No. _____

IN THE
Supreme Court of the United States

NATHANIEL KAIN HOOKER,

Petitioner,

v.

PEOPLE OF THE STATE OF
ILLINOIS,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Third Judicial District

PETITION FOR WRIT OF CERTIORARI

By: */s/ Nathaniel KainHooker*
Pro Se

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QUESTIONS PRESENTED FOR REVIEW

This case presents an important issue concerning the proper application of Illinois Criminal Procedures and the Sixth Amendment Right to Effective Counsel, coupled with the original right to Petition (according to Lord Coke), as well as the Second Amendment Right to Bear Arms, which is undoubtedly the Right to Defend Oneself.

DID THE CIRCUIT COURT OF WILL COUNTY ERRONEOUSLY DEPRIVE THE DEFENDANT OF HIS SIXTH AMEDNMENT RIGHT TO COUNSEL DURING HIS CRIMINAL PROCEEDINGS?

Since this High Court's decision in Gerstein v. Pugh, 420 U.S. 103 (1975), stating that, the Fourth Amendment places a right to a defendant, to a Probable Cause Hearing before a neutral Magistrate, the Illinois Criminal Procedures have consistently failed to uphold to the standard of the Sixth Amendment Right to Counsel laid out in Gerstein and echoed in Rothgery v. Gillespie County, 554 U.S. 191 (2008), "[a] criminal defendant's initial appearance before a magistrate judge, where he learns the charge against him and his liberty is subject to restriction, marks the initiation of adversary judicial proceedings that trigger attachment of the Sixth Amendment right to counsel. Attachment does not also require that a prosecutor (as distinct from a police officer) be aware of that initial proceeding or involved in its conduct. Pp. 5–20."

Unlike in Rothgery v. Gillespie County, which defines an adversarial proceeding, simply as, "[a] criminal defendant's initial appearance before a magistrate judge, where he learns the charge against him and his liberty is subject to restriction", Illinois unconstitutionally misapplies Gerstein v. Pugh, as almost a boilerplate statement, and safe word, that if invoked, mutes, and buttresses an individual's Sixth Amendment Right to effective Assistance of Counsel (emphasis at "effective"). Currently, Illinois applies the Sixth Amendment as follows: "The sixth amendment of the United States Constitution provides defendant with the right to counsel or appointed counsel. U.S. Const., amend VI. This right attaches at or after the initiation of adversarial proceedings. Kirby v. Illinois, 406 U.S. 682, 688-89 (1972); People v. Garrett, 179 Ill. 2d 239, 247 (1997). To determine whether the court infringed on defendant's right to counsel,

we must first decide if the proceeding at issue was adversarial, and thus entitled defendant to representation."

Instead of pointing to this High Courts Authority as laid out in Rothgery v. Gillespie County, 554 U.S. 191 (2008), which agreed with Michigan v. Jackson, 475 U. S. 625, 629, Brewer v. Williams, 430 U. S. 387, 398–399, and McNeil v. Wisconsin, which all noted the Sixth Amendment Right to Assistance of Counsel (emphasis on uppercase "Assistance of Counsel"), applies at "an initial appearance following a charge, and this signifies a sufficient commitment to prosecute regardless of a prosecutor's participation, indictment, information, or what the County calls a "formal" complaint", Illinois utilizes Gerstein v. Pugh, while ignoring Rothgery v. Gillespie County, to initiate an arraignment, whereby they can sidestep the Sixth Amendment Right to Counsel, by including in that "arraignment", a probable cause/Gerstein Hearing, and therefore labeling the proceeding as "not a critical stage", citing incorrectly Gerstein, 420 U.S. at 122.

The Sixth Amendment states verbatim: "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." Throughout the entirety of the language of the Sixth Amendment, in can be noted that there are only four words that are capitalized, the beginning word "In", which is due to english grammar, the word "State", which again is due to english grammar as the word "State" represent a proper noun. The remaining two words are taken as a phrase, "Assistance of Counsel", which is given here as a proper noun, which can be restated as "Lawyer". As such, the Sixth Amendment Right to Counsel places as a right to every citizen, the munition, and arms, as laid out in the Second Amendment Right, to protect oneself, a "Lawyer" at all times during criminal proceedings. It is not as Illinois specifies it, being the Sixth

Amendment only applies during "critical stages" categorized as critical by the court, since this philosophy cannot be applied axiomatically throughout the language of the Sixth Amendment. Could a court reasonably argue that a defendant after being arrested could constitutionally and legally be stripped of his right to enjoy a speedy or public trial? Is it possible for the state or court to impose upon the accused a partial jury of a different State and district where the crime was committed? The same logic applies to Assistance of Counsel, especially given the brevity of capitalizing "Assistance of Counsel" as well as including the words "In all criminal prosecutions". The purpose of the Sixth Amendment Right is not just to cement the right of a citizen to counsel during all criminal proceedings, but to buttress acts of malfeasance, misconduct, partiality, ethical violations, and to maintain proper court decorum, and Rule of Law.

An attorney in the United States is an Officer of the Court, and as such, an oath of allegiance must be taken, Ex parte Garland, 71 U.S. 333 (1866). Mr. Hamilton, in the seventy-eighth number of the Federalist, says that he agrees with the maxim of Montesquieu, that 'there is no liberty if the power of judging be not separated from the legislative and executive powers.' As such, the purpose of "Assistance of Counsel", is to maintain due process in the courts, by holding all parties, and all governmental bodies to the strict adherence of the Rule of Law. The Founding Fathers, prescribed the necessary procedures for a criminal proceeding laid out in the Sixth Amendment, and to ensure its successful completion, mandated Assistance of Counsel is necessary in order to ensure an accused can enjoy all the rights listed in the Sixth Amendment (Due Process).

The Court's resolution of these issues would not only resolve the direct conflict with Illinois Criminal Procedures and the Sixth Amendment Right to the "Assistance of Counsel", but would provide the much-needed guidance on how to determine when an accused shall enjoy those rights listed within the Sixth Amendment, during a criminal prosecution. It is respectfully submitted that this petition presents an ideal vehicle to clarify the scope of the Sixth Amendment Clause to the right to counsel, namely, "to have the Assistance of Counsel for his defense".

LIST OF PARTIES

Petitioner, Nathaniel Kain Hooker, was the defendant in the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, and the appellant in the Appellate Court of Illinois Third Judicial District, as well as the appellant in the Illinois Supreme Court. Respondent, the People of the State of Illinois, was the plaintiff in the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois and the appellee in the Appellate Court of Illinois Third Judicial District, as well as the appellee in the Illinois Supreme Court

TABLE OF CONTENTS

Questions Presented for Review i

List of Parties iv

Table of Contents v

Table of Authorities vi

Petition for a Writ of Certiorari 1

Opinion and Order Below 1

Statement of Jurisdiction 1

Relevant Statutory Provisions 2

Relevant Constitutional Provisions 3

Statement of the Case 4

Reasons for Granting the Writ 7

A. There exists confusion within the Illinois Judiciary on what qualifies as a "critical stage" in the criminal process, for the attachment of the Sixth Amendment Right to the effective Assistance of Counsel 7

B. 725 ILCS 5/109(a-5) is procedural and therefore retroactive 9

Conclusion 11

Appendices

Order for Free Transcripts and Appointment of the Office of the State Appellate Defender as Counsel on Appeal
Nathaniel K. Hooker v. People of the State of Illinois, 17-CM-594 ..... A

Decision of the Appellate Court of Illinois Third Judicial District,
Nathaniel K. Hooker v. People of the State of Illinois, 3-17-0597 ..... B

Order Denying Petition for Leave to Appeal to the Illinois Supreme Court,
Nathaniel K. Hooker v. People of the State of Illinois, 125709 C

TABLE OF AUTHORITIES

Cases **Page(s)**

Gerstein v. Pugh, 420 U.S. 103 (1975).....i, ii, 4, 7

Rothgery v. Gillespie County, 554 U.S. 191 (2008).....i, ii, 1, 7, 10

Kirby v. Illinois, 406 U.S. 682, 688-89 (1972).....i, 7, 9

People v. Garrett , 179 Ill. 2d 239, 247 (1997).....i, 7

Michigan v. Jackson, 475 U. S. 625, 629).....ii, 9

Brewer v. Williams, 430 U. S. 387, 398–399.....ii, 9

McNeil v. Wisconsin.....ii

People v. Garrett , 179 Ill. 2d 239, 247 (1997).....i, 7

Ex parte Garland, 71 U.S. 333 (1866).....iii

People v. Mitchell, 366 Ill. App. 3d 1044, 1048 (2006).....7

States v. Salerno, 481 U.S. 739, 751 (1987).....7

People v. Abernathy, 399 Ill. App. 3d 420, 426 (2010).....7

Hurrell-Harring v. State, 930 N.E.2d 217, 223 (N.Y. 2010).....7

Gonzalez v. Comm'r of Correction, 68 A.3d 624, 63536 (Conn.), cert. denied, 134 S. Ct. 639 (2013).....7

Ditch v. Grace, 479 F.3d 249, 253 (3d Cir. 2007).....7

State v. Fann, 571 A.2d 1023, 1026 (N.J. Super. Ct. Law Div. 1990).....7

State v. Detter, 260 S.E.2d 567, 583 (N.C. 1979).....7

Missouri v. Frye, 132 S. Ct. 1399, 1405 (2012).....8

Coleman v. Alabama, 399 U.S. 1 (1970).....8

United States v. Wade, 388 U.S. 218 (1967).....8

Hamilton v. Alabama, 368 U.S. 52 (1961).....8

People v. White 395 Ill. App. 3d 797, 819 (Ill. App. Ct. 2009).....9

TABLE OF AUTHORITIES- cont'd

Cases -- Continued **Page(s)**

Hunter, 2017 IL 121306, ¶ 15, 422 Ill.Dec. 791, 104 N.E.3d 358 9

In re H.L., 2015 IL 118529, ¶ 6, 400 Ill.Dec. 631, 48 N.E.3d 1071.....9

Landgraf v. USI Film Products , 511 U.S. 244, 114 S.Ct. 1483, 128 L.Ed.2d 229 (1994).....9

Commonwealth Edison Co. v. Will County Collector , 196 Ill. 2d 27, 255 Ill.Dec. 482, 749 N.E.2d 964
(2001).....9, 10

People ex rel. Alvarez v. Howard , 2016 IL 120729, ¶ 19, 410 Ill.Dec. 960, 72 N.E.3d 346.....9

People v. Ruiz (1985), 107 Ill.2d 19, 22, quoting Black's Law Dictionary 1367 (4th ed. 1951)...10

Ogdon v. Gianakos (1953), 415 Ill. 591, 596.....11

Chicago and Western Indiana Railroad Co. v. Guthrie, 192 Ill. 579.....11

Peoples Store of Roseland v. McKibbin, 379 Ill. 148.....11

Board of Education v. City of Chicago, 402 Ill. 291.....11

People v. Clark, 283 Ill. 221.....11

Therens v. Therens, 267 Ill. 592.....11

Fleischman v. Walker, 91 id. 318.....11

Statutes

28 U.S.C. § 1254(1) 2

Illinois Public Act 100-1, § 1-10 (eff. Jan. 1, 2018) 8

725 ILCS 5/109-1(a)(a-5).....3, 6, 8, 10, 11

TABLE OF AUTHORITIES- cont'd

Constitutional Articles and Amendments ..... **Page(s)**

Ill. Const. art. VI, §1, 9 1

Ill. Const. art. VI, §6 1

Ill. Const. art. VIII 10

U.S. Const. amend. XIV 2, 10

U.S. Const. amend. VI ..... i, ii, iii, 2, 7, 10

U.S. Const. amend. IV i

U.S. Const. amend. II ..... ii, 2

Rules

S. Ct. Rules, Part III 2

S. Ct. Rule 13.1 2

Other

U.S. Supreme Court Order – March 19, 2020 2

Bail Reform Act of 1984 7

PETITION FOR A WRIT OF CERTIORARI

Nathaniel Kain Hooker respectfully petitions this Court for a writ of certiorari to review the Supreme Court of Illinois denial of his petition for leave to appeal on the issue of whether his Sixth Amendment Right was violated, when the circuit court erroneously arraigned the defendant without the assistance of counsel for his defense, in light of this Court's decision in Rothgery v. Gillespie County, 554 U.S. 191 (2008).

OPINION AND ORDER BELOW

The Supreme Court of Illinois denial of Mr. Hooker's petition for leave to appeal No. 125709 is included in the Appendix at A.

STATEMENT OF JURISDICTION

The Circuit Court of the Twelfth Judicial Circuit had original jurisdiction over Mr. Hookers' criminal case pursuant to Ill. Const. art. VI, §1, 9. On September 8, 2017, a notice of appeal was filed on defendant's behalf and the Office of the State Appellate Defender was appointed to represent him. On October 9, 2019, The Appellate Court of Illinois Third Judicial District, according to their jurisdiction found at Ill. Const. art. VI, §6, affirmed the Circuit Court's Order. On November 1, 2019, Mr. Hooker submitted a Motion for Extension of Time to File Petition to Reconsider. On November 4, 2019, the Third District Appellate Court granted the extension until December 4, 2019. On December 3, 2019, Mr. Hooker proceeded *Pro Se*, and filed a Petition for Rehearing *En Banc*, with the Third District Appellate Court. On December 16, 2020, the Third Appellate Court denied the Rehearing *En Banc*, and modified their original order. On January 3, 2020, Mr. Hooker filed a Prayer for Leave to Appeal with the Illinois Supreme Court. After several returned Petitions, Mr. Hooker successfully submitted his Motion with Leave to Appeal, listing his Petition for Leave to Appeal as an exhibit, on January 24, 2020. On February 29, 2020 Mr. Hooker filed his Petition for Leave to Appeal with the Illinois Supreme Court, which was accepted on March 11, 2020. On May 27, 2020,

the Illinois Supreme Court denied Mr. Hookers' Petition for Leave to Appeal. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254(1) and Part III of the Rules of the Supreme Court of the United States. This petition is timely pursuant to Supreme Court Rule 13.1, and U.S. Supreme Court Order issued on Thursday, March 19, 2020, extending the deadline to file a petition for writ of certiorari 150 days from the date of the lower court's judgement/order.

RELEVANT CONSTITUIONAL PROVISIONS

This case involves the application of the Rule of Law, as applied to Illinois Criminal Prosecutions.

U.S. Const. amend. XIV.

The Fourteenth Amendment to the United States Constitution provides, in relevant part: "No State shall ... 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." U.S. Const. amend. XIV, § 1.

U.S. Const. amend. VI.

The Sixth Amendment to the United States Constitution states: "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. II.

A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

RELEVANT STATUATORY PROVISIONS

725 ILCS 5/109-1

(a) A person arrested with or without a warrant shall be taken without unnecessary delay before the nearest and most accessible judge in that county, except when such county is a participant in a regional jail authority, in which event such person may be taken to the nearest and most accessible judge, irrespective of the county where such judge presides, and a charge shall be filed. Whenever a person arrested either with or without a warrant is required to be taken before a judge, a charge may be filed against such person by way of a two-way closed circuit television system, except that a hearing to deny bail to the defendant may not be conducted by way of closed circuit television.

(a-5) [1] A person charged with an offense shall be allowed counsel at the hearing at which bail is determined under Article 110 of this Code. If the defendant desires counsel for his or her initial appearance but is unable to obtain counsel, the court shall appoint a public defender or licensed attorney at law of this State to represent him or her for purposes of that hearing.

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[1] Effective January 1, 2018, the statutory language at (a-5) was added by Public Act:

> "A person charged with an offense shall be allowed counsel at the hearing at which bail is determined under Article 110 of this Code. If the defendant desires counsel for his or her initial appearance but is unable to obtain counsel, the court shall appoint a public defender or licensed attorney at law of this State to represent him or her for purposes of that hearing."

STATEMENT OF THE CASE

On March 14, 2017, defendant was charged by criminal complaint with domestic battery, a Class A misdemeanor, for making contact with his spouse, Jaclynn Hooker (C4).

Also on March 14, 2017, defendant appeared before Judge Arkadiusz Smigielski (R3). The court read the charge and the possible penalties (R3). It asked defendant to plead to the charges (C3), for which the defendant plead not guilty (C24), and if the defendant intended to hire a lawyer, which the defendant responded in the affirmative (R3).

The court stated that it would be proceeding through a multitude of hearings, (1) first, the court would advise defendant of the nature of the charges, (2) second, the court would determine whether there was sufficient probable cause to detain defendant, which the court termed a *Gerstein* hearing (R3-4). *Gerstien v. Pugh*, 420 U.S. 103 (1975), (3) third, the court would set the defendant bail/bond terms, (4) fourth, the court would confine the defendant to the local jail, (5) fifth, the court would confiscate the defendants FOID card and his firearms at his residence, (6) sixth, the court set an Order of Protection into effect, baring the defendant from his spouse, children, and place of residence (R5-6).

The court determined that the State provided a factual basis for the charge (R4-5). The court found probable cause and set bond (R5-6). As part of the bond, the court imposed a no contact order and prohibited defendant from returning to the residence which he bought using his VA home loan. Because the defendant was barred from his place of residence, the court allowed the defendant to reside in Michigan while on bail, ordered the defendant to surrender his firearm owner's identification card, and ordered the New Lenox police to enter the defendants home and seize his firearms (R7-9).

On April 11, 2017, before Judge Edward Burmilia, attorney Isioma Ebiringah entered his appearance (C8; R13-14), and represented the defendant throughout the remainder of the

proceedings.

On July 10, 2017, defendant waived his right to a jury trial (C9; R20-21). At defendant's bench trial, held on August 16, 2017, the court found that there was evidence showing that there was a disagreement between the defendant and Jaclynn regarding Jaclynn having taken personal information off of the defendants phone, and the defendant requesting this information back and be erased from Jaclynn's phone (R34-38, 71-75). Defendant pushed Jaclynn in self-defense in the chest, because after Jaclynn agreed to give the defendant her phone, the defendant was attacked by Jaclynn (R38-40, 46-47, 59-60, 79). After the defendant gave Jaclynn her phone back, and she went outside and called her friends and father, she called the police. The responding officer testified that he saw a red mark on Jaclynn's chest (R62, 64). The court found defendant guilty for having touched Jaclynn (R106-108).

Sentencing immediately followed the bench trial (R108). Defendant was a special disabled veteran, Hillsdale College graduate, attending Northern Illinois University for his Master's in Education. The defendant and his wife Jaclynn had just adopted their niece, because Jaclynns's sister was killed tragically. The defendant had no criminal history (R71, 109). The court sentenced defendant to 12 months' conditional discharge and ordered him to serve 4 days in jail (C13; R109-11).

On September 8, 2017 a notice of appeal was filed on defendant's behalf, and the Office of the State Appellate Defender was appointed to represent him (C16-17). The Third Appellate Court affirmed the Circuit Courts Order on October 9, 2019.

Immediately following the Third Appellate Courts Order, the defendant filed a Pro Se motion for a Rehearing *en banc*, noting that multiple errors occurred in the axioms of both the Appellate and Circuit Courts Orders, showing that the defendant was denied counsel during critical stages, especially during a bail/bond hearing.

The Third Appellate Court acknowledge that a bail/bond hearing took place, but still held to their initial judgement, that the defendant did not have the right to counsel, and additionally, that 725 ILCS 109(a-5) was instituted by public act almost a year after the defendant was found guilty, and therefore, the defendant did not have a statutory right to an attorney at the bail/bond hearing.

The Defendant then followed the Rehearing *en banc* with a Petition for Leave to Appeal to the Illinois Supreme Court, stating that he was deprived of his right to counsel during critical stages of the criminal process. On May 27, 2020, the Illinois Supreme Court denied Mr. Hookers' Petition for Leave to Appeal. This Writ of Certiorari follows.

REASONS FOR GRANTING THE WRIT

A. There exists confusion within the Illinois Judiciary on what qualifies as a "critical stage" in the criminal process, for the attachment of the Sixth Amendment Right to the effective Assistance of Counsel.

The defendant respectfully requests to inform this High Court, that on March 14, 2017, as outlined on the judgment affirmed by the Third Appellate Court, at least two separate hearing took place, (1) a Probable Cause/Gerstien Hearing, People v. Mitchell, 366 Ill. App. 3d 1044, 1048 (2006) (citing Gerstein v. Pugh, 420 U.S. 103, 114 (1975)), as well as (2) a bail/bond hearing, States v. Salerno, 481 U.S. 739, 751 (1987), which is controlled by the Bail Reform Act of 1984, and outlines the need for counsel since it is a critical step in the judicial proceedings, and is adversarial in nature, Rothgery v. Gillespie County, Texas. (554 U.S. 191 (2008), (R5:18-R6:13, R7:3-5).

The U.S. Const., amend VI attaches at or after the initiation of adversarial proceedings. Kirby v. Illinois, 406 U.S. 682, 688-89 (1972); People v. Garrett , 179 Ill. 2d 239, 247 (1997). To determine whether the court infringed on defendant's right to counsel, it must first be decided if the proceeding at issue was adversarial, and thus entitled defendant to representation, which should be reviewed de novo, People v. Abernathy, 399 Ill. App. 3d 420, 426 (2010). As outlined by New York and other states, the question of bail has already been answered, "[t]here is no question that 'a bail hearing is a critical stage of the State's criminal process." (Hurrell-Harring v. State, 930 N.E.2d 217, 223 (N.Y. 2010).) The Connecticut Supreme Court also found that the defendant's bail hearing is a critical stage. (Gonzalez v. Comm'r of Correction, 68 A.3d 624, 63536 (Conn.), cert. denied, 134 S. Ct. 639 (2013).). Even before Rothgery, bail hearings were found to be critical stages of trial by courts in Pennsylvania, New Jersey, and North Carolina. (See Ditch v. Grace, 479 F.3d 249, 253 (3d Cir. 2007); State v. Fann, 571 A.2d 1023, 1026 (N.J. Super. Ct. Law Div. 1990); State v. Detter, 260 S.E.2d 567, 583 (N.C. 1979).) This makes sense.

Critical stages of trial include all pretrial proceedings where a lawyer's presence can assist the defendant. (See Missouri v. Frye, 132 S. Ct. 1399, 1405 (2012) (plea negotiations); Coleman v. Alabama, 399 U.S. 1 (1970) (preliminary hearings); United States v. Wade, 388 U.S. 218 (1967) (post indictment lineups); Hamilton v. Alabama, 368 U.S. 52 (1961).

Further, the "critical step" or "adversarial nature" of a bond/bail hearing is emphasized and cemented by the addition of 725 ILCS 5/109(a-5), that was initiated and made effective by Illinois Public Act 100-1, § 1-10 (eff. Jan. 1, 2018). 725 ILCS 5/109(a-5) does not make a bail/bond hearing a "critical step", or "adversarial in nature", but is instituted for the reason that, a bail/bond hearing is separate from a probable cause hearing and is not under the umbrella of a Gerstein Hearing, which attaches no counsel to the defendant, however, moving from a probable cause hearing to a bail/bond hearing, requires the appointment of counsel, because it is both adversarial and a critical step.

As outlined by the Third Appellate Court in their judgement:

> "The next part of the hearing, sir, will be what's called a Gerstein hearing. The State is going to provide me with a very brief statement of facts so that I can determine if there is sufficient probable cause for your detention. If I find there is probable cause for you to be detained, we're then going to proceed to a bond hearing."

As outlined by the transcripts and noted by the Third Appellate Court, two separate hearings took place, "a Gerstein hearing", proceeded "to a bond hearing", of which the latter of the two is both "adversarial" and "critical" in nature as defined by this courts decisions. However, Mr. Hooker stipulates, that so also is the Gerstein Hearing, both "critical", and "adversarial" in nature. The bail/bond hearing is critical in nature as noted by the U.S. Supreme Court, since where no attorney is present to represent the defendant, there is no one who can

present evidence to the magistrate to demonstrate that the defendant is not a threat to public safety and should be released pending trial, or that the defendant has ties to the community such that he will most assuredly appear at all court proceedings, or that the defendant does not have any resources with which to pay bail money. The United States Supreme Court has held that the right to counsel attaches at a defendant's initial appearance in court to face charges, Brewer, 430 U.S. at 397-98, 51 L. Ed. 2d at 436, 97 S. Ct. at 1239, Jackson, 475 U.S. at 633, 89 L. Ed. 2d at 640, 106 S. Ct. at 1409. Once that right attaches, counsel must represent the defendant at every critical stage of trial see Kirby v. Illinois. The initial bail hearing is a critical stage of trial because a lawyer can show the magistrate why the defendant is likely to appear at future proceedings, why the defendant is unlikely to be a danger, and why conditions of release are suitable and do not punish the defendant for lack of money. This is not something unrepresented defendants can do. As in all other pretrial proceedings that the Supreme Court has applied the Sixth Amendment right to counsel, lawyers are necessary at initial bail hearings, People v. White 395 Ill. App. 3d 797, 819 (Ill. App. Ct. 2009).

B. 725 ILCS 5/109(a-5) is procedural and therefore retroactive.

The interpretation of a statue and the determination of its temporal reach present questions of law that should be reviewed de novo, Hunter, 2017 IL 121306, ¶ 15, 422 Ill.Dec. 791, 104 N.E.3d 358 ; In re H.L., 2015 IL 118529, ¶ 6, 400 Ill.Dec. 631, 48 N.E.3d 1071. The retroactivity analysis is premised on that set forth by the United States Supreme Court in Landgraf v. USI Film Products , 511 U.S. 244, 114 S.Ct. 1483, 128 L.Ed.2d 229 (1994), which was adopted by the Illinois Supreme Court in Commonwealth Edison Co. v. Will County Collector, 196 Ill. 2d 27, 255 Ill.Dec. 482, 749 N.E.2d 964 (2001). Hunter, 2017 IL 121306, ¶ 20, 422 Ill.Dec. 791, 104 N.E.3d 358; People ex rel. Alvarez v. Howard , 2016 IL 120729, ¶ 19, 410 Ill.Dec. 960, 72 N.E.3d 346. If the rule is silent as to its temporal reach, the court must determine

whether the rule has a retroactive impact such that it "would impair rights a party possessed when he acted, increase a party's liability for past conduct, or impose new duties with respect to transactions already completed." (Internal quotation marks omitted.) Id. (quoting Howard , 2016 IL 120729, ¶ 19, 410 Ill.Dec. 960, 72 N.E.3d 346, quoting Commonwealth Edison , 196 Ill. 2d at 38, 255 Ill.Dec. 482, 749 N.E.2d 964, quoting Landgraf , 511 U.S. at 280, 114 S.Ct. 1483). Since 725 ILCS 5/109(a-5) does not have a retroactive impact, it may be applied retroactively.

ILCS 725 5/109(a-5), is not a substantive change, but a procedural change, since it does not give a defendant a new right, but merely establishes when that right is to be applied or attached, see Rothgery at 212 n. 15, 128 S.Ct. 2578. The case before this very court, and the appellate court, is a question about when an attorney or counsel is attached to a defendant, and not the right of the defendant to an attorney. In simplistic analysis, counsel is the substance, or the ingredient, which is already given effect at U.S. Const., amend VI, and IL Const., Sect VIII, and the court looks to the Rules of Criminal Procedure to note, when in the course of the judicial mechanism, appointment of counsel is necessary according to precedent and the Due Process Clause, stapled with U.S. Const., amend XIV. The right to counsel is already affixed under the U.S Constitution at VI, as well as the IL Constitution at VIII, ILCS 725 5/109(a-5) merely states via statutory language the procedures and Due Process measures the court must follow when appointing counsel, and not to the right of counsel. The absolute disagreement with the circuit and Third Appellate Court is this very question, "when is counsel required or attached", and not the absolute right to counsel.

In general, procedural law is "`[t]hat which prescribes the method of enforcing rights or obtaining redress for their invasion; machinery for carrying on a suit." (People v. Ruiz (1985), 107 Ill.2d 19, 22, quoting Black's Law Dictionary 1367 (4th ed. 1951).). Further, "[p]ractice means those legal rules which direct the course of proceedings to bring parties into court and the

course of the court after they are brought in." Ogdon v. Gianakos (1953), 415 Ill. 591, 596., in addition, when a change of law merely affects the remedy or law of procedure, all rights of action will be enforceable under the new procedure without regard to whether they accrued before or after such change of law and without regard to whether the suit has been instituted or not, unless there is a saving clause as to existing litigation. (Chicago and Western Indiana Railroad Co. v. Guthrie, 192 Ill. 579; Peoples Store of Roseland v. McKibbin, 379 Ill. 148; Board of Education v. City of Chicago, 402 Ill. 291.), and 725 ILCS 5/109(a-5) states no saving clause, and therefore is only procedural in nature and therefore is retroactive.

The word "procedure" includes in its meaning whatever is embraced by the three technical terms — pleading, evidence and practice. Practice, in this sense, means those legal rules which direct the course of proceedings to bring parties into court and the course of the court after they are brought in. (People v. Clark, 283 Ill. 221.) The word "practice" is used as meaning that which regulates the formal steps in an action or other judicial proceeding. Bouvier's definition of "practice" is, "the form, manner and order of conducting and carrying on suits or prosecutions in the courts through their various stages, according to the principles of law and rules laid down by the respective courts." (Therens v. Therens, 267 Ill. 592; Fleischman v. Walker, 91 id. 318.).

CONCLUSION

If Nathaniel Kain Hookers' judicial criminal proceedings, namely his probable cause and bond hearing qualify as "critical", or "adversarial" in nature, and appointment of counsel was necessary under this courts prior decisions, Mr. Hooker was improperly denied his Right to Due Process of Law. And notably, the questions raised by Mr. Hooker will have far-reaching impact not only for other Illinois defendants, but also for defendant throughout the country given the recent magnitude of change required by a probable cause hearing being mandated as constitutionally required by this High Court in Gerstein v. Pugh. Furthermore, this case addresses Illinois erroneous application

of the mandated probable cause hearing, which Illinois adopts a rule that a Probable Cause hearing is neither "critical" nor "adversarial". This is an excellent case for certiorari for these reasons. The Court should grant the writ of certiorari in this case.

Respectfully Submitted,

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Pro Se

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