Third Judicial District, No. 3-23-0161.
Plaintiff-Appellant,	)	
	)	There on Appeal from the Circuit Court of the Twenty-First Judicial Circuit, Kankakee County, Illinois No. 20 CF 469.
v.	)	
	)	
WILLIAM P. HEINTZ,	)	The Honorable Kathy Bradshaw Elliot, Judge Presiding.
Defendant-Appellee.	)	

REPLY BRIEF OF PLAINTIFF-APPELLANT PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General of Illinois

JANE ELINOR NOTZ
Solicitor General

KATHERINE M. DOERSCH
Criminal Appeals Division Chief

NICHOLAS MOELLER
Assistant Attorney General
115 South LaSalle Street
Chicago, Illinois 60603
(773) 590-6936
eserve.criminalappeals@ilag.gov

Counsel for Plaintiff-Appellant
People of the State of Illinois

ORAL ARGUMENT REQUESTED

E-FILED
9/12/2025 9:33 AM
CYNTHIA A. GRANT
SUPREME COURT CLERK

ARGUMENT

I. The Trial Court Did Not Abuse Its Discretion by Barring Evidence of the Victim's Post-Offense Conduct, and Any Error in Excluding This Evidence Was Harmless.

A. This Court interprets Rule 405(b)(2) *de novo*, but it reviews the trial court's ultimate ruling for an abuse of discretion.

This Court reviews the trial court's evidentiary rulings for an abuse of discretion and will reverse such a ruling only if it is "'arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it.'" *People v. Brand*, 2021 IL 125945, ¶ 36 (quoting *People v. Peterson*, 2017 IL 120331, ¶ 125). While the trial court's ultimate evidentiary ruling is entitled to deference, *see id.*, its interpretation of Rule 405(b)(2) is reviewed *de novo*, *People v. Smith*, 2022 IL 127946, ¶ 25, as the People noted in their opening brief, *see* Peo. Br. 15.

Applying these standards to the questions before the Court, the trial court's evidentiary ruling provided no basis for reversal. First, the trial court correctly interpreted Illinois Rule of Evidence 405(b)(2) to exclude evidence of the victim's post-arrest conduct. *See* Peo. Br. 17-22. And second, even if the trial court misinterpreted the rule, its ruling was nevertheless an appropriate exercise of discretion because defendant failed to present any evidence that his victim was the initial aggressor and that he had acted in self-defense. *See id.* at 22-24.

A. The trial court correctly interpreted Rule 405(b)(2) to permit only evidence of the victim's violent conduct prior to the charged offenses.

The trial court correctly excluded the evidence of Szalaj's post-offense conduct because Rule 405(b)(2), by its terms, permits propensity evidence of a "victim's *prior* violent conduct," Ill. R. Evid. 405(b)(2) (emphasis added) — that is, violent conduct that preceded the charged offense(s).

The word "prior" has a well-established plain meaning: "[p]receding in time or order." *Prior*, Black's Law Dictionary (12th ed. 2024). In other words, prior means before something. But before what? Contrary to defendant's assertion, accepting the People's answer to this question does not require "inserting unwritten language into the rule." *See* Def. Br. 24. Instead, readers need only look to the rest of the rule. The rule first states when evidence of a victim's conduct is admissible: "[i]n homicide and battery cases" where the defendant raises self-defense and "there is conflicting evidence as to whether the alleged victim was the aggressor." Ill. R. Evid. 405(b)(2). Thus, the focus of the rule's first half is whether the victim acted as the aggressor in the battery or homicide, or put differently, the victim's conduct during the charged offense. *See id.* Because the rule then continues by describing what evidence is admissible — "specific instances of the alleged victim's *prior* violent conduct," *id.* (emphasis added) — the only reasonable interpretation is that "prior" refers to the subject of the first half of the rule: the victim's conduct during the charged offense.

For his part, defendant would add "prior [to trial]" to Rule 405(b)(2). *See* Def. Br. 23. However, defendant's interpretation not only impermissibly adds language not included by the rule's drafters, it also renders the word "prior" superfluous. *See People v. Wells*, 2023 IL 127169, ¶ 36 ("We may not read words into the statute in order to achieve a particular result."); *People v. Tompkins*, 2023 IL 127805, ¶ 52 ("'[E]very clause of a statute must be given a reasonable meaning, if possible, and should not be rendered meaningless or superfluous.'") (quoting *Schultz v. St. Clair Cnty.*, 2022 IL 126856, ¶ 27). The rule cannot be reasonably read to mean "prior to trial" because all trial evidence is necessarily limited to evidence that existed prior to trial.

Hoping to escape this conclusion, defendant suggests that "prior" serves to clarify whether "the violent conduct at issue is only related to the incident at issue or *other* incidents." Def. Br. 24 (emphasis added). But that argument fails. Indeed, defendant's suggestion that the word "prior" serves to distinguish a victim's "prior violent conduct" from the victim's conduct during the incident at issue only *underscores* that Rule 405(b)(2) is intended to apply to conduct prior to the charged offenses. If the rule were read to mean any conduct "prior to trial," then it would necessarily encompass the charged offenses (which obviously occurred prior to trial) and would clarify nothing. Moreover, Rule 405(b)(2) uses the word "prior," which has clear temporal limitations, instead of the word "other," which would have

established that *all* other incidents were admissible, even if they took place after the charged offenses.

Defendant's assertion is also nonsensical. With or without the word "prior," Rule 405(b)(2) could not be reasonably read to include evidence of the victim's conduct during the charged offenses, as defendant posits, because the rule governs propensity evidence. *See* Ill. R. Evid. 402. Propensity evidence is evidence of a person's character used to support the inference that the person acted in accordance with that character during the charged offenses (*e.g.*, because the person acted violently in the past, they likely acted violently during the charged offenses, as well). *See People v. Manning*, 182 Ill. 2d 193, 213 (1998). But evidence of the victim's conduct during the charged offenses does not rely on a propensity inference; instead, it is direct proof of the victim's actions during the offenses. Thus, Rule 405(b)(2) could never apply to evidence of the victim's actions during the charged offenses because such evidence is direct, not propensity, evidence.

Contrary to defendant's contention, *see* Def. Br. 25, honoring the plain language of Rule 405(b)(2) would not conflict with *People v. Lynch*, 104 Ill. 2d 194 (1984), as the appellate court has explained. *See People v. Evans*, 2018 IL App (4th) 160686, ¶¶ 29-30. In *Lynch*, this Court considered only whether evidence of the victim's violent conduct predating the charged offense (three battery convictions) was admissible to show the victim's propensity for violence and to support the defendant's contention that the victim was the

aggressor. 104 Ill. 2d at 199-201. The Court did not discuss or consider any conduct that occurred after the crime but before trial. *See id.* at 200-01. Consequently, enforcing Rule 405(b)(2)'s plain language, which limits the admissibility of a victim's violent conduct to pre-offense acts, is entirely consistent with *Lynch*. *See Evans*, 2018 IL App (4th) 160686, ¶ 30.

And even if there were an inconsistency with *Lynch*, the language of the rule would control. The Illinois Rules of Evidence both codified existing common-law rules of evidence and replaced them. *See People v. Smith*, 2022 IL 127946, ¶ 57 ("[T]he Illinois Rules of Evidence codified—and therefore abrogated—the common-law rules of evidence in Illinois."). Rules promulgated by this Court, including the Rules of Evidence, "have the force of law, and the presumption must be that they will be obeyed and enforced as written." *See People v. Houston*, 226 Ill. 2d 135, 152 (2007). In other words, Rule 405(b)(2) does not conflict with *Lynch*, but if it did, the rule would control. *See Smith*, 2022 IL 127946, ¶ 57.

Finally, limiting the evidence that may be admitted under Rule 405(b)(2) to evidence of a victim's conduct prior to the charge offenses would not lead to absurd results. *Cf.* Def. Br. 26. As the People explained, because the trauma of a defendant's aggression during the charged offenses may itself cause a victim's future aggression, a victim's post-offense conduct is unlikely to shed light on whether the victim was the aggressor during the charged incident. *See* Peo. Br. 21-22.

For his part, defendant argues that it would be absurd to limit the propensity evidence that a defendant may introduce against his victim, when the State is not similarly limited when introducing propensity evidence against a defendant. Def. Br. 26. Presumably, defendant is referring to propensity evidence proffered by the State pursuant to statute, *see* 725 ILCS 5/115-7.3; 725 ILCS 5/115-7.4, since Rule 405(b) applies only to a victim's violent conduct. If so, the difference is attributable to the General Assembly's decision not to include a temporal limitation — like the word "prior" — when drafting the statutes governing the admissibility of evidence of a defendant's other violent conduct. *See* 725 ILCS 5/115-7.3 (allowing "evidence of the defendant's commission of another [sexual abuse] offense or offenses"); 725 ILCS 5/115-7.4 (allowing "evidence of the defendant's commission of another offense or offenses of domestic violence"). Indeed, this Court has recognized and enforced the legislature's intent to more readily admit propensity evidence against defendants who have committed prior acts of sexual or domestic abuse based on the pernicious and recurring nature of such abuse. *See People v. Dabbs*, 239 Ill. 2d 277, 292-93 (2010).

In sum, the plain language of Rule 405(b)(2) limits evidence of a victim's propensity for violence to conduct that occurred *prior* to the charged offense(s), which reading is also consistent with the purpose for which such evidence is introduced. Consequently, the appellate court erred in holding otherwise.

B. In any event, the trial court did not abuse its discretion in excluding the evidence of the victim's post-offense conduct because defendant did not make the required showing that Szalaj was the aggressor.

Even under defendant's reading of Rule 405(b)(2), the trial court did not abuse its discretion in excluding evidence of Szalaj's conduct post-dating the charged offenses because defendant failed to make the required showing that Szalaj was the initial aggressor. Before a defendant may introduce evidence of a victim's propensity for violence, he must first present some evidence that the victim was the initial aggressor and that he acted in self-defense. *See* Ill. R. Evid. 405(b)(2) (requiring "conflicting evidence as to whether the alleged victim was the aggressor").

Defendant failed to satisfy that legal threshold for admitting the proposed propensity evidence. On the contrary, by defendant's own account, he was the aggressor. *See* Peo. Br. 24-27. Defendant testified that he woke Szalaj in the middle of the night, questioned her about her activities, and then "grabb[ed]" her phone. R818-20. Although defendant also testified that Szalaj responded by throwing a beer in his face, he admitted that she subsequently fled, ceasing any aggression. R821. Defendant followed Szalaj and broke into the bathroom where she had gone to hide from him. *See* R871. Based on this testimony, defendant cannot reasonably claim that Szalaj was the aggressor, as Rule 405(b)(2) requires.

Defendant responds that this argument is inconsistent with the trial court's decision to instruct the jury on self-defense, Def. Br. 27, but "[t]he

reasons given by a lower court for its decision or the findings on which a decision is based are not material" if its ultimate ruling is correct, *City of Chicago v. Holland*, 206 Ill. 2d 480, 492 (2003). The question is whether evidence of Szalaj's post-offense conduct was admissible, regardless of the rationale relied upon by the trial court. *See id.* As explained, the trial court could not have erred in excluding this evidence because defendant did not show that Szalaj was the aggressor.

Because defendant — by his own testimony — became the aggressor after Szalaj's retreat, the trial court did not abuse its discretion in excluding Szalaj's post-offense conduct.

C. Alternatively, any error was harmless.

Alternatively, any error in excluding evidence of Szalaj's post-offense conduct was harmless because there is no reasonable probability that the jury would have acquitted defendant had it heard this evidence. *See People v. Smart*, 2025 IL 130127, ¶ 90 (An "'evidentiary error is harmless where there is no reasonable probability that the jury would have acquitted the defendant absent the error.'") (quoting *People v. Heineman*, 2023 IL 127854, ¶ 95).

The evidence of defendant's guilt was overwhelming. Szalaj testified that defendant broke into her home, chased her, broke into the bathroom where she had gone to hide from him, and violently abused her for hours. *See* Peo. Br. 25-26. Her account was corroborated by photos of her injuries; the blood on her clothes, in the bathroom, and on defendant; and defendant's possession of her phone at the time of his arrest. *Id.* To counter, defendant

offered an implausible and legally insufficient theory of self-defense, *see id*. at 24, asserting that he needed to defend himself despite having pursued, and forced open a door to reach, his purported assailant.

In addition, the trial court permitted defendant to present evidence of Szalaj's violent conduct pre-dating the offense, which fully communicated the nature of their relationship to the jury. *See id*. at 27. Consequently, the evidence of Szalaj's post-offense conduct would have been cumulative, and there is no reasonable probability that the jury would have acquitted defendant had the evidence been admitted. *See People v. Caffey*, 205 Ill. 2d 52, 92 (2001) (any error in excluding evidence "is harmless where the excluded evidence is merely cumulative."). Any error in excluding it therefore was harmless.

II. The Trial Court Did Not Abuse Its Discretion by Barring Irrelevant Evidence of Defendant's Prior Acquittal, and Any Error in Excluding This Evidence Was Harmless.

A. The trial court properly barred the irrelevant evidence of defendant's prior acquittal.

The trial court did not abuse its discretion in barring evidence that defendant was acquitted of the charges stemming from his July 3, 2020 altercation with Szalaj because it was not relevant to any question before the jury, *see Smart*, 2025 IL 130127, ¶ 43 (A court "must not admit irrelevant evidence."); *see also* Ill. R. Evid. 402, and it was not necessary to cure any undue prejudice to defendant, *see People v. Ward*, 2011 IL 108690, ¶ 48.

Evidence that defendant attacked Szalaj in July 2020 was admissible to show his propensity to commit acts of domestic violence, *see* 725 ILCS 5/115-7.4, and both parties presented evidence regarding defendant's conduct that day, R261-63, 787-90. But defendant's subsequent acquittal of the charges associated with that attack would not have shown that he did not commit the charged conduct because an acquittal is not a finding of innocence. *See Ward*, 2011 IL 108690, ¶ 47 ("[A] verdict of not guilty may have been attributed to a number of factors and does not conclusively establish defendant's actual innocence.") (internal quotation marks omitted); *accord People v. Jackson*, 149 Ill. 2d 540, 550 (1992); *Dowling v. United States*, 493 U.S. 342, 349 (1990).

Defendant's reliance on *Ward*, *see* Def. Br. 28, is misplaced. In *Ward*, the People presented evidence about the defendant's earlier trial for the sexual assault of a different victim pursuant to 725 ILCS 5/115-7.3. *See* 2011 IL 108690, ¶ 27. Applying the plain language of that provision, this Court held that the defendant should have been allowed to present rebuttal evidence about his acquittal. *Id.* ("We note that the plain statutory language permits admission of both evidence of 'defendant's commission of another [enumerated] offense or offenses' and 'evidence to rebut that proof or an inference from that proof.'") (quoting 725 ILCS 5/115-7.3(b)). The Court reasoned that the prior victim's testimony was "graphic" and "detailed a considerably more violent attack than" the crime charged. *Id.* ¶¶ 27, 43.

Under these circumstances, the Court explained, evidence of the defendant's prior acquittal was necessary to give a "fully realistic context" to the prior victim's testimony: without it, the jury might speculate about the evidence that was presented at the prior trial and might even incorrectly infer that the defendant had been convicted. *Id.* ¶¶ 38-40. Thus, while the prior acquittal was not admissible to establish the defendant's innocence of the prior sexual assault, it was admissible to cure "the serious risk of undue prejudice to defendant." *See id.* ¶¶ 47-48.

Here, by contrast, the People did not rely on 725 ILCS 5/115-7.3 to admit any evidence; they relied on 725 ILCS 5/115-7.4, which does not authorize the defendant to present rebuttal evidence. *Compare* 725 ILCS 115-7.3 *with* 725 ILCS 115-7.4. And defendant presented ample evidence of what occurred on July 3, 2020, giving the "fully realistic context" to the People's evidence. *Contra Ward*, 2011 IL 108690, ¶ 38.

Moreover, unlike in *Ward*, defendant could not have been prejudiced by the exclusion of the acquittal evidence because there was no evidence indicating a criminal trial had taken place following the July 3, 2020 incident. *See* Peo. Br. 31-33, *contra* Def. Br. 28. To be sure, he and Szalaj referred in passing to an "Iroquois County case," R274, and "a case pending between [them] in Iroquois," R840, but the jury would have understood these as references to the protective order Szalaj obtained against defendant, which both Szalaj and defendant testified to, R243, 807-08. Nor does the fact that

Szalaj called 9-1-1 imply criminal charges, *contra* Def. Br. 28, particularly where the jury heard that the police had been previously called to the home she shared with defendant without any arrest being made, R242. In fact, the only references to a trial on earlier charges came from defense counsel in his opening statement, R231, and his questions to Szalaj, R344.

In any event, even if jurors suspected that defendant had previously faced criminal charges, there is no reason to believe they would have incorrectly inferred that defendant was convicted of those charges, as this Court feared in *Ward*. In fact, defense counsel suggested otherwise during his opening statement: counsel told the jury that there had been a trial in which Szalaj had "failed to get [defendant]," R231, effectively informing the jury that defendant won the Iroquois County case. Consequently, the exclusion of defendant's acquittal did not prejudice defendant and *Ward* is inapposite.

In sum, because the evidence of defendant's acquittal was neither probative of whether defendant attacked Szalaj on July 3, 2020, nor necessary to cure any undue prejudice resulting from the People's evidence, the trial court's decision to bar the acquittal evidence was not an abuse of discretion.

B. Alternatively, any error was harmless.

Regardless, any error in excluding the acquittal evidence was harmless because there is no reasonable probability that the jury would have acquitted defendant if that evidence had been admitted. As noted, the evidence of

defendant's guilt was overwhelming, *see supra* pp. 8-9, and defense counsel effectively informed the jury of defendant's acquittal when he argued that Szalaj had tried but failed to "get" defendant, R231. Moreover, defendant presented both his own testimony and the video surveillance footage, which called into question Szalaj's account of the July 3, 2020 incident. R787-90. This evidence was more powerful than evidence that defendant was acquitted, which would merely have suggested that the People failed to carry their burden of proof — as the trial court would have instructed the jury if it allowed the acquittal evidence — and not that he was innocent. *See Ward*, 2011 IL 108690, ¶ 47.

Given the weight of the evidence against defendant and the minimal role played by the July 3, 2020 incident in the present case, there is no reasonable probability that the acquittal evidence would have changed the jury's verdict. Accordingly, any error in excluding that evidence was harmless.

CONCLUSION

This Court should reverse the appellate court's judgment and remand to the appellate court to consider defendant's unresolved claims.

September 12, 2025

Respectfully submitted,

KWAME RAOUL
Attorney General of Illinois

JANE ELINOR NOTZ
Solicitor General

KATHERINE M. DOERSCH
Criminal Appeals Division Chief

/s/ Nicholas Moeller
NICHOLAS MOELLER
Assistant Attorney General
115 South LaSalle Street
Chicago, Illinois 60603
(773) 590-6936
eserve.criminalappeals@ilag.gov

Counsel for Plaintiff-Appellant
People of the State of Illinois

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) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 14 pages.

/s/ Nicholas Moeller
Nicholas Moeller
Assistant Attorney General

CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct. On September 12, 2025 the foregoing **Reply Brief of Plaintiff-Appellant People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, which provided notice to the following registered e-mail address:

Matthew J. Mueller
Mueller, Lawson & Frobish
124 West Washington Street
Morris, Illinois 60450
staff@muellerlawson.com

Counsel for Defendant-Appellee

/s/ Nicholas Moeller
Nicholas Moeller
Assistant Attorney General
eserve.criminalappeals@ilag.gov