

Case No. _____

In The
SUPREME COURT OF THE UNITED STATES

Term 2020

Anthony Jackson, *Petitioner*,

v.

People of the State of Illinois, *Respondent*,
2013 CR 7738

In re: Illinois Court's Response to COVID-19 Emergency/Impact on Trials, Illinois Attorney General
Kwame Raoul, Cook County Sheriff Thomas Dart, *Respondents*,
M.R. 30370

On Petition for a Writ of Certiorari to the
Illinois Supreme Court

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a court's supervisory authority empowers the court to toll the speedy trial terms in cases not before the court?
 - a. Whether such supervisory orders are void *ab initio*?
2. Whether use of "ends-of-justice" language to continue criminal cases is unconstitutional as applied, if not *per se*?
 - a. Whether such use after trial demand is unconstitutional?
 - b. Whether it is unconstitutional for the Illinois Court to use "ends-of-justice" language where no such language exists in relevant Illinois law?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page, except the People of the State of Illinois are represented by Kimberly Foxx, Cook County State's Attorney.

CORPORATE DISCLOSURE STATEMENT

There is no nongovernmental corporate party.

LIST OF ALL PROCEEDINGS

There are two proceedings:

1. On or about March 17, 2020, the Illinois Supreme Court (the “Illinois Court”) opened the matter of *In re: Illinois Court’s Response to COVID-19 Emergency/Impact on Trials*, docket number Miscellaneous Record 30370. *Appn. A67-68*,¹ pending in the Illinois Court. The date of entry of judgments is April 16, 2020, based on two Orders separately denying Petitioner’s two Motions to Vacate certain M.R. 30370 Orders. *Appn. A2-3*.

2. Petitioner awaits retrial in *People of Illinois v. Anthony Jackson*, docket number 2013 CR 7738, pending in Cook County Circuit Court. The date of entry of judgments is April 16, 2020, based on two Orders separately denying Petitioner’s two Motions to Vacate. *Id.*

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OPINION BELOW

The Illinois Court did not issue a written opinion in *In re: Illinois Court's Response to COVID-19 Emergency/Impact on Trials*, M.R. 30370; it issued orders. On April 16, 2020, the Clerk of Court signed two orders denying Petitioner's Motions (both with a Demand for Trial). *Appn. A2-3.* The matter originated in the Illinois Court. There was no appeal.

JURISDICTION

This Supreme Court has jurisdiction. "The Constitution limits [this Court's] appellate Jurisdiction' to issues of [federal] Law and Fact, see Art. III, § 2..." *Lawrence v. Chater*, 516 U.S. 163, 166 (1996) citing *U.S. Const. art. III, § 2*. Presented are issues of law (jurisdictional, speedy trial, and due process), and fact (no pending cases, and trial demands). In full compliance with federal statute governing jurisdiction conferred by 28 U.S.C. § 1257(a), this Petition follows final orders (conveyed by letter) Illinois' the top court involving constitutional issues.

Of jurisdictional consequence are the words that an "order was entered" and "Motion denied." *Id.* That is the official action of the Illinois Court from which Petitioner seeks review, and by which jurisdiction is conferred in this Supreme Court. Accordingly, this Supreme Court has jurisdiction pursuant to 28 U.S.C. Section 1257(a), which allows review by writ of certiorari where, as here, there are issues regarding the United States Constitution.

Notification required by Rule 29.4(c) has been made to the Illinois Attorney General.

CONSTITUTIONAL and STATUTORY PROVISIONS

Article III , Section 2, Clause 1

The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;---to all Cases affecting Ambassadors, other public Ministers and Consuls;---to all Cases of admiralty and maritime Ju-

risdiction;---to Controversies to which the United States shall be a Party;---to Controversies between two or more States;---between a State and Citizens of another State;---between Citizens of different States,---between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

U.S. Const. amend. VI:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

U.S. Const. amend. XIV, sec. 1:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

18 U.S.C. Section 3161(h)(7)(A):

In Appendix at A72-77.

28 U.S.C. Section 1257(a):

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

III. Const. Art VI sect. 16

Administration — General administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules. The Supreme Court shall appoint an administrative director and staff, who shall serve at its pleasure, to assist the Chief Justice in his duties. The Supreme Court may assign a Judge temporarily to any court and an Associate Judge to serve temporarily as an Associate Judge on any Cir-

cuit Court. The Supreme Court shall provide by rule for expeditious and inexpensive appeals.

725 ILCS Chapter 5 § 103-5

In Appendix at A78-79.

STATEMENT OF THE CASE

The Illinois Court issued Orders on important questions of federal law that had not been settled by this court, and in ways that conflict with relevant decisions of the Court. *Sup. Ct. R. 10(c)*. Both Questions Presented by Petitioner are matters of first impression. The litigation preceding this Petition is in two stages. The first is Petitioner's pretrial (awaiting trial) criminal case that is necessary to establish Petitioner's standing to challenge Orders entered in Miscellaneous Record 30370 (the "M.R. Orders"). Although there are considerable facts in Petitioner's criminal case foreclosing tolling the speedy trial term, Petitioner was not allowed to present those facts in the M.R. 30370 case so he does not present them now. Stage two is Petitioner's central point of contention and is about six M.R. Orders, particularly the Trilogy Orders, two M.R. Motions by Petitioner, and three trial demands, two of the demands made in M.R. 30370:

1. **February 18, 2020**, Petitioner's written Demand for Trial. *Appn. A13-14*.
2. **March 17, 2020**, First Order in M.R. 30370, neither referenced nor tolled the speedy trial term. *Appn. A67-68*.
3. **March 20, 2020**, Order stated Chief Judges "may continue trials for the next 60 days," and tolled speedy trial term. *Appn. A4*.
4. **April 3, 2020**, Order stated Chief Judges "may continue trials," indefinitely, and tolled the speedy trial term. *Appn. A5*.

5. **April 7, 2020**, First Motion to Vacate (With Trial Demand) the March 20 Order, and informed the Illinois Court it lacked “ends-of-justice” language. *Appn.* A15-40.

6. **April 7, 2020**, Order stated Chief Judges “may continue trials” indefinitely, added “ends-of-justice” language, and expressly found that “such continuances shall be excluded from speedy trial computations,” thus tolling the speedy trial term. *Appn.* A6.

7. **April 14, 2020**, Second Motion to Vacate (With Trial Demand), challenging the March 20, April 3, and April 7, 2020, Orders. *Appn.* A41-66.

8. **April 16, 2020**, Order denied First Motion to Vacate. *Appn.* A2.

9. **April 16, 2020**, Order denied Second Motion to Vacate. *Appn.* A3.

The M.R. case originated in the Illinois Court. There were no in-court proceedings, no transcripts or prior proceedings, and the Illinois Court was the court of first and only instance.

ARGUMENT FOR WRIT

I. Nature of Challenges—*Due Process v. Self-Activation*

This Petition presents two uncomplicated constitutional issues of national importance warranting review and sorely needing guidance by this Supreme Court. The Illinois Court, which is a supervisory court (and the District Court for the NDIL and other supervisory courts across the nation, mentioned to stress the national importance) entered blanket orders tolling speedy trial terms in Illinois cases when none of those cases were before the Court.

In particular, the Trilogy Orders violate the Speedy Trial and the Due Process Clauses by how the Illinois Court issued the Orders and by what the Orders say. All of the M.R. Orders, except the March 17 Order, are void *ab initio*. Due process violations are the major infractions that invalidate the Trilogy Orders. Due process rights are so important that they are provided in both

the V Amendment and the XIV Amendment. *U.S. Const. amends. V and XIV.* The improper manner of tolling created a cascade of improprieties creating a confluence of would-be complications, all violations of due process. Ardently, however, Petitioner constrains his due process arguments constitutional violations worthy of certiorari, namely: 1) Jurisdiction, 2) The right to be heard, and 3) Judicial authorship, all stemming from improper use of supervisory authority.

The improper use consisted of the Illinois Court self-activating by making findings in cases for which the trial judges retained jurisdiction because the cases had yet to be tried (or re-tried) and were not on appeal. The trial judges had and still have authority to make findings contrary to the Illinois Court. Petitioner also addresses speedy trial violations. In addition to the improper manner, the incorrect basis for tolling Petitioner's speedy trial term violated his speedy trial rights. Specifically, absolving the State of the jury trial delay was incorrect because the State is accountable for the unavailability of the courts, which includes the lack of jury trials.

II. A Court's Supervisory Authority Does Not Empower the Court to Toll Speedy Trial Terms in Cases Not Before the Court, Which Orders are Void *Ab Initio*.

Allowing a court to exercise its supervisory authority to toll speedy trial terms in cases not before it entirely undermines our three-tiered judiciary, prevents the accused's counterbalance arguments, and invariably will lead to haphazard application of the Speedy Trial Clause, as has occurred here. Without an appeal by either Petitioner or the State, the Illinois Court lacked jurisdiction. *Ill. Const. art. VI, § 2.* Because Petitioner's case was not before the Illinois Court there was no individual review though mandated by due process. Without judicial authorship the orders are unenforceable. Each violation is fatal and the resulting orders are void. Collectively, the violations warrant urgent Supreme Court review.

a. The M.R. Orders

March 20, and April 3, 2020, Orders

(verbatim except, “for the next 60 days” was deleted from April 3 Order):

IT IS HEREBY ORDERED that the Chief Judges of each circuit may continue trials for the next 60 days and until further order of this Court. In the case of criminal proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the State or the defendant for purposes of section 103-5 of the Code of Criminal Procedure of 1963 (725ILCS 5/103-5(West))[commonly called the “Illinois Speedy Trial Act” (the “Illinois Act” or “Act”)]. *Appn. A4-5.*

April 7, 2020, Order

(added language presented in added italics):

IT IS HEREBY ORDERED that the Court’s orders of March 20, 2020 and April 3, 2020 are amended as follows:

The Chief Judges of each circuit may continue trials until further order of this Court. *The continuances occasioned by this Order serve the ends of justice and outweighs the best interests of the public and the defendants in a speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in section 103-5 of the Code of Criminal Procedure of 1963 (725ILCS 5/103-5(West))...*Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963...shall be tolled until further order of Court. *Appn. A6.*

The addition of ends-of-justice basis for the April 7 Order tacitly admits the two prior Orders lacked sufficient authority. Petitioner does not present the facts of his case foreclosing the tolling because those facts were not presented to the Illinois Court due to the case not being before that Court. *Appn. A2-6, A67-68.* It is counterintuitive word-play to say that delays are not attributable to either the State or the Petitioner. A speedy trial is the right of the accused. All trial delays for whatever reason and by either party count against this right, meaning all trial delays count against the accused. The lone issue is whether the delay also counts against the State.

The March 17 Order, by comparison, was judiciously measured providing that, “Essential court matters and proceedings *shall* continue to be heard by the Illinois courts,” and that, “*Subject to constitutional limits...* courts may suspend any deadlines and procedures. *Appn. A67-68* (em-

phasis added par. A and D). The March 17 Order lacks legal interpretation, analysis, and findings, thus demonstrating the Court's awareness of its limitations, perhaps explaining why in subsequent Orders the Court jettisoned references to "constitutional limits" and "essential court matters," and refused to make reference to the March 17 Order.

b. Lack of jurisdiction

Cases are presented to the Illinois Court on review, thereby making it a court of review.

*Ill. Const. Art VI, sect. 4.*² No pending appeal conferred jurisdiction on the Illinois Court in the M.R. matter. There was no legal vehicle for the Illinois Court to issue an opinion in Petitioner's case or in any of the impacted pretrial cases. Even the court's original jurisdiction cases (relating to revenue, mandamus, prohibition or habeas corpus) are matters of review, albeit original review as opposed to having first been reviewed by an appeals court. The Illinois Court lacked jurisdiction, thus making the resulting orders void at their inception, *ab initio*.

The Illinois Constitution provides jurisdiction to Illinois' top court as follows:

- (a) The Supreme Court may exercise original jurisdiction in cases relating to revenue, mandamus, prohibition or habeas corpus and as may be necessary to the complete determination of any case on review.
- (b) Appeals from judgments of Circuit Courts imposing a sentence of death shall be directly to the Supreme Court as a matter of right. The Supreme Court shall provide by rule for direct appeal in other cases.
- (c) Appeals from the Appellate Court to the Supreme Court are a matter of right if a question under the Constitution of the United States or of this State arises for the first time in and as a result of the action of the Appellate Court, or if a division of the Appellate Court certifies that a case decided by it involves a question of such importance that the case should be decided by the Supreme Court. The Supreme Court may provide by rule for appeals from the Appellate Court in other cases.

²Also see Illinois Supreme Court Rule 603:
Court To Which Appeal is Taken

Appeals in criminal cases in which a statute of the United States or of this State has been held invalid shall lie directly to the Supreme Court as a matter of right. All other appeals in criminal cases shall be taken to the Appellate Court. *Ill. Sup. Ct. R. 603.*

In limited circumstances the Illinois Court can grant itself jurisdiction to rule on an issue, but only when the case is already before the Court. It “has general administrative and supervisory authority over all courts under section 16 of the judicial article of the Illinois Constitution.” *Ill. Const. 1970, art. VI, § 16.*” *People v. Relerford*, 104 N.E.3d 341, 358 (Ill. 2017). In *Relerford*, in order to rule on “unsentenced convictions” against Mr. Relerford, the Illinois Court elected to exercise jurisdiction under its supervisory authority. *Id.* citing *McDunn v. Williams*, 156 Ill. 2d 288, 299–304 (1993). That was not a gratuitous machination by the Illinois Court. It was necessary and affirms our point. So precise are jurisdictional constraints that the Illinois Court could not address an issue in the very case before it on appeal. In order to do so, the case had to have been before the Court on appeal already, which it was.

Jurisdictional limit is over a century old and entrenched in our American jurisprudence. *In re Metropolitan Trust Co.*, 218 U.S. 312, 320 (1910). This Supreme Court ruled a century prior:

The decision of an appeals court, “was of course subject to the necessary limitation that it could apply only to the parties who had been brought before that court...It is one of the ordinary rules respecting appeals that all the parties to the record, who appear to have any interest in the order or ruling challenged, must be given an opportunity to be heard on such appeal. If a party has not had this opportunity he is not bound; as to him an essential element of appellate jurisdiction is lacking.”

(internal quotations removed), quoting, *Davis v. Mercantile Trust Co.*, 152 U.S. 590, 593 (1894), and citing, *Terry v. Abraham*, 93 U.S. 38 (1876); *Wilson v. Kiesel*, 164 U.S. 248, 251 (1896).

The Illinois Court bypassed due process and self-activated. It opened the M.R. 30370 matter via supervisory authority and activated its ability to send administrative orders to the lower courts in Illinois. Instead, it used that supervisory authority to tinker with application of Petitioner’s speedy trial term, ultimately directly tolling the term through the April 7, 2020, Order.

c. Lack of individual review

“The speedy-trial right is “amorphous,” “slippery,” and “necessarily relative.” *Vermont v. Brillon*, 556 U.S. 81, 89 (2009)(internal citation omitted); *People v. Beyah*, 67 Ill.2d 423, 427 (1977) (explaining that in applying the Illinois Act, “each case is to be decided on its facts.”) According-ly, making a determination on speedy trial application requires individual case analysis, which did not happen here. *Id.* Instead, the Trilogy Orders are blanket orders covering every pretrial criminal case in Illinois prosecuted by the State. Those types of none specific but substantively impacting orders violate procedural due process. *Michael H. v. Gerald D*, 491 U.S. 110, 147 (1989). “The point of procedural due process is to give the litigant a fair chance at prevailing... procedural due process is, by and large, an individual guarantee” *Id.* Since no case was before the Illinois Court, it conducted no individual review and the Illinois Court knew nothing about the speedy trial status of a single case. The Orders did not give direction and suggestion, allowing for tolling as may be appropriate based on the facts of each case. More glaringly in violation of due process, neither Petitioner nor any pretrial detainee was allowed to defend against tolling.

Having ventured into speedy trial application, the Illinois simply got it wrong. The lack of jury trials is an “institutional breakdown” for which the State is held accountable and the speedy trial clock runs. *Vermont v. Brillon*, 556 U.S. 81, 85 (2009) (explaining institutional breakdown). The Illinois Court was well aware that, “Responsibility for delays caused by crowded dockets rests with and was chargeable to the State and not to the defendant.” *Hawkins*, 212 Ill. App. 3d at 982 citing *People v. Wiegand*, 183 Ill. App. 3d 216, 218 (1989). Under Illinois rubric, delays caused by court unavailability are akin to crowded dockets and are attributable to the State. The COVID-19 influenced delays throughout Illinois are attributable to the county

prosecutors, which is logical and reasonable because the prosecutors have the option of dismissing charges during this Pandemic and refiling them later. This humanitarian approach would properly toll the clock, delay the need for trials (instead of improperly delaying trials), and eliminate tension between the urge to assist the State and lack of authority authority to do so, cheat.

Petitioner's case firmly demonstrates the need for independent view. Petitioner has been jailed continuously since January 15, 2015, a total of 1,965 as of June 02, 2020. *Appn.* A34-40. Petitioner's case allowed the State 120 days to commence trial.³ That term commenced running on November 9, 2016, when Petitioner obtained a new trial 1,302 days ago as of June 03, 2020. *Id.* at A38. His speedy trial term has long since expired. *Appn.* A13-14.

Petitioner filed a written demand for trial on February 18, 2020, in the trial court stating that his speedy trial term had already expired. *Id.* Petitioner provided copies of his Trial Demand to the Illinois Court and twice made Trial Demands directly to the Illinois Court, thereby placing squarely before the Illinois Court the issue of Petitioner's speedy trial term having expired. *Appn.* A13-14, A17, par. 3, A43-44 par.1-3. Had his case been before it the Illinois Court would have lacked authority to extend the expired speedy trial term. Individual review would have revealed the inability of the Illinois Court to summarily toll Petitioner's speedy trial term.

d. Lack of judicial authorship

"[W]here a circuit clerk acts beyond his or her authority by imposing a fine, that order is void." *People v. Pulley*, 2015 Ill. App. 3d 130506, ¶ 8 (Ill. App. Ct. 2015) citing *People v. Gutierrez*, 2012 IL 111590, ¶ 14:

It is well-settled that the imposition of fines is a judicial act; the imposition of fines by a clerk constitutes an improper delegation of judicial power. *People v. Warren*,

³Federally, defendants must be tried within 70 days. *18 USC Section 3161*; *Appn.* A7 par. (c)(1).

2014 IL App (4th) 120721 (collecting cases). The clerk of the court is a nonjudicial member of the court and, as such, has no power to impose sentences or levy fines. *People v. Shaw* (2008), 386 Ill. App. 3d 704, 710 (quoting *People v. Swank* (2003), 344 Ill. App. 3d 738, 747-48, quoting *People v. Scott* (1987), 152 Ill. App. 3d 868, 873).

Pulley, 2015 Ill. App. 3d 130506, ¶ 27 (Ill. App. Ct. 2015)(internal quotations omitted). The Clerk is not authorized to rule on application of the the speedy trial in any pending case, let alone in all criminal cases pending in Illinois. *Cf. People v. Smith*, 2014 IL App (4th) 121118, ¶ 18 (stating, “This court has consistently held the circuit clerk does not have the power to impose fines.”), quoting, *People v. Montag*, 2014 IL App (4th) 120993, ¶ 37. Only a judge can make a speedy trial ruling because it “is exclusively a judicial act.” *Cf. People v. Larue*, 2014 IL App (4th) 120595, ¶ 56.

No Illinois Justice signed any of the M.R. Orders or was credited with authorship of the M.R. Orders. *Compare Appn. A2-6* (revealing lack of judicial signatures), *with April 24, 2020, Northern District of Illinois COVID-19 Order* (revealing that Chief Judge Pallmeyer signed the COVID -19 Order). *Appn. A79*. Framing the Trilogy Orders as administrative orders bypasses nothing. The Illinois Court was and is obligated to comply with jurisdictional and case-specific due process requirements, which it failed to do, thereby invalidating the .

III. Use of “Ends-of-Justice” Language to Continue Criminal Cases is Unconstitutional as Applied, if not *Per Se*.

a. Lack of ends-of-justice language

The Illinois Court’s stated authority for its Trilogy Orders was the Illinois Constitution and the Illinois Act. Neither law provided authority. The Illinois Constitution provides, “In criminal prosecutions, the accused shall have a speedy and public trial.” *Ill. Const. Art. I, sect. 8*. It does not provide for ends-of-justice speedy trial delays.

The Illinois Act assigned a set number of days to define a speedy trial. A defendant in custody shall commence trial within 120 from arrest (725 ILCS 5/103-5(a)), and a defendant on bond must be tried within 160 days from the date defendant demands trial (725 ILCS 5/103-5(a)), unless delay is occasioned by:

- i. the defendant,
- ii. an examination for fitness ordered under Section 104-13 of this Act,
- iii. a fitness hearing,
- iv. an adjudication of unfitness to stand trial,
- v. a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or
- vi. an interlocutory appeal. *Id.*

All of the enumerated bases for delaying trial are for the benefit, protection, and privilege of the accused, including the interlocutory appeal, which allows Petitioner to seek appellate review. A would-be exception for ends-of-justice is the polar opposite. It would benefit the State, exclusively. An ends-of-justice provision would place the State on par with the accused in available the State of the accused's right.

The exceptions are specific and do not include ends-of-justice continuances or allow an emergency tolling of the speedy trial term based on public safety. None of the above six exceptions exist in Petitioner's case. The Act simply has not provided an avenue to toll the speedy trial term based on public safety labeled as "ends-of-justice." Petitioner objected and objects to any tolling. *Appn. A13-14, A14-40, A41-66.*

The Framers of the Illinois Constitution certainly could have included ends-of justice language for public safety. They did elsewhere in Article 1, section 9 of the Illinois Constitution, which authorizes judges in matters of public safety to suspend the writ of habeas corpus. *Ill. Const. Art 1, sec 9* (stating, "The privilege of the writ of habeas corpus shall not be suspended

except in cases of rebellion or invasion when the public safety may require it.”) The Framers were capable of adding similar language to the Speedy Trial Clause of the Illinois Constitution. They chose not to do so. Similarly, the Illinois legislature could have included a public safety/ends-of-justice provision in the Illinois Act. In the end, emergencies like the COVID-19 Pandemic do not alter jurisdictional and other due process constraints.

b. Unconstitutional and courts cannot legislate

Criminal cases are distinctly different than civil cases. While both require due process only criminal cases command speed to that end. The speedy trial command is a codified recognition that people charged with crimes are entitled to speedy adjudication. It was the considered judgment of our Forefather Framers that criminal trials, and only criminal trials, had the added command of speed. We eviscerate that guarantee through ends-of-justice language.

Ends-of-justice language is constitutionally over-broad. *See generally Texas v. Johnson*, 491 U.S. 397 (1989). Indeed, it is so widely open-ended that it overrides the six specified exceptions of the Act and renders meaningless the Act itself. There are no time constraints or parameters to constrain its use. It is fully open-ended and makes meaningless the six specified exceptions for tolling the Act. The Act is designed with precision. The drafters recognized the possibility that concerns with justice may require giving the State more time to bring the case to trial. They accounted for such an eventuality. The Act allows *adding time* to the speedy trial term, not stopping time, leaving unaffected the precisely limited basis for tolling. *1725 ILCS 5/103-5(c)*. The Act provides the amount of time can be “*not more than* an additional 60 days” for material evidence and 120 day for DNA evidence. *Id* (emphasis added). That “*not more than*” limit superfluous because the ends-of-justice provision could override the limits of 60/120 day. *Id*.

The Illinois Court commenced the current delay on March 20, 2020, meaning 77 of 120 days have elapsed based on the CORONA-19 Pandemic.⁴ Never in the annals of civilization has one's liberty been predicated on the unfolding of nature. To incarcerate then delay indefinitely based on nature's vagaries is not the precision the Speedy Trial Clause and the Illinois demand. Nature cannot be the door to liberty.

It has been long settled that a court cannot add a provision the legislature did not give it. *Hobbs v. McLean*, 117 U.S. 567, 579 (1886) ("We cannot insert the exception. When a provision is left out of a statute, either by design or mistake of the legislature, the courts have no power to supply it. To do so would be to legislate and not to construe.") Section 16 provides "supervisory authority," not "legislative authority." Nor could it. *Stoll v. Gottlieb*, 305 U.S. 165, 171 (1938) ("A court does not have the power, by judicial fiat, to extend its jurisdiction over matters beyond the scope of the authority granted to it by its creators.") Illinois' separation of powers provision forecloses a court from legislating, even in COVID-19 emergencies. *Ill. Const. Art II.*

c. Illinois courts' unwillingness to function

There was no need to close the courts to jury trials. The March 17 Order signaled ways to hold criminal trials. "Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, by teleconference, videoconference, or other means," and temporarily suspend any Supreme Court Rule as necessary. *Appn. A67-68*. Courts can safely hold trials with Plexiglas partitions, air purifiers, protective clothing and distancing, among other protections. Federal Grand Juries continue indicting. *Appn. A78-79*. Petit juries cannot set free.

⁴The delay in the Northern District of Illinois commenced on March 17, 2020. *Appn. A69*. As of June 3, 2020, a total of 78 days have elapsed, which exceeds the 70 days allotted in federal cases. The delay has subsumed federal defendants' rights to trial within 70 days. Ends-of-Justice language is too broad, too powerful, and far too unrestrained to pass constitutional scrutiny.

IV. The Impossibility of the Trilogy Orders — Relief Requested

The magnitude of allowing a lower tiered State Court with one pen-stroke to toll the speedy trial in all Illinois criminal cases within case before it is procedurally impossible and a danger on many levels. There is no vehicle to vest such overarching power in a single set of jurists. The notion is an affront to due process. Even this Supreme Court lacks that authority. Every USSC decision began with an appeal and requires individual analysis in order to become *res judicata* in other cases. The U.S. Constitution is not a mere inconvenience to be circumvented through arrogance. We have seen this institutionalized trampling before, but it was born of genuine fear, urgency and uncertainty, and left us shamed. It followed the “Day of Infamy.” Fidelity to our measured laws must not lower as our fears increase. Absent review the Illinois Court will achieve legal impossibility.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

June 03, 2020

DATE

By:



EDWARD IAN GROSSMAN

Counsel of Record

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Certified Word Count

Affiant, EDWARD IAN GROSSMAN, certifies under penalty of perjury that the total word count in this entire document, including this Certification, is 6,005 words.



EDWARD IAN GROSSMAN



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
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SPRINGFIELD, ILLINOIS 62701-1721

CAROLYN TAFT GROSBOULL
Clerk of the Court
(217) 782-2035
TDD: (217) 524-8132

April 16, 2020

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

George Jackson, III
Dred Scott LLP
1138 North State, Route 48
Decatur, IL 62522

In re: In re: Illinois Courts Response to COVID-19 Emergency.
M.R.030370

Today the following order was entered in the captioned case:

Motion by movant to vacate this Court's March 20, 2020, order. Denied.

Order entered by the Court.

Very truly yours,

A handwritten signature in cursive script that reads "Carolyn Taft Gosboll".

Clerk of the Supreme Court



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING

200 East Capitol Avenue

SPRINGFIELD, ILLINOIS 62701-1721

CAROLYN TAFT GROSBOLL

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April 16, 2020

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George Jackson, III
Dred Scott LLP
1138 North State, Route 48
Decatur, IL 62522

In re: In re: Illinois Courts Response to COVID-19 Emergency.
M.R.030370

Today the following order was entered in the captioned case:

Motion by movant to vacate this Court's orders entered March 20, 2020, April 3, 2020, and April 7, 2020. Denied.

Order entered by the Court.

Very truly yours,

A handwritten signature in cursive script that reads "Carolyn Taft Gosboll".

Clerk of the Supreme Court

IN THE
SUPREME COURT OF ILLINOIS

In re:)
)
 Illinois Courts Response to) M.R. 30370
 COVID-19 Emergency/)
 Impact on Trials)

Order

In the exercise of the general administrative and supervisory authority over the courts of Illinois conferred on this Court pursuant to Article VI, Section 16 of the Illinois Constitution of 1970 (Ill. Const. 1970, art. VI, sect. 16), and in view of the state of emergency that has been declared by the Governor of the State of Illinois in order to prevent the spread of the coronavirus;

IT IS HEREBY ORDERED that the Chief Judges of each circuit may continue trials for the next 60 days and until further order of this Court. In the case of criminal proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the State or the defendant for purposes of section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)).

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Court, this 20th day of March, 2020.

Carolyn Taft Gosboll
Clerk,
Supreme Court of the State of Illinois

IN THE
SUPREME COURT OF ILLINOIS

In re:)
)
)
 Illinois Courts Response to) M.R. 30370
 COVID-19 Emergency/)
 Impact on Trials)

Order

In the exercise of the general administrative and supervisory authority over the courts of Illinois conferred on this Court pursuant to Article VI, Section 16 of the Illinois Constitution of 1970 (Ill. Const. 1970, art. VI, sect. 16), and in view of the state of emergency that has been declared by the Governor of the State of Illinois in order to prevent the spread of the coronavirus, IT IS HEREBY ORDERED that the Court's order of March 20, 2020 is amended to read:

The Chief Judges of each circuit may continue trials until further order of this Court. In the case of criminal proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the State or the defendant for purposes of section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)). In the case of juvenile delinquency proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the State or the juvenile for purposes of section 5-601 of the Illinois Juvenile Court Act (705 ILCS 405/5-601 (West 2018)).

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal
of said Court, this 3rd day of April, 2020.

Carolyn Taft Gosboll Clerk,
Supreme Court of the State of Illinois

IN THE
SUPREME COURT OF ILLINOIS

In re:)
Illinois Courts Response to)
COVID-19 Emergency/) M.R.30370
Impact on Trials)
)

Order

In the exercise of the general administrative and supervisory authority over the courts of Illinois conferred on this Court pursuant to Article VI, Section 16 of the Illinois Constitution of 1970 (Ill. Const. 1970, art. VI, sec. 16); in view of the state of emergency that has been declared by the Governor of the State of Illinois in order to prevent the spread of the novel coronavirus; and in the interests of the health and safety of all court users, staff, and judicial officers during these extraordinary circumstances, and to clarify this Court's orders of March 20, 2020 and April 3, 2020, IT IS HEREBY ORDERED that the Court's orders of March 20, 2020 and April 3, 2020 are amended as follows:

The Chief Judges of each circuit may continue trials until further order of this Court. The continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)) and section 5-601 of the Illinois Juvenile Court Act (705 ILCS 405/5-601 (West 2018)). Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of this Court.

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal
of said Court, this 7th day of April, 2020.

Carolyn Taft Gosboll

Clerk,
Supreme Court of the State of Illinois

18 U.S. Code §3161. Time limits and exclusions

(a) In any case involving a defendant charged with an offense, the appropriate judicial officer, at the earliest practicable time, shall, after consultation with the counsel for the defendant and the attorney for the Government, set the case for trial on a day certain, or list it for trial on a weekly or other short-term trial calendar at a place within the judicial 1district, so as to assure a speedy trial.

(b) Any information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges. If an individual has been charged with a felony in a district in which no grand jury has been in session during such thirty-day period, the period of time for filing of the indictment shall be extended an additional thirty days.

(c)

(1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate judge on a complaint, the trial shall commence within seventy days from the date of such consent.

(2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.

(d)

(1) If any indictment or information is dismissed upon motion of the defendant, or any charge contained in a complaint filed against an individual is dismissed or otherwise dropped, and thereafter a complaint is filed against such defendant or individual charging him with the same **offense** or an **offense** based on the same conduct or arising from the same criminal episode, or an information or indictment is filed charging such defendant with the same **offense** or an **offense** based on the same conduct or arising from the same criminal episode, the provisions of subsections (b) and (c) of this section shall be applicable with respect to such subsequent complaint, indictment, or information, as the case may be.

(2) If the defendant is to be tried upon an indictment or information dismissed by a trial court and reinstated following an appeal, the trial shall commence within seventy days from the date the action occasioning the trial becomes final, except that the court retrying the case may extend the period for trial not to exceed one hundred and eighty days from the date the action occasioning the trial becomes final if the unavailability of witnesses or other factors resulting from the passage of time shall make trial within seventy days impractical. The periods of delay enumerated in **section 3161(h)** are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.

(e) If the defendant is to be tried again following a declaration by the trial judge of a mistrial or following an order of such judge for a new trial, the trial shall commence within seventy

days from the date the action occasioning the retrial becomes final. If the defendant is to be tried again following an appeal or a collateral attack, the trial shall commence within seventy days from the date the action occasioning the retrial becomes final, except that the court retrying the case may extend the period for retrial not to exceed one hundred and eighty days from the date the action occasioning the retrial becomes final if unavailability of witnesses or other factors resulting from passage of time shall make trial within seventy days impractical. The periods of delay enumerated in [section 3161\(h\)](#) are excluded in computing the time limitations specified in this section. The sanctions of section 3162 apply to this subsection.

(f) Notwithstanding the provisions of subsection (b) of this section, for the first twelve-calendar-month period following the effective date of this section as set forth in [section 3163\(a\) of this chapter](#) the time limit imposed with respect to the period between arrest and indictment by subsection (b) of this section shall be sixty days, for the second such twelve-month period such time limit shall be forty-five days and for the third such period such time limit shall be thirty-five days.

(g) Notwithstanding the provisions of subsection (c) of this section, for the first twelve-calendar-month period following the effective date of this section as set forth in [section 3163\(b\) of this chapter](#), the time limit with respect to the period between arraignment and trial imposed by subsection (c) of this section shall be one hundred and eighty days, for the second such twelve-month period such time limit shall be one hundred and twenty days, and for the third such period such time limit with respect to the period between arraignment and trial shall be eighty days.

(h) The following periods of delay shall be excluded in computing the time within which an information or an indictment must be filed, or in computing the time within which the trial of any such [offense](#) must commence:

(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

(B) delay resulting from trial with respect to other charges against the defendant;

(C) delay resulting from any interlocutory appeal;

(D) delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion;

(E) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;

(F) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable;

(G) delay resulting from consideration by the court of a proposed plea agreement to be entered into by the defendant and the attorney for the Government; and

(H) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.

(2) Any period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.

(3)

(A) Any period of delay resulting from the absence or unavailability of the defendant or an essential witness.

(B) For purposes of subparagraph (A) of this paragraph, a defendant or an essential witness shall be considered absent when his whereabouts are unknown and, in addition, he is attempting to avoid apprehension or prosecution or his whereabouts cannot be determined by due diligence. For purposes of such subparagraph, a defendant or an essential witness shall be considered unavailable whenever his whereabouts are known but his presence for trial cannot be obtained by due diligence or he resists appearing at or being returned for trial.

(4) Any period of delay resulting from the fact that the defendant is mentally incompetent or physically unable to stand trial.

(5) If the information or indictment is dismissed upon motion of the attorney for the Government and thereafter a charge is filed against the defendant for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(6) A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted.

(7)

(A) Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this paragraph shall be excludable under this subsection unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.

(B) The factors, among others, which a judge shall consider in determining whether to grant a continuance under subparagraph (A) of this paragraph in any case are as follows:

(i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.

(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.

(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.

(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

(C) No continuance under subparagraph (A) of this paragraph shall be granted because of general congestion of the court's calendar, or lack of diligent preparation or failure to obtain available witnesses on the part of the attorney for the Government.

(8) Any period of delay, not to exceed one year, ordered by a district court upon an application of a party and a finding by a preponderance of the evidence that an official request, as defined in [section 3292 of this title](#), has been made for evidence of any such [offense](#) and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

(i) If trial did not commence within the time limitation specified in section 3161 because the defendant had entered a plea of guilty or nolo contendere subsequently withdrawn to any or all charges in an indictment or information, the defendant shall be deemed indicted with respect to all charges therein contained within the meaning of section 3161, on the day the order permitting withdrawal of the plea becomes final.

(j)

(1) If the attorney for the Government knows that a person charged with an [offense](#) is serving a term of imprisonment in any penal institution, he shall promptly—

(A) undertake to obtain the presence of the prisoner for trial; or

(B) cause a detainer to be filed with the person having custody of the prisoner and request him to so advise the prisoner and to advise the prisoner of his right to demand trial.

(2) If the person having custody of such prisoner receives a detainer, he shall promptly advise the prisoner of the charge and of the prisoner's right to demand trial. If at any time thereafter the prisoner informs the person having custody that he does demand trial, such person shall cause notice to that effect to be sent promptly to the attorney for the Government who caused the detainer to be filed.

(3) Upon receipt of such notice, the attorney for the Government shall promptly seek to obtain the presence of the prisoner for trial.

(4) When the person having custody of the prisoner receives from the attorney for the Government a properly supported request for temporary custody of such prisoner for trial, the prisoner shall be made available to that attorney for the Government (subject, in cases of interjurisdictional transfer, to any right of the prisoner to contest the legality of his delivery).

(k)

(1) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs more than 21 days after the day set for trial, the defendant shall be deemed to have first appeared before a judicial officer of the court in which the information or indictment is pending within the meaning of subsection (c) on the date of the defendant's subsequent appearance before the court.

(2) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs not more than 21 days after the day set for trial, the time limit required by subsection (c), as extended by subsection (h), shall be further extended by 21 days.

(Added [Pub. L. 93–619, title I, § 101](#), Jan. 3, 1975, [88 Stat. 2076](#); amended [Pub. L. 96–43](#), §§ 2–5, Aug. 2, 1979, [93 Stat. 327](#), 328; [Pub. L. 98–473, title II, § 1219](#), Oct. 12, 1984, [98 Stat. 2167](#); [Pub. L. 100–690, title VI, § 6476](#), Nov. 18, 1988, [102 Stat. 4380](#); [Pub. L. 101–650, title III, § 321](#), Dec. 1, 1990, [104 Stat. 5117](#); [Pub. L. 110–406, § 13](#), Oct. 13, 2008, [122 Stat. 4294](#).)

Exhibit Illinois Speedy Trial

725 ILCS 5/103-5

(a) Every person in custody in this State for an alleged offense shall be tried by the court having jurisdiction within 120 days from the date he or she was taken into custody unless delay is occasioned by the defendant, by an examination for fitness ordered pursuant to Section 104-13 of this Act, by a fitness hearing, by an adjudication of unfitness to stand trial, by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or by an interlocutory appeal. Delay shall be considered to be agreed to by the defendant unless he or she objects to the delay by making a written demand for trial or an oral demand for trial on the record. The provisions of this subsection (a) do not apply to a person on bail or recognizance for an offense but who is in custody for a violation of his or her parole, aftercare release, or mandatory supervised release for another offense.

The 120-day term must be one continuous period of incarceration. In computing the 120-day term, separate periods of incarceration may not be combined. If a defendant is taken into custody a second (or subsequent) time for the same offense, the term will begin again at day zero.

(b) Every person on bail or recognizance shall be tried by the court having jurisdiction within 160 days from the date defendant demands trial unless delay is occasioned by the defendant, by an examination for fitness ordered pursuant to Section 104-13 of this Act, by a fitness hearing, by an adjudication of unfitness to stand trial, by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or by an interlocutory appeal. The defendant's failure to appear for any court date set by the court operates to waive the defendant's demand for trial made under this subsection.

For purposes of computing the 160 day period under this subsection (b), every person who was in custody for an alleged offense and demanded trial and is subsequently released on bail or recognizance and demands trial, shall be given credit for time spent in custody following the making of the demand while in custody. Any demand for trial made under this subsection (b) shall be in writing; and in the case of a defendant not in custody, the demand for trial shall include the date of any prior demand made under this provision while the defendant was in custody.

(c) If the court determines that the State has exercised without success due diligence to obtain evidence material to the case and that there are reasonable grounds to believe that such evidence may be obtained at a later day the court may continue the cause on application of the State for not more than an additional 60 days. If the court determines that the State has exercised without success due diligence to obtain results of DNA testing that is material to the case and that there are reasonable grounds to believe that such results may be obtained at a later day, the court may continue the cause on application of the State for not more than an additional 120 days.

(d) Every person not tried in accordance with subsections (a), (b) and (c) of this Section shall be discharged from custody or released from the obligations of his bail or recognizance.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Plaintiff,)
)
-v-) No. 13 CR 7738
) Ursula Walowski
ANTHONY JACKSON,)
)
 Defendant.)

FILED
FEB 18 2020
DOROTHY BROWN
CLERK OF CIRCUIT COURT

**DEMAND FOR TRIAL
AND OBJECTION TO TRIAL DATE**

Anthony Jackson through his attorneys of record, which include by are limited to attorney George Jackson III of DRED SCOTT LLP, submits this, his Demand for Trial, and objects to all trial dates set in this matter as in direct violation of his right to a speedy trial (which in this case is a retrial) as guaranteed by the laws of the State Of Illinois, which specifically include the Illinois Speedy Trial Act and Illinois laws relating to retrials in criminal cases, the United States Constitution, and the Illinois Constitution, all relating to speedy trial rights of the accused.

Anthony Jackson calculates and maintains that the Speedy Trial Clock has lapsed, ended, of retrexpried, terminated, and has otherwise passed. Anthony is unable to calculate the exact date the Speedy Trial Clock expired in his case because Judge Ursula Walowski refused and to this date continues to refuse to provide Anthony Jackson or his attorneys with copies of transcripts thus preventing him and his attorneys from calculating the precise date the Speedy Trial Clock expired.

Anthony objects to all trial dates that are now set in this matter because those would-be trial dates are outside of the time in which the State was required to commence the retrial.

Respectfully submitted,
ANTHONY JACKSON

By: s/George Jackson III
George Jackson III
Attorney for Petitioner-Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on the attorneys of record through the email on February 18, 2020.

By: s/George Jackson III
Attorney for Defendant
George Jackson III
DRED SCOTT LLP
1138 North State
Rout 48
Decatur, Il. 62522
(773) 454-7645 Cell
GJackson@DredScottLLP.com

IN THE
SUPREME COURT OF ILLINOIS

In re:)
)
 Illinois Court's Response to) M.R. 30370
 COVID-19 Emergency/)
 Impact on Trials)

PEOPLE OF THE STATE OF ILLINOIS,)
 Plaintiff/Respondent,)
) Cook County Circuit Court
 -v-)
) Trial Court Case No.: 13 CR 7738
 ANTHONY JACKSON,)
 Defendant/Movant,)

**MOTION TO VACATE MARCH 20, 2020, ORDER
ENTERED WITHOUT LEGAL AUTHORITY**

NOW COMES Anthony Jackson, Defendant/Movant ("Movant"), and respectfully moves this Honorable Court to: Vacate its March 20, 2020, Order, and enter further Orders as listed in the Prayer for Relief. In support Movant states the following:

Preamble of Explanatory Suggestions

No defendant awaiting trial in Illinois stands convicted of the charges for which he/she awaits trial. They do not owe a debt to society and should not be forced to pay one by being jailed without trial, particularly not at risk of death.

"Jails in this country are petri dishes. They're the government equivalent of nursing homes or cruise ships." "*It's very difficult in a jail to maintain social distancing.*" Toni Preckwinkle, Cook County Board president.¹

¹ <https://www.cnn.com/2020/04/07/us/illinois-jail-coronavirus-death/index.html>

04
FILED

APR -7 2020

CHICAGO
SUPREME COURT OF ILLINOIS

To be sure, “[a]s of Sunday, there were 220 detainees who have tested positive and are being treated at the jail for mild-to-moderate symptoms, the statement said.” *Id.* Indeed, some cases are so severe that 14 detainees are being treated and monitored at hospitals.” *Id.* There has been one death, of which we know. We have no idea how many more detainees are infected, and thus are infecting.

This Supreme Court has considerable supervisory authority. But, it lacked and lacks any authority for its March 20, 2020 Order entered in M.R. 30370. The order violates Federal and State Constitutional law in several respects. No Illinois law, particularly not the Illinois Speedy trial Act, authorizes the Order. Continued detention at any jail in Illinois, especially Cook County Jail where Movant is housed, constitutes cruel and unusual punishment.

Accordingly, enter an Order vacating this Honorable Court’s March 20, 2020, Order.

Enter an Order stating this Supreme Court finds that in compliance with and pursuant to section 103-5 of the Code of Criminal Procedure of 1963 (725 Illinois Compiled Statutes 5/103-5 (West)), and its progeny of case law, in criminal proceedings all delays resulting from any Illinois Court not conducting criminal proceedings, granting any continuance (including emergency continuances for all reasons), and otherwise not holding criminal court, when not occasioned by the defendant, shall be attributable to the State and shall not be attributable to the defendant for purposes of the aforementioned section 103-5. See 725 ILCS 5/103-5(b) (West 2012); *People v. Smith*, 251 Ill. App.3d 839, 842 (1993); *People v. Beyah*, 67 Ill. 2d 423, 427 (1977).

Dismiss charges against detainees. Do not punish defenseless Illinois jail detainees. Death following a simple finding of *probable cause* is unwarranted, unethical, unspeakable, unconscionable, and un-American. More importantly, it also is unnecessary.

Order that upon release all released detainees are to be quarantined in compliance with the methods and for durations prescribed by the most current recommendations of the World Health Organization.

I. Renewed Demand for Trial by Anthony Jackson

1. Movant Anthony Jackson has been detained at Cook County Jail since January 15, 2015. See *Exhibit 1 (Certified Docket Sheet*²*), attached hereto and incorporated by reference.*

2. Movant has been jailed for 1,909 days as of April 7, 2020.

² We provide a docket sheet excerpt. We have available the complete 63-page document.

3. Movant again demands trial, having done so in writing on or about February 18, 2020, and on the record in times before and since. See *Exhibit 2 (Trial Demand)*, attached hereto and incorporated by reference.

II. Impact and Threat of COVID-19

4. The stated impetus for the March 20, 2020, Order in M.R. 30370 (“March 20 Order,” or “Order,” attached as *Exhibit 3*) was the COVID-19 disease. Hence, we discuss COVID-19, stress how prolonged this pandemic may last, and stress the dangers to Cook County jail guards, employees, and detainees.³

5. Mankind lacks empirical data and attendant knowledge about COVID-19. The pathogen Coronavirus has been around since at least November 16, 2002, when it first manifested in China as the precursor to SARS (Severe Acute Respiratory Syndrome).

6. Coronavirus has been with us since that time, though apparently dormant since 2004.⁴

7. The Coronavirus and its resulting COVID-19 disease have a commanding foothold on Mankind, worldwide. The virus strives and mutates to survive. Hence, the measures Mankind employed in 2002-04 to contain SARS lack the same containing power now, even when amplified through social distancing.⁵

³ We focus on Cook County, but our presentation applies statewide.

⁴ <https://www.google.com/search?q=2003-2004+SARS+Pandemic&oq=2003-2004+SARS+Pandemic&aqs=chrome..69i57.17127j0j1&sourceid=chrome&ie=UTF-8>.

⁵ According to the Mayo Clinic, SARS spreads by:
-Airborne respiratory droplets (coughs or sneezes).
-Touching a contaminated surface (blanket or doorknob).
-Saliva (kissing or shared drinks).
-Skin-to-skin contact (handshakes or hugs).

8. For nearly 16 years Coronavirus was dormant. During its dormancy the virus changed in China, a petri dish country that is secretive about revealing its virus ills. China is overly saturated with humanity itself straining ardently to survive.

9. Coronavirus resurfaced in China and has produced a vengeful COVID-19 (Coronavirus Disease-2019). We know little about this beast, how it progresses from a virus to a deadly disease, why it progresses (meaning what triggers the progression), whether the progression is in the individual host and then transmitted as a disease to a new host, or as akin to HIV and AIDS the virus is spread to a new host and develops into a disease in the new host.

10. It matters. If we knew of the manners of contracting we could prevent healthcare professionals and providers from contracting when servicing others. We have not done so and cannot do so.

11. Sadly social distancing merely addresses the symptoms. Given the presumed 14-day lifespan of COVID-19 our simplistic strategy is to stop the spread by separating the known infected for 14 days. We hope the disease dries up. With fingers crossed we help the infected to breathe.

12. The situation is worse in Cook County jail, which is where Movant is detained and has been for 5 years, over his objection. There is no distancing in place, according to a detainee, (he/she fears retaliation by jail guards if its identity is disclosed). He/she is housed with the same range of detainees as before the pandemic. Complaints by detainees of feeling ill and coughing are ignored. The detained and the attendant Cook County workers are needlessly exposed to this hyper contagion.

13. The Cook County State's Attorney can swiftly end this COVID-19 jailhouse onslaught. She has the liberty to temporarily dismiss charges releasing the detained and freeing in its wake Cook County court and jail workers from direct exposure from each other and the inmates.

14. This is the ideal time to release the detained. The streets are virtually empty as Cook County residents largely remain indoors.

15. We submit this Supreme Court misdirected its mighty judicial thrust concerning this pandemic. The Court targeted the accused by allowing the State to maintain its charges without going to trial.

16. As discussed below, this *charge-and-sit-still* formula is improper. It violates four separate laws that readily come to mind, perhaps more:

- a. The U.S. Const. 6th amend. speedy trial provision ("shall enjoy the right to a speedy and public trial");
- b. The Illinois Const. speedy trial provision ("shall have a speedy and public trial");
- c. The Illinois Speedy Trial Act (shall be tried within 120 or 160 days);
- d. The U.S. Constitution 5th amend. *due process* provision (cannot deprive liberty without due process); and
- e. The U.S. Constitution 14th amend. *due process* provision (cannot deprive liberty without due process)

17. While it may not be popular to do so, these laws require us to follow the paved path of protecting the rights of the accused. Dismiss the charges or alternatively immediately resume court and have jury trials.

18. Failing all else, release all detainees on bond. Do not expose detainees to tangible risks of death or severe Illinois.

III. Argument

19. Movant Jackson, who is criminally charged, detained on those charges and only those charges, not convicted, and who is *presumed innocent*, objects to this Supreme Court's March 20 Order.

20. Movant objects on his behalf and also as a class representative on behalf of of the putative class of all criminal defendants throughout Illinois who are similarly situated as Movant. They too await trial, are detained on those charges, have not been convicted and are presumed innocent. Yet, they are negatively impacted by this Court's March 20 Order. The Order is infirm.

21. Movant's objections are twofold.

22. First, there is no legal authority for this Supreme Court's March 20 Order. The Order violates the due process and speedy trial rights of the defendants.

23. The 14th amendment due process protections are directed specifically at States to guard against precisely these types of actions by a State.

24. There is no residual catchall language in the Illinois Constitution or the Illinois Speedy Trial Act allowing any jurist, be it a judge, appellate justice, or a Supreme Court Justice, to delay a trial in the interest of justice or for an emergency.

25. Second, the pending cases impacted by the Order are not delayed they are stopped. The distinction is massive and dispositive. This is a denial of due process.

26. There is zero trial advancement of any case. There are no jury trials.

27. Even if the courts could muster 12 jurors the trial would not be public. Closed trials violate an accused's rights under the U.S. Constitution, amendment VI.

28. More relevant, the Illinois Constitution, Section 8, states, “the accused shall have...a speedy public trial.” *Ill. Const. Art I, sect. 8.*

29. Additionally, having an in-person trial would be irresponsible, if not tragic, because of the looming COVID-19 pandemic.

30. There are no trials, jury or bench. Consequently, there simply can be no prosecution.

31. Defendants cannot defend themselves against the charges filed against them, which charges are based on nothing more than probable cause.

32. Probable cause should not be an avenue to death.

33. Worse are the detained defendants who suffer punishment equivalent to “imprisonment.”

34. Detainees have been and are being punished without having been convicted of anything.

35. The solution is by no means complex or elusive; it is simple, albeit, it may be a difficult call to some.

36. Dismiss all pending charges against all defendants, pursuant to the U.S. Constitution Amendments V, VI, and XIV, the Illinois Constitution, Art. I, sect 8, and the Illinois Speedy Trial Act.

37. The lone issue would be determining which dismissals would be with prejudice.

38. Movant’s dismissal must be with prejudice given his continuous detention since January 15, 2015, a running total of 1,909 days of incarceration.

39. The counterbalance to dismissal is not the States strength of the case or the seriousness of the allegations, all of which are unproven.

40. Rather, the Constitutionally mandated focus is on the State's inability to try *its* case. The State's inability for trial in the face of a defendant who is available and demands trial falls squarely on the State.

41. Reliance on serious allegations is Neanderthal cupidity.

42. Detainees are placed in an untenable and indefensible posture.

43. The State unilaterally obtained the charges without the accused being present and without the accused being able to offer a single utterance in defense.

44. Now armed with a one-sided unilateral obtained document, that being the formal charging document, the State seeks undetermined detention.

45. The detainees cannot defend themselves because of no trials. They find themselves in purgatory—a state of being in-between, locked away while waiting for a future event with no indication of when it may come. Neither free nor convicted. Yet, housed in more confined quarters and with less liberties than convicted felons.

46. The State, on the other hand has been rewarded because of world trauma, human suffering, and social uncertainty.

47. The State is now able to charge people with crimes and walk away until some unknown and unspecified date in the future. The prosecutors retreat to the safety and comfort of their respective homes.

48. By this Supreme Court's March 20, 2020, Order, the State is able to ignore completely our Founding Fathers' determination that all people formally accused of crimes in these United States shall have a speedy trial and the protections of due process.

49. This waif is correctable. The State can, should, and if endowed with courage would simply dismiss the charges and re-file them later. This is a glaring reality.

50. That action requires courage.

51. Courage seems to be in short supply, except for our Cook County Jail Guards and Jail Employees; some are in the trenches with the detainees.

52. Protect them all, the Jail Personnel and the detainees by limiting their unnecessary exposure to each other.

IV. Explanatory Suggestions—March 20, 2020 Order

In this section, we analyze and debunk application of the laws on which this Supreme Court purports to rely. Supervisory authority does not authorize the March 20 Order. The Illinois Speedy Trial Act does not authorize the Order. Instead, the Order violates the Illinois Speedy Trial Act and due process.

A. Illinois Constitution

i. Article VI, Section 16 (The Judiciary)⁶

53. Although the United States Constitution is the benchmark controlling all aspects of speedy trial rights, we begin with this Court's stated authority for its March 20 Order, namely the State Constitution and the Illinois Speedy Trial Act.

54. Neither set of laws authorizes the Illinois Supreme Court to override the United States Constitution, which is exactly what this Honorable Court has attempted to do. Such acts ineluctably lead to anarchy. This is especially so where the end cost is a palpable threat of death.

⁶ This Supreme Court issued the subject Order pursuant to the Court's supervisory authority. Counsel has not found how to challenge a supervisory order, particularly one issued *sua sponte*. If there is an applicable Rule or procedure, we request this Court to consider this Motion as such and address it on the merits.

55. *Article VI*, Section 16 provides in total:

Administration — General administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules. The Supreme Court shall appoint an administrative director and staff, who shall serve at its pleasure, to assist the Chief Justice in his duties. The Supreme Court may assign a Judge temporarily to any court and an Associate Judge to serve temporarily as an Associate Judge on any Circuit Court. The Supreme Court shall provide by rule for expeditious and inexpensive appeals.

56. Notably, Section 16 expressly provides for “supervisory authority.” It does not provide for “legislative authority.” Nor could it.

57. This Court’s supervisory authority, bountiful though it is, merely empowers this Court to supervise lower Illinois courts to ensure those courts follow the law. Section 16 does not empower this Court to enact law.

ii. *Article II (Separation of Powers)*

58. Article II provides, “The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.” *Id.*

59. The separation of powers provisions of Article II bars vesting in the judiciary branch the power to create or modify laws, even in cases of extreme emergencies, as we appear to have with COVID-19.

iii. *Article I, Section 8 (Speedy and Public Trial)*

60. In relevant part, Section 8 provides, “In criminal prosecutions, the accused shall have a speedy and public trial.”

61. Thus, Illinois defendants have the right to a speedy trial. There is no provision allowing a court to delay speedy trial based on public interests.

62. As we established above, there simply is no law in Illinois authoring this Supreme Court to bypass federal and Illinois due process and speedy trial rights.

63. This Court is limited to ensuring compliance with existing laws.
64. Emergencies like the COVID-19 pandemic do not alter these constraints.

B. Illinois Speedy Trial Act, 725 ILCS 5/103-5

65. The Illinois Act certainly does not provide that authority.
66. The March Order states, “In the case of criminal proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the State or the defendant for purposes of section [the Illinois Speedy Trial Act].” *Exhibit 3*.

67. This March Order allowed Chief Judges across the State to toll the speedy trial clock for at least 60 days based on COVID-19.

68. The speedy trial term is not tolled and cannot be tolled due to a Court’s inability to function. Fault is not the issue; Courts are not at fault for a world pandemic. Function, not fault, is the requirement.

69. Criminal court’s must function and remain open for criminal trials, or prosecutions must close along with the closed courts. The Sixth Amendment demands it (“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.” *U.S. Const. amend. VI*).

70. In relevant part, the Illinois Act provides that defendants in custody “shall be tried … within 120 from the day he or she was taken into custody unless delay is occasioned by” one of the exceptions delineated below. *725 ILCS 5/103-5(a)*, *Exhibit 4 (Illinois Speedy Trial)*.⁷

⁷ We provide the entirety of the Illinois Speedy Trial Act. We do so because in our argument we state that certain language is not included in the entirety of the Illinois Act.

71. Similarly, defendants “on bail or recognizance shall be tried … within 160 days from the date defendant demands trial unless delay is occasioned by” one of the exceptions delineated below. *725 ILCS 5/103-5(b)*.

72. The exceptions for both detainees and bonded defendants are the same.

73. Those exceptions are specific, limiting permissible delays to the follows:

- i. by the defendant,
- ii. by an examination for fitness ordered under Section 104-13 of this Act,
- iii. by a fitness hearing,
- iv. by an adjudication of unfitness to stand trial,
- v. by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or
- vi. by an interlocutory appeal. *Id.*

74. Subsection (c) provides to the trial court authority, on a fact specific case-by-case basis, to grant the State an additional 60 days to obtain material evidence and to grant the State an additional 120 days to secure DNA evidence material to the case. *Id.*

75. Subsection (c) does not and could not apply to the March 20 Order. In any event, this Supreme Court did not purport to enter the Order pursuant to that subsection.

76. Paragraphs 59-61 list the only mechanisms for delays or adding time under the speedy trial term. None of them allow an emergency tolling of the Illinois Act.

77. Rather, unless the defendant agrees otherwise, expressly or implicitly, all delays have to be attributable to either the State or the defendant.

78. This Supreme Court's attempt to delays that are not attributable to the State is simply unauthorized and unenforceable.

79. This Court cannot create a new category of delays based on emergencies.

80. The power to add another category for speedy trial delays rests entirely with the legislative branch of Illinois, despite world events.

V. Explanatory Suggestions—Federal Law

In this Section we continue are challenge to the March 20 Order. We analyze federal law, starting with select provisions of the United States Constitution. We explain the limits and lack of authority it places on all State Courts. By instructive contrast, we cite to the federal Speedy Trial Act. It contains the language Illinois laws lack.

A. Violation of U.S. Const. amend. VI (Speedy Trial).

81. The Sixth Amendment of the U. S. Constitution demands that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." *U.S. Const. amend. VI*. This Court lacks any authority to abridge or otherwise circumvent that Constitutional guarantee.

82. The March Order does not mention the U.S. Constitution and it does not contain the words speedy trial act, collectively or individually.

83. Instead, as explained above the Order materially manipulates application of the Illinois Act in a manner that offends the Illinois Act and the Sixth Amendment.

B. Violation of U.S. Const. amends. V & XIV (Due Process)

84. Due process protections are so important and cherished that they are covered twice in the Constitution.

85. The V Amendment provides: "No person shall ... be deprived of life, liberty, or property, without due process of law." *U.S. Const. amend. V*.

86. The XIV Amendment states in part: "No State shall ... deprive any person of life, liberty, or property, without due process of law." *U.S. Const. amends. XIV*.

87. The operative language in both is that neither the government nor the State of Illinois can deprive a person of liberty without due process.

- i. Due process demands, “process;” it is neither static nor inert
88. Due process is expansive. It is a *process*; not a single right, but a collection of rights,
89. In other words, due process encompasses multiple rights that require a “process,” meaning method, development, progression, manner, activity, route, and etcetera.
90. Due requires action, it requires development, and it requires progression.
91. Pausing for sixty days is the opposite of these actions and directly violates our Constitutional mandate for progression and development.
92. This Supreme Court cannot place criminal trials in abeyance. This bar is especially offensive to detainees who are told that the State is taking 60 days from the life or every detainee and those 60 days are gratuitous and irrelevant to the matters for which they have been charged.
93. Let us not confuse what this Supreme Court has done here with delays had while some other aspect of the due process locomotive commutes.
94. An appeal, the continued gathering of evidence, medical or mental examinations for fitness, and the like, all of these are progressions towards the trial itself. The defendant’s case is inert.
95. The March 20 Order does none of that. There is no progression whatsoever.
96. We submit that due process is the major impediment sounding the invalidity of the March 20 Order; the violation occurred the moment this Court entered the

March 20 Order. The Order put an impenetrable brick wall halt to any criminal process, let alone due process in Illinois.

97. By contrast, speedy trial violations are determinations to be made later when the speedy trial term has expired or is expiring. The question of whether speedy trial violations exist is not ripe—generally speaking.

98. Except here, the Order takes the novel preemptive measure of authorizing Chief Judges to somehow rule in advance that the “emergency delay,” as it were, is not attributable to State. All delays under the Illinois Act are attributable to the State unless the defendant caused or agreed to the delay, neither of which has happened concerning the March 20 Order.

99. We venture to say that all detainees, if not all or many of the defendants statewide, would object to the 60-day delay.

100. Anthony Jackson objects to the 60-day delay.

ii. Due Process components

101. The Illinois Constitution demands, “the accused shall have the right to appear and defend in person and by counsel.” *Ill. Const. Art. I, sec. 8.*

102. The right to appear and defend one’s liberty is quintessential due process; the State is barred from detaining a person and not allowing them to defend themselves.

103. The March 20 Order authorizes the State do precisely that, charge a person and not provide them the opportunity to defend against those charges.

104. Other trial rights accompany—subpoena, present evidence, and demand the State to prove its case beyond a reasonable doubt.

105. In short, due process demands a jury trial if desired by the defendant.

106. Yet, resuming jury trials simply is not practical given COVID-19. Having a trial could prove deadly.

107. Dismiss charges. Alternatively, release all charged defendants on bond.

108. Bond is no solution to the demands of due process. But it is far better than the treat of death.

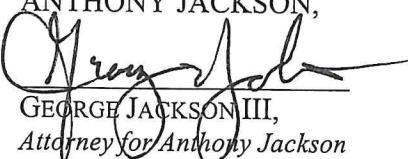
C. Federal Speedy Trial Act, 18 U.S.C. Section 3161(h)(7)(A)

109. The relevant language of the federal Speedy Trial Act, 18 U.S.C. Section 3161, allows a judge to toll the speedy trial if “the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” *Id.*

110. No similar law exists in Illinois law.

111. This is a Court of Law with laws as its currency.

WHEREFORE, Anthony Jackson moves this Court to: Vacate its Order of March 20, 2020; Order that delays caused by the inability of the Court to hold jury trial and otherwise operate fully counts against the State under the Illinois Speedy Trial Act; Order the dismissal of all pending charges against all detained defendants and further order that any remaining detainees are to be released on bond pending trial; Order that all released detainees are to be quarantined.

Respectfully submitted,
ANTHONY JACKSON,
By: 
GEORGE JACKSON III,
Attorney for Anthony Jackson

April 7, 2020

Date

George Jackson III

DRED SCOTT LLP

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Decatur, Il. 62522

(773) 454-7645 Cell

GJackson@DredScottLLP.com

ATTORNEY CERTIFICATION AND CERTIFICATE OF SERVICE

I, GEORGE JACKSON III, certify that the statements set forth in this document are true and correct, and that on April 7, 2020, I caused the foregoing

Motion to Vacate March 20, 2020 Order Entered without Legal Authority

to be submitted for filing using the Court's electronic filing system. I further certify that I caused the individuals listed below to be served at their respective electronic mail addresses as listed below.

I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.

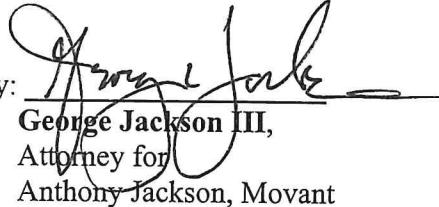
Lisa Madigan
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ASA Alan J. Spellberg
Office of Cook County State's Attorney
309 Richard J. Daley Center
Chicago, Illinois 60602
eserve.criminalappeals@cookcountylil.gov

Honorable Ursula Walowski
Judge, Circuit Court of Cook County
2600 South California Ave.
Chicago, Illinois 60608
Via U.S. Regular Mail

April 7, 2020

Date

By: 
George Jackson III,
Attorney for
Anthony Jackson, Movant

George Jackson III
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Exhibit 1 (Certified Docket Sheet)

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

People of the State of Illinois vs. ANTHONY
 JACKSON

§ Location: Criminal Division
 § Judicial Officer: Walowski, Ursula
 § Filed on: 04/23/2013
 § Appellate Number: 17-1582
 § Central Booking 018618136
 § Number/Document Control
 § Number:
 § FBI Number: 740205FA9
 § IR Number: 2187746
 § Record Division Number: HW194557
 § Related Case Number: 13-1109462
 § SID/IBI: 026248230

CASE INFORMATION

Offense

Jurisdiction: Chicago Police Department	Statute	Deg	Date	Case Type:	Felony Indictment
001. MURDER/INTENT TO KILL/INJURE	720-5/9-1(A) (1)	FM	01/01/1900	Case Status:	09/28/2017 Appeal
DCN: 018618136 Sequence: 001			Case Flags: Verify Payment History on Conversion tab		
Arrest: 03/18/2013 IL0CPD000 - Chicago Police Department					
002. MURDER/STRONG PROB KILL/INJUR	720-5/9-1(A) (2)	FM	01/01/1900		
DCN: 018618136 Sequence: 002					
Arrest: 03/18/2013 IL0CPD000 - Chicago Police Department					

Related Cases

13110946201 (Indictment)
 19ACC011101 (Contempt)

Bonds

Deposit Bond #D1016288 \$0.00
 01/01/1900 Conversion
 Counts: 001, 002

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	13CR0773801
Court	Criminal Division
Date Assigned	04/23/2013
Judicial Officer	Walowski, Ursula

PARTY INFORMATION

Defendant JACKSON, ANTHONY

Lead Attorneys
ANDERSON, GWENDOLYN
 D
Retained
 312-346-5130(W)

Plaintiff People of the State of Illinois

DATE

EVENTS & ORDERS OF THE COURT

INDEX

03/20/2013	Bond Setting <i>Originating Case Number 13110946201</i> Judicial Order \$500,000.00 (@10% \$50,000.00) Deposit Bond	
04/23/2013	Indictment/Information-Clerks Office-Presiding Judge <i>ROOM: CLERK'S OFFICE</i>	

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

C: 09:30 AM - 2

10/31/2014	<input type="checkbox"/> Defendant On Bond (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531
10/31/2014	<input type="checkbox"/> Discovery Answer Filed (Judicial Officer: Sacks, Stanley J) Filing Party: Defendant JACKSON, ANTHONY ROOM: 602 JDGE: 1531 F MODB: 2
10/31/2014	<input type="checkbox"/> Witnesses Ordered To Appear (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531
10/31/2014	<input type="checkbox"/> Change Priority Status (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531 REF: R
10/31/2014	<input type="checkbox"/> Continuance By Agreement (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531 CDATE: 01/12/2015 C: 09:30 AM - 2 ROOM: 602
01/12/2015	By Agreement (9:30 AM) Events: 10/31/2014 Continuance By Agreement ROOM: 602 26TH & CALIFORNIA CDATE: 01/12/2015 C: 09:30 AM - 2
01/12/2015	<input type="checkbox"/> Defendant On Bond (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531
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01/13/2015	Order of Court (9:30 AM) Events: 01/12/2015 Continuance By Order Of Court ROOM: 602 26TH & CALIFORNIA CDATE: 01/13/2015 C: 09:30 AM - 2
01/13/2015	<input type="checkbox"/> Defendant On Bond (Judicial Officer: Sacks, Stanley J) ROOM: 602

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

JUDGE: 1531

- 01/13/2015 Witnesses Ordered To Appear (Judicial Officer: Sacks, Stanley J)
ROOM: 602
JDGE: 1531
- 01/13/2015 Continuance By Order Of Court (Judicial Officer: Sacks, Stanley J)
ROOM: 602
JDGE: 1531
CDATE: 01/14/2015
C: 09:30 AM - 2
ROOM: 602
- 01/14/2015 **Order of Court** (9:30 AM)
Events: 01/13/2015 Continuance By Order Of Court
ROOM: 602 26TH & CALIFORNIA
CDATE: 01/14/2015
C: 09:30 AM - 2
- 01/14/2015 Defendant On Bond (Judicial Officer: Sacks, Stanley J)
ROOM: 602
JDGE: 1531
- 01/14/2015 Motion Direct Verdict Or Finding - Filed (Judicial Officer: Sacks, Stanley J)
Filing Party: Defendant JACKSON, ANTHONY
ROOM: 602
JDGE: 1531
D
MODB: 2
- 01/14/2015 Witnesses Ordered To Appear (Judicial Officer: Sacks, Stanley J)
ROOM: 602
JDGE: 1531
- 01/14/2015 Continuance By Agreement (Judicial Officer: Sacks, Stanley J)
ROOM: 602
JDGE: 1531
CDATE: 01/15/2015
C: 09:30 AM - 2
ROOM: 602
- 01/15/2015 **By Agreement** (9:30 AM)
Events: 01/14/2015 Continuance By Agreement
ROOM: 602 26TH & CALIFORNIA
CDATE: 01/15/2015
C: 09:30 AM - 2
- 01/15/2015 Defendant On Bond (Judicial Officer: Sacks, Stanley J)
ROOM: 602
JDGE: 1531
- 01/15/2015 Motion Direct Verdict Or Finding - Filed (Judicial Officer: Sacks, Stanley J)
Filing Party: Defendant JACKSON, ANTHONY
ROOM: 602
JDGE: 1531
F
MODB: 1

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

01/15/2015	<p> Motion Direct Verdict Or Finding - Filed (Judicial Officer: Sacks, Stanley J) Filing Party: Defendant JACKSON, ANTHONY ROOM: 602 JDGE: 1531 D MODB: 1</p>
01/15/2015	<p> Verdict Of Guilty (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531 REF: C001</p>
01/15/2015	<p> Bail Revoked (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531</p>
01/15/2015	<p> Continuance By Order Of Court (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531 CDATE: 01/20/2015 C: 09:30 AM - 2 ROOM: 602</p>
01/15/2015	<p>Disposition (Judicial Officer: Sacks, Stanley J) 001. MURDER/INTENT TO KILL/INJURE Verdict of Guilty DCN: 018618136 Sequence: 001</p>
01/20/2015	<p>Order of Court (9:30 AM) Events: 01/15/2015 Continuance By Order Of Court ROOM: 602 26TH & CALIFORNIA CDATE: 01/20/2015 C: 09:30 AM - 2</p>
01/20/2015	<p> Defendant In Custody (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531</p>
01/20/2015	<p> Cash Bond Refund To Attorney (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531 REF: B001 DESC: CBR AMOUNT \$12,000. BALANCE TO PROVIDER</p>
01/20/2015	<p> Pre-Sentence Investigation Ordered and Continued (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531</p>
01/20/2015	<p> Continuance By Agreement (Judicial Officer: Sacks, Stanley J) ROOM: 602 JDGE: 1531 CDATE: 02/20/2015 C: 09:30 AM - 2 ROOM: 602</p>
01/23/2015	<p> Cash Bond Refund Processed Forwarded Accounting Department ROOM: CLERK'S OFFICE</p>

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

10/17/2016	<p> Continuance By Order Of Court (Judicial Officer: Porter, Dennis J) ROOM: 400 JDGE: 1512 CDATE: 10/18/2016 C: 09:30 AM - 2 ROOM: 700</p>
10/17/2016	<p> Defendant In Custody (Judicial Officer: Linn, James B) ROOM: 700 JDGE: 1544</p>
10/17/2016	<p> Continuance By Order Of Court (Judicial Officer: Linn, James B) ROOM: 700 JDGE: 1544 CDATE: 10/17/2016 C: 09:30 AM - 2 ROOM: 305</p>
10/18/2016	<p>Motion Defendant (9:30 AM) Events: 09/12/2016 Motion Deft - Continuance ROOM: 700 26TH & CALIFORNIA CDATE: 10/18/2016 C: 09:30 AM - 2</p>
10/18/2016	<p>Continued to (9:30 AM) Events: 10/14/2016 Case Advanced ROOM: 700 26TH & CALIFORNIA CDATE: 10/18/2016 C: 09:30 AM - 2</p>
10/18/2016	<p>Transferred (9:30 AM) Events: 10/17/2016 Transferred ROOM: 700 26TH & CALIFORNIA CDATE: 10/18/2016 C: 09:30 AM - 2</p>
10/18/2016	<p>Order of Court (9:30 AM) Events: 10/17/2016 Continuance By Order Of Court ROOM: 700 26TH & CALIFORNIA CDATE: 10/18/2016 C: 09:30 AM - 2</p>
10/18/2016	<p> Defendant In Custody (Judicial Officer: Linn, James B) ROOM: 700 JDGE: 1544</p>
10/18/2016	<p> Continuance By Agreement (Judicial Officer: Linn, James B) ROOM: 700 JDGE: 1544 CDATE: 11/09/2016 C: 09:30 AM - 2 ROOM: 700</p>
11/07/2016	<p> Notice Of Motion/Filing ROOM: CLERK'S OFFICE CDATE: 11/09/2016 C: 09:30 AM - 2 ROOM: 700</p>

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

11/09/2016	<p>By Agreement (9:30 AM) Events: 10/18/2016 Continuance By Agreement ROOM: 700 26TH & CALIFORNIA CDATE: 11/09/2016 C: 09:30 AM - 2</p>
11/09/2016	<p>Motion (9:30 AM) Events: 11/07/2016 Notice Of Motion/Filing ROOM: 700 26TH & CALIFORNIA CDATE: 11/09/2016 C: 09:30 AM - 2</p>
11/09/2016	<p><input checked="" type="checkbox"/> Defendant In Custody (Judicial Officer: Linn, James B) ROOM: 700 JDGE: 1544 DESC: POST TRIAL MOTION GRANTED INDIGENCY ORDER TERMINATED</p>
11/09/2016	<p><input checked="" type="checkbox"/> Motion Deft - Continuance (Judicial Officer: Linn, James B) ROOM: 700 JDGE: 1544 CDATE: 11/22/2016 C: 09:30 AM - 2 ROOM: 700</p>
11/21/2016	<p><input checked="" type="checkbox"/> Notice Of Motion/Filing ROOM: CLERK'S OFFICE CDATE: 11/22/2016 C: 09:30 AM - 2 ROOM: 700</p>
11/22/2016	<p>Motion Defendant (9:30 AM) Events: 11/09/2016 Motion Deft - Continuance ROOM: 700 26TH & CALIFORNIA CDATE: 11/22/2016 C: 09:30 AM - 2</p>
11/22/2016	<p>Motion (9:30 AM) Events: 11/21/2016 Notice Of Motion/Filing ROOM: 700 26TH & CALIFORNIA CDATE: 11/22/2016 C: 09:30 AM - 2</p>
11/22/2016	<p><input checked="" type="checkbox"/> Defendant In Custody (Judicial Officer: Stephenson, Domenica A.) ROOM: 700 JDGE: 1967</p>
11/22/2016	<p><input checked="" type="checkbox"/> Defendant In Custody (Judicial Officer: Stephenson, Domenica A.) ROOM: 700 JDGE: 1967 DESC: D'S ATTY REQUEST FOR WRITTENHEALTHCARE ORDER GRANTED</p>
11/22/2016	<p><input checked="" type="checkbox"/> Motion Deft - Continuance (Judicial Officer: Stephenson, Domenica A.) ROOM: 700 JDGE: 1967 CDATE: 11/29/2016 C: 09:30 AM - 2 ROOM: 700</p>
11/29/2016	<p>Motion Defendant (9:30 AM) Events: 11/22/2016 Motion Deft - Continuance</p>

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

PRIOR RULING TO STAND

01/06/2020	Continuance By Order Of Court (Judicial Officer: Davis, Adrienne E)
01/08/2020	Motion Defendant (9:00 AM) (Judicial Officer: Walowski, Ursula ;Location: 2650 South California Avenue, Chicago, IL 60608)
01/08/2020	Status or Progress Report (9:30 AM) (Judicial Officer: Martin, LeRoy K, Jr. ;Location: Criminal Division, Courtroom 101) Events: 01/06/2020 Continuance By Order Of Court
01/08/2020	Defendant In Custody (Judicial Officer: Walowski, Ursula)
01/08/2020	Motion Filed Filing Party: Defendant JACKSON, ANTHONY <i>motion to change trial date</i>
01/08/2020	Petition Rule To Show Cause Denied (Judicial Officer: Walowski, Ursula) <i>dismissed</i>
01/08/2020	Witnesses Ordered To Appear (Judicial Officer: Walowski, Ursula)
01/08/2020	Civilian Clothes For Jury Trial (Judicial Officer: Walowski, Ursula)
02/11/2020	Notice Of Motion/Filing
02/19/2020	Case Advanced (9:00 AM) (Judicial Officer: Walowski, Ursula ;Location: 2650 South California Avenue, Chicago, IL 60608)
02/19/2020	Defendant In Custody (Judicial Officer: Walowski, Ursula)
02/20/2020	By Agreement (9:00 AM) (Judicial Officer: Walowski, Ursula ;Location: 2650 South California Avenue, Chicago, IL 60608)
02/20/2020	Defendant In Custody (Judicial Officer: Walowski, Ursula)
02/20/2020	Witnesses Ordered To Appear (Judicial Officer: Walowski, Ursula)
02/20/2020	Civilian Clothes For Jury Trial (Judicial Officer: Walowski, Ursula)
02/24/2020	Notice Of Motion/Filing
03/06/2020	Notice Of Motion/Filing <i>SUPPLEMENTAL ANSWER TO DISCOVERY</i>
03/06/2020	Motion In Limine - Filed Filing Party: Plaintiff People of the State of Illinois
03/23/2020	By Agreement (9:00 AM) (Judicial Officer: Walowski, Ursula ;Location: Criminal Division, Courtroom 306)
03/23/2020	Motion (9:00 AM) (Judicial Officer: Walowski, Ursula ;Location: Criminal Division, Courtroom 306) Events: 03/06/2020 Motion In Limine - Filed
03/30/2020	By Agreement (9:00 AM) (Judicial Officer: Walowski,

CRIMINAL DIVISION
CASE SUMMARY
CASE NO. 13CR0773801

Ursula ;Location: Criminal Division, Courtroom 306)

03/30/2020 Motion (9:00 AM) (Judicial Officer: Walowski,
Ursula ;Location: Criminal Division, Courtroom 306)
Events: 02/11/2020 Notice Of Motion/Filing

03/30/2020 Motion (9:00 AM) (Judicial Officer: Walowski,
Ursula ;Location: Criminal Division, Courtroom 306)
Events: 02/24/2020 Notice Of Motion/Filing

DATE

FINANCIAL INFORMATION

Defendant JACKSON, ANTHONY

Total Charges

62.25

Total Payments and Credits

62.25

Balance Due as of 03/10/2020

0.00

Defendant JACKSON, ANTHONY

Cash Bond Balance as of 03/10/2020

0.00

3/10/20

RECEIVED

APR 14 2020

Case No. M.R. 30370

CLERK
SUPREME COURT
CHICAGO

IN THE
SUPREME COURT OF ILLINOIS

In re:)
Illinois Court's Response to) M.R. 30370
COVID-19 Emergency/)
Impact on Trials)

PEOPLE OF THE STATE OF ILLINOIS,)
Plaintiff/Respondent,)
-v-) Cook County Circuit Court
ANTHONY JACKSON,) Trial Court Case No.: 13 CR 7738
Defendant/Movant,)

**MOTION TO VACATE MARCH 20, APRIL 3, & 7, 2020, ORDERS,
AND SUCCESSOR ORDERS
ENTERED WITHOUT LEGAL AUTHORITY**

NOW COMES Anthony Jackson, Defendant/Movant ("Movant"), and respectfully moves this Honorable Court to: Vacate its March 20, 2020, April 3, 2020, and April 7, 2020, Orders, and enter Orders as listed in the Prayer for Relief. In support Movant states:

**Preamble of Explanatory Suggestions
(Summary Argument)**

Two *acknowledged* COVID-19 Cook County jail deaths, an counting. Certainly others have fallen.

Deafening silence. Racial insensitivity. Socioeconomic influence. Unspoken jail demographics. Cook County jail pretrial detainees—Men of color pervade, insanely. These and more are shameful realities confronting and seemingly fostered by this Honorable Illinois Supreme Court.

No defendant awaiting trial in Illinois stands convicted of the charges for which he/she awaits trial. These are *pretrial* defendants. They do not owe a debt to society and

FILED 04

APR 14 2020

should not be forced to pay one, particularly not at the risk of death. In Cook County the State's Attorney is the single source of this continued problem. The number of confirmed Cook County jail employee and detainee cases is 448.¹

Never in the annals of civilization has one's liberty been predicated on the unfolding of nature. To incarcerate then delay/continue/stop indefinitely because of the growling vagaries of nature portends eternal incarceration for we can neither control nature nor know its path. Nature is unpredictable, uncontrollable—it is its own master. It cannot be the benchmark by which we base one's liberty.

Push this thought down the line a bit. If six months from now COVID-19 continues to prevent trials, we would realize the need to do something about the pretrial detainees. If not six months, then a year, two years, five years. The elapsed time does not matter. Time is illustrative in our example. Our point is the eventual realization that we can no longer delay the trial without violating the rights of the pretrial detainees. Our contention is that the point of violation is now. The violations commenced the very instant the prosecution stopped and the detentions continued unabated.

Detention necessarily runs in tandem with and a dependent by-product of prosecution. Without prosecution there is no cause, need, or possibility for detention (the converse is not true, for prosecution can exist without detention). Arrests are confirmations of this truth. Police make an arrest based on probable cause. The first step following the arrest is to obtain approval from the State to prosecute. The approval is needed in order to continue the detention. Without prosecution in the form of charges the arrest expires at the end of the hours police have to detain the arrestee, despite probable cause that a crime has been committed. Probable cause therefore is not a panacea allowing indefinite detention.

As to every pretrial detainee mere probable cause is all that exists for the pending charges. An indictment adds nothing. Probable cause evinced through indictment is still just probable cause in formal attire. Probable cause cloaked in an indictment has the same constitutional limit—if no prosecution then no detention.

Here, the State has not declined to prosecute. It is unable to prosecute. The outcome is the same. No prosecution, for whatever the reason, no detention.

The vortex of our contentions is whether the judicial delay influenced by fears of COVID-19 equates to no prosecution. Of course it does. This Honorable Supreme Court in combination with unwise Orders stopping all criminal trials sealed that fate. The three Orders tolling the Illinois Speedy Trial Act stopped the prosecution because the pretrial detainees are not the cause for the delay. The delay is real. The detainees are in jail and the prosecutions are not progressing at all.

¹ <https://www.aa.com.tr/en/americas/us-276-inmates-in-chicago-jail-infected-with-covid-19/1799920>

Understand that detention does not equal to prosecution. Similarly, the fact of formal charges, without more, is not itself the process of prosecuting. This truth is especially so where the courts are closed for all matters except bond hearings, which hearings solidify the detention as opposed to prosecuting the charges. However viewed, the combination of closed courts, no trials, and stopping the speedy trial term means no prosecuting.

Alternatively, assume the prosecution exists despite the stoppage of prosecuting. The outcome is the same. Our position becomes less esoteric and thus more widely understood, if not stronger. The fact of prosecution triggers application of the U.S. Constitution and its gloriously abundant protections and strictures. We are not in medieval times under draconian rule. We have *rules*. The U.S. Constitution demands first that criminal prosecutions must proceed and how (due process), and that the prosecution must be speedy.

The trilogy Orders entered by this Supreme Court take us squarely into Guantanamo Bay concerns; Detention without rights. The drastic difference here is that the pretrial detainees are American citizens² on American soil. The U.S. Constitution applies and protects against the trilogy Orders.

This Supreme Court, now with this Motion can Order the Sheriff to release all detainees in Cook County.

This Supreme Court lacked and lacks any authority for its March 20, and April 3 & 7, 2020, Orders entered in M.R. 30370. This august Supreme Court appears to have employed a pocket veto of silence and inaction. The Motion identified essential language missing from the March 20 and April 3 Orders. It is telling that the April 7 Order added the missing language. Yet, this Supreme Court has neither addressed nor even acknowledged the April 7 Motion. Ergo the deafening silence of the pocket veto.

Both Orders violate Federal and State Constitutional law in several respects. No Illinois law, particularly not the Illinois Speedy trial Act, authorizes the Order. Continued detention at any jail in Illinois, especially Cook County Jail where Movant is housed, is equivalent to cruel and unusual punishment.

Accordingly, enter an Order vacating this Honorable Court's March 20, 2020, April 3, 2020, and April 7, 2020, Orders. Consider entering the orders as proposed in our April 7, 2020, Motion.

I. Renewed Demand for Trial by Anthony Jackson

1. Movant has been detained at Cook County Jail since January 15, 2015.
2. Movant has been jailed for 1,915 days as of April 13, 2020.

² Every person detained based on the underlying criminal charges is a U.S. citizen or permanent resident; otherwise they would be detained based on their immigration status.

3. Movant Anthony Jackson again demands trial.

II. Nature of Challenges

4. Movant, who is criminally charged, detained on those charges and only those charges, not convicted, and who is *presumed innocent*, objects to this Supreme Court's March 20, April 3 & April 7, 2020, Orders (collectively, the "trilogy Orders").

5. Movant objects on his behalf and as class representative on behalf of the putative class of all criminal pretrial detainees throughout Illinois who are similarly situated as Movant. They await trial, are detained on those charges, have not been convicted, and are presumed innocent. They are negatively impacted by this Court's trilogy Orders. The Orders are infirm.

6. Movant's objections are twofold. First, there is no legal authority for the trilogy Orders. The Orders violate the due process and speedy trial rights of the defendants.

7. There is no residual catchall language in the Illinois Constitution or the Illinois Speedy Trial Act ("Illinois Act") allowing any jurist, be it a judge, appellate justice, or a Supreme Court Justice, to delay a trial in the interest of justice or for an emergency.

8. Second, the pending cases impacted by the Order are not delayed they are stopped. The distinction is dispositive. This is a denial of due process.

III. April 7, 2020, Order and its Phantom Authority

9. In this section Movant challenges the validity of the March 20, April 3, and April 7, 2020, Orders, while endorsing the March 17 Order, all entered in M.R. 30370.

This Illinois Supreme Court purportedly issued all four Orders under the guise of its plenary supervisory authority.

10. Movant maintains the three Orders after March 17 are invalid and were void at their inception. Thus, they are unenforceable because they were issued without legal authority, jurisdiction, or authorship by a Supreme Court Justice.

A. Brief Relevant History

11. In response to the COVID-19 pandemic, this Honorable Supreme Court opened the matter Miscellaneous Record 30370 (referenced throughout as “M.R. 30370”). We discuss the 4 Orders issued and our Motion and this 2nd Motion filed in M.R. 30370.

ii. Lone Administrative Order—*March 17*

12. March 17, 2020, in M.R. 30370 the Supreme Court issued its first response to the pandemic. *Exhibit 1 (March 17 Order)* attached.

13. The March 17 Order is detailed with 16 paragraphs and subparagraphs, and covers two full pages in length.

14. The March 17 Order is the only Order with truly administrative content.

15. The March 17 Order is respectful of the rights of criminally charged defendants.

16. For example, the March 17 Order safeguards defendants’ rights as follows:

- Essential court matters and proceedings *shall* continue to be heard by the Illinois courts;
- *Subject to constitutional limits...* courts may suspend any deadlines and procedures;
- Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, by teleconference, videoconference, or other means.
- The Supreme Court temporarily suspends the operation of any Supreme Court Rules to the extent they are contrary to any provisions of this order.

Mar 17 Order (emphasis added).

17. This Honorable Supreme Court was judiciously measured and indelibly sensitive to the rights of the accused in drafting the March 17 Order.

18. The March 17 Order does not contain legal interpretation, analysis, and application of law to fact. Of particular import, this Supreme Court did not make any factual or interpretative findings.

19. Specifically, the March 17 Order does not analyze and apply the Illinois Speedy Trial Act.

20. This Court never referenced the March 17 Order in any of its subsequent M.R. 30370 Orders.

21. There is considerable tension between the March 17 Order and all subsequent Orders, but there is no language in subsequent Orders stating the March 17 Order has been overruled, in part or in whole.

22. Accordingly, the March 17 Order continues to apply to Illinois Courts.

ii. **Non-Administrative Orders—March 20, April 3, April 7**

23. Following the March 17 Order, this Supreme Court entered two orders in succession: March 20 Order and April 3 Order. *Exhibits 2 & 3* attached.

24. In both Orders this Court made a finding that delays caused by the emergency continuances “shall not be attributable to either the State or the defendant” under the Illinois Act. *Mar 20 Order; April 3 Order*.

25. On April 7, 2020, this Supreme Court issued its most current Order. *Exhibit 4* (collectively *Exhibits 2, 3 & 4* are the “trilogy Orders”).

26. The April 7 Order added “ends of justice” language seeking to justify the speedy trial violations caused by the trilogy orders.

27. The trilogy Orders are substantive Orders; they are not administrative.

28. Unlike the detail and constitutional limits stated in the March 17 Order, each trilogy Order is two paragraphs on half a page and they do not state any constitutional limits.

29. Substantively, each trilogy Order contains analysis of the Illinois Speedy Trial Act.

30. Each trilogy Order identified a set of facts, specifically, all defendants with pending criminal charges in Illinois.

31. Each Order stated the Illinois Act as the relevant controlling law.

32. The Orders applied the Illinois Act to the facts, from which each Order pronounced a legal conclusion that under the Illinois Act the COVID-19 triggered delays shall not be attributable to the State.

33. Simply put, such is by no means an administrative procedure.

34. Apart from the clear error regarding not attributing the lack of trial to the State, the trilogy Orders violate several core rights of defendants in general and pretrial detainees in particular, as discussed below.

B. Lack of Legal Authority

i. Operative language “Ends of justice … outweigh a speedy trial”

35. On April 7, 2020, Movant filed his Motion to Vacate the March 20, 2020, Order (“1st Motion”).

36. Movant attacked the March 20 Order because it was the initial misapplication of the Illinois Act and violations of pretrial detainees' Constitutional rights.

37. Movant observed the lack of language empowering this Supreme Court to offer opinion concerning application of the Illinois Act. *Mot. Preamble*, par. 22, 109.

38. The Motion informed this Supreme Court that:

- a. Neither the Illinois Constitution nor the Illinois Act on which this Supreme Court authorized an Illinois Judge to toll the speedy trial based on an emergency or where the "ends of justice" commands it;
- b. The federal Speedy Trial Act, 18 U.S.C. Section 3161(h)(7)(A), contained such essential language; and
- c. The federal Act allows a Judge to toll the speedy trial if "the ends of justice served by taking such action outweigh the best interests of the public and the defendants in a speedy trial."

39. The operative core language is that "the ends of justice outweigh the best interest in a speedy trial.

40. Sure enough, seemingly in direct response to the Motion, this Supreme Court entered April 7 Order containing the operative language Movant proposed in the Motion, "the ends of justice ... outweigh the best interests ... in a speedy trial."

41. More completely, the April 7 Order provides in relevant part:

The Chief Judges of each circuit may continue trials until further order of this Court. The continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)) and section 5-601 of the Illinois Juvenile Court Act (705 ILCS 405/5-601 (West 2018)). Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of this Court.

Order entered by the Court.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal

of said Court, this 7th day of April, 2020.

Clerk,
Supreme Court of the State of Illinois

ii. **Powerless added language**

42. This Supreme Court by happenstance may have discovered on its own the need for “*ends of justice*” language in its tolling Orders on the same day as the Motion identifying the that language.

43. Regardless, it is curious that this Supreme Court has refused to address the Motion or even acknowledge its existence. It is curious because the Motion argued (we think rather plainly) that the “*ends of justice*” language was inapplicable to the trilogy Orders because as we have stressed, it is not contained in either the Illinois Constitution or the Illinois Speedy Trial Act.

44. Hence, the Supreme was not wrong for failing to include that language in the March 20 and April 3 Orders. No, the Supreme Court was wrong for including it in the April 7 Order.

45. “Ends of justice” in the April 7 Order is wholly *phantom language* based on equally *phantom authority*.

46. We are unaware of the existence of that language within Illinois law, though we have not searched.

47. If it does exist elsewhere in Illinois law it would demonstrate that it was the considered judgment of Illinois legislators not to include it as part of speedy trial considerations.

48. By all accounts, the sudden addition of the ends of justice language in the fourth of four Orders after being challenged is nothing more than this Honorable Supreme

Court perceiving a desire (*not a need*—for the State’s Attorney for each County can dismiss charges and re-file them later within the remaining statutory time to indict) to keep pretrial detainees in jail, and satisfying that need, injudiciously, we submit respectfully.

49. Since no similar ends of justice language exists in the Illinois Constitution clause relating to speedy trial, and not in the Illinois Act, the inclusion of this powerful language does not salvage the fatal shortcomings in the trilogy Orders.

50. Quite the opposite, by adding the “*ends of justice*” language this Supreme Court tacitly concedes the dire need for that legal authority, which is our point all along.

51. The Orders are unauthorized without the language. Yet, the addition is meaningless because “*ends of justice*” language does not exist within relevant Illinois law.

C. Lack of Jurisdiction

52. A defining problem with the Orders is that there was no dispute or appeal before the Supreme Court allowing it to voice its opinion in any event.

53. There is no legal vehicle for this Supreme Court to issue an opinion on a matter not before it.

54. The substantive opinions found in the trilogy Orders purport to be that vehicle, but they are not.

55. Calling the Orders administrative does not make them so.

56. In our American system of jurisprudence, Courts are *reactive* venues of legal interpretation limited to disputes presented to it from outside the Court; American Courts are not *proactive*, as this Supreme Court has endeavored to do.

57. The trilogy Orders are meaningless and no more enforceable than a wonderfully gifted trial court Judge issuing Orders to this Supreme Court. That is not how our system works.

58. Supreme Court – Jurisdiction

(a) The Supreme Court may exercise original jurisdiction in cases relating to revenue, mandamus, prohibition or habeas corpus and as may be necessary to the complete determination of any case on review.

(b) Appeals from judgments of Circuit Courts imposing a sentence of death shall be directly to the Supreme Court as a matter of right. The Supreme Court shall provide by rule for direct appeal in other cases.

(c) Appeals from the Appellate Court to the Supreme Court are a matter of right if a question under the Constitution of the United States or of this State arises for the first time in and as a result of the action of the Appellate Court, or if a division of the Appellate Court certifies that a case decided by it involves a question of such importance that the case should be decided by the Supreme Court. The Supreme Court may provide by rule for appeals from the Appellate Court in other cases.

Illinois Constitution, Article VI, Section 4.

59. Also see Illinois Supreme Court Rule 603:

Court To Which Appeal is Taken

Appeals in criminal cases in which a statute of the United States or of this State has been held invalid shall lie directly to the Supreme Court as a matter of right. All other appeals in criminal cases shall be taken to the Appellate Court.

60. Hence, this Honorable Supreme Court is a court of review.

61. The only exceptions (cases relating to revenue, mandamus, prohibition or habeas corpus) are not triggered by the trilogy Orders. *Id.*

62. Subsection 4(a) provides catchall language, but even that is limited to “any case on review.” *Id.*

63. There was nothing on review to trigger the issuance of the substantive trilogy Orders. Granted, Movant's Motions are now properly before this Supreme Court for review challenging the Court's authority.

64. This Supreme Court lacked jurisdiction to enter each of the trilogy Orders, March 20, April 3 and April 7, 2020. The March 17 Order is a valid supervisory order.

D. Lack of Judicial Authorship

65. None of the trilogy Orders identified the name or contained a signature of a Justice of the Supreme.

66. Purportedly the Supreme Court Clerk made and entered the entire trilogy Orders as only her name and signature were listed on the Orders.

67. The Clerk is not authorized to issue Orders.

68. The trilogy Orders were not attributable to a Justice as its author and signatory, therefore they are and always have been void and unenforceable.

IV. Explanatory Suggestions—Trilogy Orders

In this section, we analyze and debunk application of the laws on which this Supreme Court purports to rely. Supervisory authority does not authorize the March 20, April 3 & April 7, 2020, Orders. The Illinois Speedy Trial Act does not authorize the Orders. Instead, the Orders violate the Illinois Speedy Trial Act and due process.

A. Illinois Constitution

i. Article VI, Section 16 (The Judiciary)

69. Although the United States Constitution is the benchmark controlling all aspects of speedy trial rights, we begin with this Court's stated authority for its March 20 & April 7, 2020, Orders, namely the State Constitution and the Illinois Act.

70. Neither set of laws authorizes the Illinois Supreme Court to override the United States Constitution, which is exactly what this Honorable Court has attempted to do. Such acts ineluctably lead to anarchy. This is especially so where the end cost is a palpable threat of death.

71. *Article VI*, Section 16 provides in total:

Administration — General administrative and supervisory authority over all courts is vested in the Supreme Court and shall be exercised by the Chief Justice in accordance with its rules. The Supreme Court shall appoint an administrative director and staff, who shall serve at its pleasure, to assist the Chief Justice in his duties. The Supreme Court may assign a Judge temporarily to any court and an Associate Judge to serve temporarily as an Associate Judge on any Circuit Court. The Supreme Court shall provide by rule for expeditious and inexpensive appeals.

72. Notably, Section 16 expressly provides for “supervisory authority.” It does not provide for “legislative authority.” Nor could it.

73. This Court’s supervisory authority, bountiful though it is, merely empowers this Court to supervise lower Illinois courts to ensure those courts follow the law. Section 16 does not empower this Court to enact law.

ii. *Article II (Separation of Powers)*

74. Article II provides, “The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another.” *Id.*

75. The separation of powers provisions of Article II bars vesting in the judiciary branch the power to create or modify laws, even in cases of extreme emergencies, as we appear to have with COVID-19.

iii. *Article I, Section 8 (Speedy and Public Trial)*

76. In relevant part, Section 8 provides, “In criminal prosecutions, the accused shall have a speedy and public trial.”

77. Thus, Illinois defendants have the right to a speedy trial. There is no provision allowing a court to delay speedy trial based on public interests.

78. As we established above, there simply is no law in Illinois authoring this Supreme Court to bypass federal and Illinois due process and speedy trial rights.

79. This Court is limited to ensuring compliance with existing laws.

80. Emergencies like the COVID-19 pandemic do not alter these constraints.

B. Illinois Speedy Trial Act, 725 ILCS 5/103-5

81. The Illinois Act certainly does not provide that authority.

82. The March Order states, “In the case of criminal proceedings, any delay resulting from this emergency continuance order shall not be attributable to either the State or the defendant for purposes of section [the Illinois Speedy Trial Act].” *Exhibit 3*.

83. The April 7, 2020, Order has similar language as recounted above in paragraph 8, but worst because there is no time limit on the April Order.

84. Both Orders purport to allow Chief Judges across the State to toll the speedy trial clock based on COVID-19.

85. The speedy trial term is not tolled and cannot be tolled due to a Court’s inability to function. Fault is not the issue; Courts are not at fault for a world pandemic. Function, not fault, is the requirement.

86. Criminal court’s must function and remain open for criminal trials, or prosecutions must close along with the closed courts. The Sixth Amendment demands it (“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.” *U.S. Const. amend. VI*).

87. In relevant part, the Illinois Act provides that defendants in custody “shall be tried … within 120 from the day he or she was taken into custody unless delay is occasioned by” one of the exceptions delineated below. *725 ILCS 5/103-5(a), Exhibit 4 (Illinois Speedy Trial).*³

88. Similarly, defendants “on bail or recognizance shall be tried … within 160 days from the date defendant demands trial unless delay is occasioned by” one of the exceptions delineated below. *725 ILCS 5/103-5(b).*

89. The exceptions for both pretrial detainees and bonded defendants are the same.

90. Those exceptions are specific, limiting permissible delays to the follows:

- i. by the defendant,
- ii. by an examination for fitness ordered under Section 104-13 of this Act,
- iii. by a fitness hearing,
- iv. by an adjudication of unfitness to stand trial,
- v. by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or
- vi. by an interlocutory appeal. *Id.*

91. Subsection (c) provides to the trial court authority, on a fact specific case-by-case basis, to grant the State an additional 60 days to obtain material evidence and to grant the State an additional 120 days to secure DNA evidence material to the case. *Id.*

92. Subsection (c) does not and could not apply to the March 20 and April 20, 2020, Orders. In any event, this Supreme Court did not purport to enter the Orders pursuant to that subsection.

93. Paragraphs 89-91 list the only mechanisms for delays or adding time under the speedy trial term. None of them allow an emergency tolling of the Illinois Act.

³ We provide the entirety of the Illinois Speedy Trial Act. We do so because in our argument we state that certain language is not included in the entirety of the Illinois Act.

94. Rather, unless the defendant agrees otherwise, expressly or implicitly, all delays have to be attributable to either the State or the defendant.

95. This Supreme Court's attempt to delays that are not attributable to the State is simply unauthorized and unenforceable.

96. This Court cannot create a new category of delays based on emergencies.

97. The power to add another category for speedy trial delays rests entirely with the legislative branch of Illinois, despite world events.

V. Explanatory Suggestions—Federal Law

In this Section we continue are challenge to the trilogy Orders. We analyze federal law, starting with select provisions of the United States Constitution. We explain the limits and lack of authority it places on all State Courts.

A. Violation of U.S. Const. amend. VI (Speedy Trial).

98. The Sixth Amendment of the U. S. Constitution demands that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." *U.S. Const. amend. VI.* This Court lacks any authority to abridge or otherwise circumvent that Constitutional guarantee.

99. The Orders do not mention the U.S. Constitution nor contains the words speedy trial act, collectively or individually.

100. Instead, as explained above both Orders materially manipulate application of the Illinois Act in a manner that offends the Illinois Act and the Sixth Amendment.

B. Violation of U.S. Const. amends. V & XIV (Due Process)

101. Due process protections are so important and cherished that they are covered twice in the Constitution.

102. The V Amendment provides: "No person shall ... be deprived of life, liberty, or property, without due process of law." *U.S. Const. amend. V.*

103. The XIV Amendment states in part: "No State shall ... deprive any person of life, liberty, or property, without due process of law." *U.S. Const. amends. XIV.*

104. The operative language in both is that neither the government nor the State of Illinois can deprive a person of liberty without due process.

i. Due process demands, "process," not inertia

105. Due process is expansive. It is a *process*; not a single right. It also is a collection of rights as opposed to a single right.

106. In other words, due process encompasses multiple rights that require a "process," meaning method, development, progression, activity, route, and etcetera.

107. Central among these is that there must be action, development, and progression. It is intuitive that without progression a detainee is already being punished. In Movant's case, he has served 5.5 years under the most harsh and restrictive conditions the County has in its arsenal, the particulars of which are inhumane and pathetically allowed despite the repeated and vocal pleas by Movant and his attorney George Jackson III, for judicial intervention.

108. Pausing for sixty days is the opposite of these actions and directly violates our Constitutional mandate for progression and development. Zero progression cannot be process, let alone due process.

ii. No trials means no prosecution

109. There are no jury trials, jury of bench.

110. Even if the courts could muster 12 jurors the trial would not be public. Closed trials violate an accused's rights under the U.S. Constitution, amendment VI.

111. More relevant, the Illinois Constitution, Section 8, states, "the accused shall have...a speedy public trial." *Ill. Const. Art I, sect. 8.*

112. This Supreme Court cannot place criminal trials in abeyance. This bar is especially offensive to pretrial detainees who are told that the State is taking an undetermined amount of days from the life of every detainee and those days are gratuitous and irrelevant to the matters for which they have been charged.

113. Let us not confuse what this Supreme Court has done with delays had while some other aspect of the due process locomotive commutes.

114. An appeal, the continued gathering of evidence, medical or mental examinations for fitness, and the like, all of these are progressions towards the trial itself. In these instances, a defendant's case is not inert.

115. The trilogy Orders do none of that. There is no progression whatsoever.

116. We submit that due process is the major impediment sounding the invalidity of the trilogy Orders; the violation occurred the moment this Court entered the Orders. Combined, the Orders put an impenetrable brick wall halt to any criminal process, let alone due process in Illinois.

117. By contrast, speedy trial violations are determinations to be made later when the speedy trial term has expired or is expiring. The question of whether speedy trial violations exist is not ripe—generally speaking.

118. Except here, the Order takes the novel preemptive measure of authorizing Chief Judges to somehow rule in advance that the “emergency delay,” as it were, is not attributable to State.

119. All delays under the Illinois Act are attributable to the State unless the defendant caused or agreed to the delay, neither of which has happened concerning the trilogy Orders.

iii. No ability to defend and probable cause

120. Defendants cannot defend themselves against the charges filed against them, which charges are based on nothing more than probable cause.

121. Probable cause should not be an avenue to death.

122. Movant and his fellow pretrial detainees suffer punishment equivalent to “imprisonment.” They have been and are being punished without having been convicted of anything.

iv. Simple solution, dismiss charges or grant bond

123. The solution is by no means complex or elusive. It is simple.

124. Dismiss all pending charges against all defendants, pursuant to the U.S. Constitution Amendments V, VI, and XIV, the Illinois Constitution, Art. I, sect 8, and the Illinois Speedy Trial Act.

125. The issue would be determining which dismissals would be with prejudice.

126. Movant’s dismissal must be with prejudice given his continuous detention since January 15, 2015, a running total of 1,916 days of incarceration.

127. The counterbalance to dismissal is not arguments about the strength of the State's case or the seriousness of the allegations. These are unproven and the purpose for the trial.

128. Rather, the Constitutionally mandated focus is on the State's inability to try *its* case. The State's inability for trial in the face of a defendant who is available and demands trial falls squarely on the State.

129. Reliance on the seriousness allegations is self-serving for the State and shielded by the inability to try the case.

130. Pretrial detainees are placed in an untenable and indefensible posture.

131. The State unilaterally obtained the charges without the accused being present and without the accused being able to offer a single utterance in defense.

132. Now armed with a one-sided unilateral obtained document, that being the formal charging document, the State seeks undetermined detention.

133. The pretrial detainees cannot defend themselves because the bar to trials. They find themselves in *purgatory*—a state of being in-between, locked away while waiting for a future event with no indication of when it may come. Neither free nor convicted. Yet, housed in more confined quarters and with less liberties than convicted felons.

134. The State, on the other hand has been rewarded because of world trauma, human suffering, and social vulnerability.

135. By this Supreme Court's trilogy Orders, the State is able to ignore completely our Founding Fathers' determination that all people formally accused of crimes in these United States shall have a speedy trial and the protections of due process.

136. Anthony Jackson objects to the delays referenced and demands, respectfully, that those delays are attributable to the State pursuant to the Illinois Speedy Trial Act.

137. In short, due process demands a jury trial if desired by the defendant.

138. Anthony Jackson DEMANDS trial.

139. Dismiss charges. Alternatively, release all pretrial detainees on bond.

140. Movant and fellow pretrial detainees do not waive their State and federal rights by accepting bond, as bond is no solution to violations of their rights.

141. Bond is far better than the treat of death. The bond for Movant must be on his own recognizance. He cannot afford anything else after being incarcerated for a tenth of his life during the immediately past 5-plus years.

VI. Impact and Threat of COVID-19

142. The stated impetus for each Order was the COVID-19 disease. Hence, we discuss COVID-19, stress how prolonged this pandemic may last, and stress the dangers to Cook County jail guards, employees, and pretrial detainees.

143. Mankind lacks empirical data and attendant knowledge about COVID-19. The pathogen Coronavirus has been around since at least November 16, 2002, when it first manifested in China as the precursor to SARS (Severe Acute Respiratory Syndrome).

144. Coronavirus has been with us since that time, though apparently dormant since 2004.⁴

145. The Coronavirus and its resulting COVID-19 disease have a commanding foothold on Mankind, worldwide. The virus strives and mutates to survive. Hence, the

⁴ <https://www.google.com/search?q=2003-2004+SARS+Pandemic&oq=2003-2004+SARS+Pandemic&aqs=chrome..69i57.17127j0j1&sourceid=chrome&ie=UTF-8>.

measures Mankind employed in 2002-04 to contain SARS lack the same containing power now, even when amplified through social distancing.

146. For nearly 16 years Coronavirus was dormant. During its dormancy the virus changed in China, a petri dish country that is secretive about revealing its virus ills. China is overly saturated with humanity itself straining ardently to survive.

147. Coronavirus resurfaced in China and has produced a vengeful COVID-19 (Coronavirus Disease-2019). We know little about this beast, how it progresses from a virus to a deadly disease, why it progresses (meaning what triggers the progression), whether the progression is in the individual host and then transmitted as a disease to a new host, or as akin to HIV and AIDS, the virus is spread to a new host and develops into a disease in the new host.

148. It matters. If we knew of the manners of contracting we could prevent healthcare professionals and providers from contracting when servicing others. We have not done so and cannot do so.

149. Our strategy to stop the spread of COVID-19 has been by social distancing (separating). We hope the disease dries up.

VII. Cook County Jail

150. The situation is worse in Cook County jail, which is where Movant is detained and has been for 5.5 years, *over his repeated objections*. There is no distancing in place, according to a detainee who fears retaliation from the County. He/she states that complaints by pretrial detainees of feeling ill and coughing are ignored.

151. The Cook County State's Attorney can swiftly end this COVID-19 jailhouse onslaught. She has the authority to temporarily dismiss charges releasing the

pretrial detainees and thereby freeing in its wake Cook County court and jail workers from direct exposure from each other and from the pretrial detainees.

152. The time is ideal to release the pretrial detainees. The streets are virtually empty as Cook County residents largely remain indoors, as does the rest of mankind.

153. The President of the County said it most aptly: "Jails in this country are petri dishes. They're the government equivalent of nursing homes or cruise ships." "It's very difficult in a jail to maintain social distancing." *Toni Preckwinkle*, Cook County Board president.⁵

154. This failure to protect its detainees from COVID-19 violates the 14th Amendment's right to be free of punishment without due process of law.

155. Prison officials have a duty to protect inmates from dangers of which the prison officials are aware, even if not the cause of the dangers, because correction officials have stripped them of virtually every means of self-protection. *Richko v. Wayne County, Michigan*, 819 F.3d 907, 915 (6th Cir. 2016)(internal quotations omitted); *Farmer v. Brennan*, 511 U.S. 825, 833 (1994).

156. The County, via its President, knowing the dangers that pretrial detainees face, and having admitted the County cannot adequately protect the pretrial detainees from COVID-19, have adopted a policy and engaged in a custom and practice to knowingly expose the pretrial detainees to COVID-19.

157. The County holds pretrial detainees in an environment and condition of recycled air when the County is well aware it is highly likely that the pretrial detainees will contract COVID-19. This is quintessential *deliberate indifference*, and it is punitive.

⁵ <https://www.cnn.com/2020/04/07/us/illinois-jail-coronavirus-death/index.html>

158. The only way for the County to protect its staff and its pretrial detainees is to release the pretrial detainees.

VIII. Hold Trials or Dismiss Charges

159. We submit this Supreme Court misdirected its mighty judicial thrust concerning this pandemic. The Court targeted the accused by allowing the State to maintain its charges without progressing toward trial.

160. This *charge-and-sit-still* formula violates at least five separate applicable laws, for the reasons stated above:

- a. The U.S. Const. 6th amend. speedy trial provision (“shall enjoy the right to a speedy and public trial”);
- b. The Illinois Const. speedy trial provision (“shall have a speedy and public trial”);
- c. The Illinois Speedy Trial Act (shall be tried within 120 or 160 days);
- d. The U.S. Constitution 5th amend. *due process* provision (cannot deprive liberty without due process); and
- e. The U.S. Constitution 14th amend. *due process* provision (cannot deprive liberty without due process)

161. These laws require us to protect pretrial detainees’ rights.

162. While it certainly would not be popular to do so, dismiss the charges.

163. Alternatively immediately resume court and have jury trials.

164. Do not underestimate the will and perseverance of our peers to gallantly answer the call to serve. We just held elections with scores (read: millions) of masked citizenry bravely standing in long glacially paced lines to vote.

165. Citizens will serve on juries.

166. Do not discount the ingenuity of our Courts to safely hold court with Plexiglas partitions, air purifiers, protective clothing and distancing, among other protections.

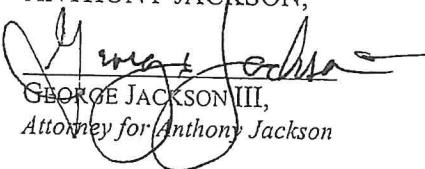
167. Our judicial commanders and functioning courts are essential, just as our Doctors and functioning hospitals are essential.

168. Failing all else, release all pretrial detainees on bond.

WHEREFORE, Anthony Jackson moves this Court to: Vacate its Orders of March 20, April 3, & April 7, 2020; Order that delays caused by the inability of the Court to hold jury trials and otherwise operate fully counts against the State under the Illinois Speedy Trial Act; Order the dismissal of all pending charges against all pretrial detainees and further order that any remaining pretrial detainees are to be released on bond pending trial; Order that all pretrial detainees released pursuant to this Order are to be quarantined in a safe noncustodial location.

Respectfully submitted,
ANTHONY JACKSON,

By:


GEORGE JACKSON III,
Attorney for Anthony Jackson

April 14, 2020

Date

George Jackson III

DRED SCOTT LLP

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ATTORNEY CERTIFICATION AND CERTIFICATE OF SERVICE

I, GEORGE JACKSON III, certify that the statements set forth in this document are true and correct, and that on April 14, 2020, I caused the foregoing

**Motion to Vacate March 20, April 3, & April 7, 2020 Orders
Entered without Legal Authority**

to be submitted for filing using the Court's electronic filing system. I further certify that I caused the individuals listed below to be served at their respective electronic mail addresses as listed below.

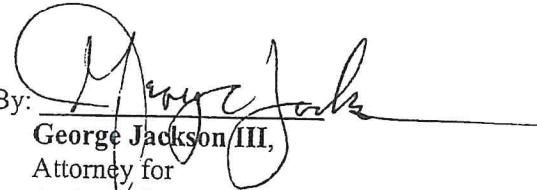
I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.

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Honorable Ursula Walowski
Judge, Circuit Court of Cook County
2600 South California Ave.
Chicago, Illinois 60608
Via U.S. Regular Mail

April 14, 2020
Date

By: 
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IN THE
SUPREME COURT OF ILLINOIS

In re:)
Illinois Courts Response to)
COVID-19 Emergency) M.R. 30370
)
)

Order

On March 9, 2020, Governor Pritzker declared a State of Emergency in response to the novel coronavirus (COVID-19). On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency. Pursuant to the general administrative and supervisory authority vested in the Supreme Court under Article VI, Section 16 of the Illinois Constitution, Illinois appellate and circuit court procedures and orders entered in response to this ongoing threat of COVID-19 shall be consistent with the following guidelines in order to protect the health and safety of court patrons, staff, judges and the general public:

- A. All Illinois courts shall continue to establish and periodically update, as necessary, temporary procedures to minimize the impact of COVID-19 on the court system, while continuing to provide access to justice. These procedures shall be consistent with each appellate and circuit court Emergency Preparedness Continuity of Operations Plan (EP-COOP) and its operational plan for essential court functions. Each court shall immediately provide its orders and other communications on temporary procedures to the Supreme Court through its Administrative Office of the Illinois Courts. The Supreme Court Communications Office will post information on the Court's website.
- B. Essential court matters and proceedings shall continue to be heard by the Illinois courts. If feasible and subject to constitutional limitations, essential matters and proceedings shall be heard remotely via telephone or video or other electronic means.
- C. All non-essential court matters and proceedings should be continued or, where possible, conducted remotely via telephone or video or other electronic means.
- D. Subject to constitutional limitations, all courts, in any civil or criminal case, may:
 1. Modify or suspend any deadlines and procedures, whether prescribed by local rule or order, for a stated period ending no later than 30 days after the Governor's state of emergency declaration has been lifted.

2. Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, by teleconference, videoconference, or other means.
 3. Require every participant in a proceeding to alert the court if the participant has or knows of another participant who has been diagnosed with COVID-19.
 4. Take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.
- E. Until further order, the Supreme Court temporarily suspends the operation of any Supreme Court Rules to the extent they are contrary to any provisions of this order.
- F. Individuals, including judges, court staff, parties, attorneys, jurors and witnesses, should not enter any courthouse if they:
1. Have traveled, within the last 21 days, to any country designated by the United States Centers for Disease Control (CDC) as high-risk locations for transmission of COVID-19;
 2. Reside or have close contact with anyone who has traveled to any country designated by the CDC as high-risk locations for transmission of COVID-19;
 3. Have been directed to quarantine, isolate or self-monitor at home by any medical provider;
 4. Have been diagnosed with, or have had close contact with anyone diagnosed with, COVID-19; or
 5. Have flu-like symptoms including fever, cough or shortness of breath.
- G. All courts should implement temporary reductions in courthouse staffing while maintaining core functions and essential court operations. Temporary suspension or relaxation of leave policies may be necessary. To the extent feasible, court staff able to conduct work remotely should do so.

Order entered by the Court.



IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the seal
of said Court, this 17th day of March,
2020.

Carolyn Taft Gosboll
Clerk,
Supreme Court of the State of Illinois

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
THIRD AMENDED GENERAL ORDER 20-0012**

April 24, 2020

IN RE: CORONAVIRUS COVID-19 PUBLIC EMERGENCY

Given the public health emergency arising from the COVID-19 pandemic, and consistent with guidance and orders from federal executive authorities, the State of Illinois, and local governments, it is hereby ORDERED:

Amended General Order 20-0012, entered on March 17, 2020; General Order 20-0014, entered on March 20, 2020; and Second Amended General Order 20-0012, entered on March 30, 2020, are vacated and superseded by this Third Amended General Order. To protect the public health and welfare, the United States District Court for the Northern District of Illinois hereby orders, effective April 24, 2020:

Court Remains Open

1. This Court remains open and accessible, subject to the limitations and procedures set forth below.

Civil Cases

2. Amended General Order 20-0012 extended by 21 days all deadlines, in all civil cases and Executive Committee matters, whether set by the court, the Federal Rules of Civil Procedure, or the Local Rules. Second Amended General Order 20-0012 extended all deadlines in civil cases and Executive Committee matters by an additional 28 days. Those extensions were subject to the exceptions set forth in Paragraph 2 of Second Amended General Order 20-0012. This Third Amended General Order extends all deadlines in civil cases and Executive Committee matters by an additional 28 days. This further extension is subject to the following exceptions:

- a) This Third Amended General Order does **not** affect the rights to or deadlines concerning any **appeal** from any decision of this Court in a civil case. That is, the deadlines for filing a notice of appeal in a civil case remained in place and had to be followed to preserve appellate rights. The Court invited parties to move under Appellate Rule 4(a)(5)(A) for an extension of time to appeal. If a timely extension motion is filed, then the Court deems that good cause exists for the extension given the public health emergency. Parties should note that any extensions of the appeal deadlines in civil cases are subject to the limits imposed by Appellate Rule 4(a)(5)(C), and that the Court cannot grant a second extension under Appellate Rule 4(a)(5).
 - b) This Third Amended General Order does **not** grant an extension of any deadlines imposed by Civil Rules 50(b) or (d), 52(b), 59(b), (d), or (e), or 60(b). See Fed. R. Civ. P. 6(b)(2).
 - c) For good cause, the presiding judge may—on the judge's own motion or on a party's motion—extend, shorten, or revoke the 28-day extension granted by this Third Amended General Order 20-0012, or any extension granted by Amended General Order 20-0012 or Second Amended General Order 20-0012.
3. Civil case hearings, bench trials, and settlement conferences scheduled for on or before May 29, 2020 are stricken, to be re-set by the presiding judge to a date on or after June 1, 2020. Any party may request, by motion to the assigned judge, that a telephonic hearing or settlement conference (by remote means) be conducted prior to May 29, 2020. Any such request shall specify the need and time urgency for the telephonic hearing or conference. This exception is not intended to invite requests for routine status hearings.
4. Civil jury trials scheduled for on or before June 26, 2020 are stricken, to be re-set by the presiding judge to a date on or after June 29, 2020.

5. In any civil case (other than Social Security disability appeals, cases involving an unrepresented person in custody, and Multi-District Litigation tag-alongs) where no docket entry or order has been posted by the assigned judge since March 16, 2020, the parties shall file a joint written status report by May 18, 2020. The report, which shall be as concise as possible, shall address: (a) the progress of discovery; (b) the status of briefing on any unresolved motions; (c) settlement efforts. In addition, the report shall: (d) provide an agreed proposed schedule (or alternative proposals) for the next 45 days; (e) provide an agreed proposed revised discovery and dispositive motion schedule (or alternative proposals) in cases where the current schedule needs revision; (f) request any agreed action that the Court can take without a hearing; and (g) state whether the parties believe a telephonic hearing with the judge is necessary and time urgent, and, if so, identify the issue that warrants discussion. Before preparing and filing a report, the parties should consult the assigned judge's webpage for any further guidance; for example, a judge may wish to relieve the parties of the obligation to file a status report in that judge's cases, or some identifiable sub-set of cases.

Criminal Cases

6. The Court recognizes and respects the right of criminal defendants, particularly those in pretrial detention, to a speedy and public trial under the Sixth Amendment. That said, the public health emergency requires that the following procedures be implemented in criminal cases:
 - a) All criminal case proceedings, whether in the Eastern or Western Division, that cannot be continued will be conducted in the Eastern Division by emergency district judges designated by the Chief Judge.
 - b) Grand juries shall continue to meet, with reasonable limits on grand jury sessions imposed by the Court in consultation with the U.S. Attorney's Office.

- c) Under Criminal Rule 4.1, a judge may review by reliable electronic means, rather than in person, a complaint, application for search warrant or trap/trace/pen register, application for wiretap, or application for any other warrant or order.
- d) Under Section 15002(b)(1) of the CARES Act, Pub. L. 116-136, 134 Stat. 281, the Chief Judge of this Court authorizes the use of videoconferencing, or teleconferencing if videoconferencing is not reasonably available, for the following proceedings, so long as the defendant gives written or verbal consent after consultation with counsel:
 - i. Detention hearings under 18 U.S.C. § 3142;
 - ii. Initial appearances under Criminal Rule 5;
 - iii. Preliminary hearings under Criminal Rule 5.1;
 - iv. Waivers of indictment under Criminal Rule 7(b);
 - v. Arraignments under Criminal Rule 10;
 - vi. Probation and supervised release revocation hearings under Criminal Rule 32.1;
 - vii. Pretrial release revocation hearings under 18 U.S.C. § 3148;
 - viii. Appearances under Criminal Rule 40;
 - ix. Misdemeanor pleas and sentencing under Criminal Rule 43(b)(2); and
 - x. Juvenile proceedings under Title 18, Chapter 403, except for contested transfer hearings, juvenile delinquency adjudication, or trial proceedings.
- e) A defendant who does not object to detention shall, before the scheduled detention hearing, notify the emergency judge orally (through counsel) or in writing that the defendant has no objection to detention. The decision to not object is without prejudice to the defendant's right to later challenge detention and seek pretrial release.

- f) All supervised release revocation hearings scheduled for on or before May 29, 2020 are continued and will be rescheduled by the presiding judge to a date on or after June 1, 2020, unless the defendant, defense counsel, the United States Probation Office, or the United States Attorney's Office notifies the emergency judge that a hearing before June 1, 2020 is necessary.
- g) All plea hearings and sentencing hearings scheduled to begin on or before May 29, 2020 are continued and will be rescheduled by the presiding judge to a date on or after June 1, 2020, unless the defendant, defense counsel, or the United States Attorney's Office notifies the emergency judge that circumstances justify holding the plea or sentencing hearing before June 1, 2020. If the parties agree to invoke Section 15002(b)(2)(A) of the CARES Act to conduct a felony plea hearing or felony sentencing hearing by videoconferencing or teleconferencing, they shall notify the emergency judge, who will consult with the Chief Judge and the presiding judge regarding the findings required by Section 15002(b)(2)(A). Felony plea hearings and felony sentencing hearings may be held remotely by teleconferencing only if videoconferencing is not reasonably available.
- h) The court finds that the period of any continuance entered from the date of this Third Amended General Order through June 15, 2020 as a result of this Order shall be excluded under the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(A). The court finds that the ends of justice served by the exclusion of time outweigh the interests of the parties and the public in a speedy trial given the need to protect the health and safety of defendants, defense counsel, prosecutors, court staff, and the public by reducing the number of in-person hearings to the greatest extent possible. This period of exclusion extends for 14 days beyond the resumption of criminal hearings on June 1, 2020, because each judge will

require a reasonable time to review and to reset case schedules after June 1, 2020.

- i) Criminal jury trials scheduled for before June 26, 2020 are stricken, to be reset by the presiding judge to a date on or after June 29, 2020. This continuance is necessary because criminal jury trials require: (i) the gathering of a large number of persons in the Jury Department; (ii) at least 12 jurors seated in the courtroom to hear evidence; (iii) 12 jurors to deliberate in the jury room; and (iv) five to six weeks' notice in advance of trial to summon jurors. The advance-notice requirement makes any earlier date impractical because it is not known what large-gathering guidelines will be in place. Social-distancing guidelines might render juror participation difficult or unsafe, including during juror check-in and jury selection. For these same reasons, in cases impacted by this trial continuance, the Court excludes time under the Speedy Trial Act through June 29, 2020, because the ends of justice outweigh the interests of the parties and the public in a speedy trial.
- j) All other criminal hearings, including bench trials, scheduled for on or before May 29, 2020 are stricken, to be re-set by the presiding judge to a date on or after June 1, 2020.
- k) The prior Amended and Second Amended General Orders extended by 21 days and then by an additional 28 days all deadlines, including motions, briefing, and discovery deadlines, whether set by the court, the Federal Rules of Criminal Procedure, or the Local Rules. To the extent that governing statutes and rules allow, this Third Amended General Order extends all deadlines in criminal cases by an additional 28 days. The presiding judge, on a case-by-case basis and for good cause, may extend, shorten, or revoke any extension granted by this Third Amended General Order. The parties are cautioned that the prior versions of

General Order 20-0012 did **not** affect the rights or deadlines concerning any **appeal** from any decision of this Court, except as noted in those General Orders; nor did the prior versions affect any deadlines under Criminal Rule 35. See Fed. R. Crim. P. 45(b)(2). Likewise, except as noted in this Third Amended General Order, this Order does **not** affect the rights to or deadlines concerning any **appeal** from any decision of this Court or any action requested under Criminal Rule 35. Thus, the deadlines for filing a notice of appeal or seeking relief under Criminal Rule 35 remain in place and must be followed to preserve appellate rights. If the prior Amended General Orders extended an appeal deadline, no further extensions are permitted. See Fed. R. App. 4(b)(4). For appeal deadlines that have arisen after March 30, 2020, on its own motion and pursuant to Appellate Rule 4(b)(4), and in light of the public health emergency, the Court (i) finds that good cause exists in every criminal case to extend the time to appeal for 30 days from the expiration of the time otherwise prescribed in Appellate Rule 4(b), and (ii) extends the appeal deadline in those criminal cases by 30 days.

Emergency Relief in Any Case or from this Order

7. Any party may seek emergency relief in any case or from this Second Amended General Order. In addition to filing the emergency motion in the case in which emergency relief is sought, the party must file the motion in Case No. 20-cv-01792, which is a docket created to receive emergency motions filed under this Second Amended General Order. The emergency motion must be filed (i) electronically via CM/ECF if possible or (ii) for non-e-filers, via email as outlined in Paragraph 13. If neither CM/ECF nor email is available to a party, then the party may deposit the emergency motion in a courthouse drop-box or mail the motion as provided in Paragraphs 9 or 10, but parties are warned

that mail is not being processed on a regular basis. The emergency motion will be considered as soon as practicable by the presiding judge, an emergency judge, or the Chief Judge.

8. For an emergency matter, as defined by Local Rule 77.2(a)(3), that arises during business hours (Monday through Friday 7:00 a.m. through 6:00 p.m.), the party shall send an e-mail describing the emergency to Emergency_Judge@ilnd.uscourts.gov. The Clerk will monitor the mailbox and send a response. If an emergency matter arises outside of business hours, the party shall call (312) 702-8875, leave a message describing the emergency, and provide a return telephone number. The Clerk will return the call.

Clerk's Office and Filing Options

9. The District Court Clerk's Office in the Dirksen United States Courthouse in Chicago, Illinois, is closed to public entry through May 29, 2020. Filings in the Eastern Division may be: (1) electronically filed via CM/ECF; (2) deposited in the drop-box in the lobby of the Dirksen Courthouse during business hours; or (3) mailed to the U.S. District Court Clerk's Office, 219 South Dearborn Street, 20th Floor, Chicago, IL 60604, although mail is not being processed on a regular basis. If a filing is mailed by a prisoner, the traditional "mail box" rule shall govern its filing date. Given the public health emergency and the current inability of the Clerk's Office to process mail in the ordinary course, if a filing is mailed by a non-prisoner, the filing date shall be deemed to be the postmark date, subject to any party's right to move that a different date be used. No in-person deliveries of any kind may be made to a judge's chambers or to the Clerk's Office.
10. The District Court Clerk's Office in the Stanley J. Roszkowski United States Courthouse in Rockford, Illinois, is closed to public entry through May 29, 2020. Filings in the Western Division may be: (i) electronically filed via CM/ECF; (ii) deposited in the drop box located on the 2nd floor of the Roszkowski United States Courthouse during

business hours; (iii) mailed to U.S. District Court Clerk's Office, 327 South Church Street, Rockford, IL 61101, although mail is not being processed on a regular basis; or (iv) deposited in the drop box in the lobby of the Dirksen Courthouse during business hours. If a filing is mailed by a prisoner, the traditional "mail box" rule shall govern its filing date. Given the public health emergency and the current inability of the Clerk's Office to process mail in the ordinary course, if a filing is mailed by a non-prisoner, the filing date shall be deemed to be the postmark date, subject to any party's right to move that a different date be used. No in-person deliveries of any kind may be made to a judge's chambers or to the Clerk's Office.

Suspension of Local Rules 5.2(f) and 5.3(b)

11. The Court suspends Local Rule 5.2(f), which requires in many instances that paper courtesy copies of filings be delivered to the judge, through June 1, 2020. This means that no courtesy copies may be submitted for filings made through June 1, 2020.
12. Although parties may continue to file non-emergency motions, the Court suspends Local Rule 5.3(b), which otherwise requires that all motions be noticed for presentment. For non-emergency motions, no motion may be noticed for presentment on a date earlier than June 1, 2020. For notices of presentment on and after June 1, 2020, **parties must consult each judges' presentment schedule** because the Court likely will operate on a modified motion-hearing schedule that alternates the days on which judges will hold a motion call.

Email Filing Option for Pro Se Parties

13. The Court suspends through May 29, 2020 the prohibition against pro se parties emailing their filings to the Clerk's Office. From now through May 29, 2020, the Court will accept filings from pro se litigants via email that comply with these requirements: (i) the filing must be in PDF format; (ii) the filing must be signed s/ [filer's name] or bear a handwritten signature; (iii) the email must be sent to Temporary_E-

Filing@ilnd.uscourts.gov; (iv) the email must state the party's name, address, and phone number; (v) for existing cases, the email's subject line must read: "Pro Se Filing [Insert Your Case Number]", and for new cases, the email's subject line must read: "Pro Se Filing in New Case". E-mails that do not comply with these requirements will not be reviewed and will not be considered a proper filing.

Suspension of Public Gatherings

14. All public gatherings are suspended through June 8, 2020 at both the Everett McKinley Dirksen U.S. Courthouse in Chicago and the Stanley J. Roszkowski U.S. Courthouse in Rockford. This includes, but is not limited to, group tours and visits, moot courts and mock trials, bar group meetings, seminars, and naturalization ceremonies. Also suspended are Second Chance reentry court proceedings, SOAR Court, Veterans Treatment court proceedings, and Petty Offense (CVB) proceedings. Notwithstanding this suspension, court proceedings allowed by another provision of this Order may take place.

Additional Provisions

15. This Third Amended General Order does not affect the authority of judges to enter orders in any civil or criminal cases. The parties **must consult** individual judges' websites for any modifications to the case-management requirements of this Order.
16. The Court will vacate, amend, or extend this Third Amended General Order no later than May 26, 2020.
17. The Clerk of Court shall distribute this Third Amended General Order: by electronic service on all registered CM/ECF users; by electronically posting the Order on the Court's public website; by making printed copies available at the entrances of the Dirksen and Roszkowski Courthouses. In addition, the Clerk of Court shall send a copy of this Order, either electronically or by mail, to the Illinois Department of Corrections (IDOC), all IDOC prison or detention facilities, the Illinois Department of Human Services

Division of Mental Health Treatment and Detention Facility, and all county jails in this District; the warden, sheriff, or director of each **prison**, jail, or detention facility is directed to use reasonable means to notify persons incarcerated or detained therein of this Order and to allow access to this Order. In addition, the Clerk of Court shall docket this Order in each open civil case (with the exception of Multi-District Litigation tag-along cases) and each open criminal case. Printed copies will not be mailed to non-CM/ECF users due to the heavy burden such mailings would place on the Clerk's Office.

ENTER:

FOR THE COURT:



Chief Judge

Dated at Chicago, Illinois this 24th day of April 2020