

No. \_\_\_\_\_

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In The  
**Supreme Court of the United States**

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MICHAEL ELLIS,

*Petitioner,*

v.

PEOPLE OF THE STATE OF ILLINOIS,

*Respondent.*

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◆  
**On Petition For Writ Of Certiorari  
To The Supreme Court Of Illinois**

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**PETITION FOR WRIT OF CERTIORARI**

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**QUESTION PRESENTED**

1. Did the State forfeit the claim, reliance or remedy of Michigan v. DeFillippo, 443 U.S. 1 and U.S. v Charles, 801 F.3d 855 (7<sup>th</sup> Cir.) of an unconstitutional statute not negating probable cause under the rules of forfeiture as stated in People v. Gaines 105 Ill.2d 79, 85 Ill.Dec.269, 274, 473 N.E.2d 868 cert. denied, 471 U.S. 1131, 105 S.Ct. 2666 and Teague v. Lane, 109 S.Ct 1060, 103 L.Ed 334.
2. Did the Supreme Court of Illinois err remanding my case back to the Appellate Court for reconsideration in light of People v. Holmes 2017 IL 120407, and denying my Petition for leave to appeal (Appendix C) without first considering their very own well established precedent rule of law for forfeiture of People v. Gaines, 105 Ill.2d 79, and this Court's rule of forfeiture Teague v. Lane, 489 U.S. 288 at 297 and 298, as the State never raised the argument, issue, nor cited Michigan v. DeFillippo, 443 U.S. 1 and U.S. v. Charles, 801 F.3d 855 of an unconstitutional not negating probable cause in my initial direct appeal.
3. Should the Appellate Court's original ruling in my case should've remand the same under the Illinois Supreme Court and this United States Supreme Court well established rule of law of forfeiture or arguments and claims not raised in direct appeal as applied to everyone, including the State, see Fagan v. Washington 942 F.2d 1155. as the issue presents a question of violations of my Due Process and Equal Protections rights.
4. And lastly, did the Appellate Court err in affirming the trial court's decision of whether the police having reasonable suspicion or probable cause to approach, investigate, and inspect my car or probable cause to even open my car door, as the police themselves testified they did not know if I was breaking any law, nor if the alleged gun was being transported

unlawfully. Terry v. Ohio, 392 U.S. 1, New York v. Class 475 U.S. 106 at 117.

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Michael Ellis respectfully petitions for a writ of certiorari to review the judgment of the Illinois Supreme Court in this case.

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### **OPINIONS BELOW**

The order of the Supreme Court of Illinois denying review was entered on May 30, 2018.

A supervisory order was entered on September 27, 2017 directing the Appellate Court to vacate its prior judgment and to reconsider in light of *People v. Holmes*, 2017 IL 120407.

The order of the Illinois Appellate Court, First District, affirming judgment and reversing prior judgment was entered on February 20, 2018.

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### **JURISDICTION**

On May 30, 2018, the Supreme Court of Illinois denied Michael Ellis Petition for Leave to Appeal the Illinois Appellate Court's decision in this case. This petition for writ of certiorari has been timely filed within 90 days of that order. SUP.CT R. 13.1. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1).

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### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

**The Fourth Amendment to the United States Constitution**  
provides in relevant part that "the right of the people to be secure in their

persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated ..." U.S. Const.amend IV.

**The Fourteenth Amendment to the United States Constitution** provides in relevant part that "no State shall... deprive any person of life, liberty, or property without due process of law..." U.S. Const.amend XIV.

**720 ILCS 5/24-1 (a)(4)(i)- Unlawful Use of Weapons:**

(a) A person commits the offense of unlawful use of weapons when he knowingly:

(4) Carries or possesses in any vehicle or concealed on or about his person except on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm, except that this subsection (a)(4) does not apply to or affect transportation of weapons that meet one of the following conditions:

(i) are broken down in a non-functioning state...



**STATEMENT OF CASE**

I was given an outright reversal by the Appellate Court of Illinois on March 28, 2016 "see appendix E, Ellis 2016 IL App. (1<sup>st</sup>) 140613-U" at E-18 and E-19.

The State then at 'appendix F' filed a Petition for leave to Appeal with the Illinois Supreme Court raising an argument, issue, and case law of Michigan v. DeFillippo, 443 U.S. 1, and U.S. v. Charles 801 F.3d 855 "see appendix F at F-1 and F-2, 3, and 4.

These arguments and case law was never raised by the State in my direct appeal “see Appendix E at E-15, 16, 17 and 18” as the Appellat Court E-15 stated the State did not address the admissibility of evidence obtained as a result of a fourth amendment search or seizure presumed on the violation of a statute which was valid at the time but later declared unconstitutional.

The Illinois Supreme Court “appendix C at C-2 denied the State Petition for leave to appeal on September 27, 2017 but issued a supervisory order to the Appellate Court to reconsider their ruling of my case in light of its opinion in People v. Holmes, 2017 IL 120407.

The State on “appendix H” People v. Holmes, 2015 IL App (1<sup>st</sup>) 141256 (2015) raised the issue, argument, and case law of DeFillippo and Charles at H-6 in the direct appeal of the Appellate Court.

As the Illinois Supreme Court in appendix G at G-4, 8, 9, and 10 bases its reason for reversing the court in Holmes, because it ruled the Appellate Court was wrong in not accepting the State reliance of DeFillippo and Charles.

The Appellate Court then at appendix A on February 20, 2018 at A-11 states the ruling by the Supreme Court in Holmes dictates they reach a different result in my case, and in addressing my issue and claims or forfeiture at A-12 the Appellate Court states because of the order by the Supreme Court there can be no forfeiture, and the Holmes decision is controlling here.

The Illinois Supreme Court then at appendix C, C-1 on May 30, 2018 denied my Petition for leave to appeal concerning these raised issued of this petition and the fourth amendment violation in my case.

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## REASONS FOR GRANTING THE PETITION

This honorable court should grant this request for certiorari because the Illinois Supreme Court's refusal to address the merits of the issue of forfeiture against the State raises a question of the violation of my fourteenth amendment rights to due process and also raises the question of violation of the equal protection clause, as the Supreme Court of Illinois ruling refusing my petition for leave to appeal denies me the protection of the well established rule of law of forfeiture of this court, and the Illinois Supreme Court precedent case law concerning forfeiture as applied to all including the State.

The Illinois Supreme Court supervisory remand order's in my circumstances and situation should not be allowed as a practice to circumvent the well established rule of law of forfeiture thus denying some defendant's equal protection as applied to other's whether it was applied harmful or helpful for the State or defendant.

And lastly this request for certiorari should be granted, because of the fourth amendment violation of the police investigating, and approaching my parked car without reasonable suspicion nor probable cause "see appendix A, A4-A5 at ¶10, as the police also testified they did not know what the allege object was that they went to investigate my car on a witch hunt for see A-11 at ¶31.

Moreover, the police had no probable cause to open my car door, as the police also testified at ¶10 pages A-4 and A5 that they did not know if

the allege gun they saw was being transported in a non-functioning broken down state in violation of the law as that is lawful conduct under 720 ILCS 5/24-1 (a) (4)(i).

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## CONCLUSION

Upon the above-mentioned grounds fundamental fairness and due process requires this request to be granted.

Respectfully submitted,

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