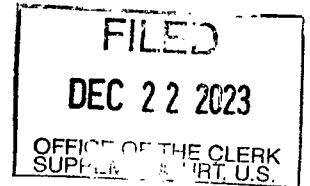


23-6659 ORIGINAL

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

EDWARD LOGAN — PETITIONER
(Your Name)

vs.

PEOPLE OF THE STATE OF ILLINOIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE APPELLATE COURT OF ILLINOIS, FIRST JUDICIAL DISTRICT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Edward Logan ID# B82917
(Your Name)

(Address)

(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

How can a State enact and use an Act, that by its own vagueness, can be interpreted to deny "Any" criminal defendant the right to a speedy trial under the United States Constitutional Speedy Trial Right, all the while, having a very similar Act that entitles criminal defendants not only the right to a Constitutional speedy trial, but also a Statutory Speedy Trial, therefore, violating a criminal defendants rights to both a Constitutional speedy trial and a Fourteenth amendment right of the Equal protection clause of the United States Constitution?

How can the State use a State constructed Statute (Rape Shield Statute) to deny a criminal defendant the constitutional right to confront his accuser because the defendant could not show the court what the answers to the unanswered questions would have been "IF" the defendant was allowed to properly confront the complaining witness to find out the answers to the needed questions?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

People V. Spurlock, 388 Ill. App. 3d 365, 903 N.E. 2d 874, 328 Ill. Dec. (2009)

People V. Masterson, 2011 IL 110072 (2011)

People V. BeShears, 65 IL App. 2d 446 (1965)

Allen V. Illinois, 478 U.S. 364 (1986)

People V. Trainor, 196 Ill. 2d 318 (2001)

People V. Hill, 289 Ill. App. 3d 859, 864, 683 N.E. 2d 188, 225 IL. Dec. (1997)

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was 9-19-2022.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 9-29-2023, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitutional Speedy Trial.
Illinois Speedy Trial Statute - 725 ILCS 5/103-5 (A) (West 2014).
Sexually Dangerous Persons Act - 725 ILCS 205/0.01 (West 2014).
Sexually Violent Persons Act - 725 ILCS 207/0.1 (West 2014).
United States Constitutional Equal Protection Clause.
United States Constitutional Right to Confront your accuser.
Illinois Rape Shield Statute - 725 ILCS 5/115-7 (A) (West 2012).

STATEMENT OF THE CASE

The Illinois Sexually Dangerous Persons Act (SDPA) and the provisions that govern the procedural application of the Act, are vague and ambiguous, which denied this defendant both his right to a Constitutional Speedy Trial and his Constitutional right to the Equal Protection Clause of the Fourteenth amendment, therefore, making the Act unconstitutional.

The issues that pertain to this petition, that the defendant argued on appeal, are a legal question that no Illinois Court has made clear or precise to remove the vagueness or the ambiguities that render the SDPA unconstitutional and denied this defendant a fair CRIMINAL proceeding.

The Trial Court and the State Prosecutor relied on the holdings found in *People V. Spurlock*, 2009 IL App (5th) 5070161 (2009), that the filing of a petition under the SDPA (725 ILCS 205/0.01 et. Seq. (West 2010)), tolled any Statutory Speedy Trial term on the SDPA proceeding and the underlying criminal charges that served as the basis for the SDP proceeding. The Spurlock Court did hold that their decision does not leave defendants without speedy trial protections, where the court reasoned that "Although the accused does not have a statutory right to a speedy trial, the accused has a constitutional right to due process

and due process includes a right to a speedy trial in the sexually dangerous persons proceedings." [omitted] This is a right conferred by the United States Constitution. Although the constitutional speedy trial right is not as specific as the Statutory Speedy trial right, it is nonetheless a protection against arbitrary and oppressive delays during the pendency of the sexually dangerous persons proceeding." *Spurlock*, 2009 IL App (5th) 5070161 (2009).

The Defendant argues that the *Spurlock* decision, that both the trial court and the appellate court used to deny this defendant any Speedy trial protections, denies this defendant, and every person facing SDPA proceedings, a constitutional right to the equal protection clause of the fourteenth amendment of the United States Constitution, and if the appellate court would have properly decided the *Spurlock* case, the decision and precedent set in *Spurlock* would not have been able to be used to deny this defendant, any of his constitutional rights. The *Spurlock* court improperly reasoned the Speedy trial Statute as it applied to that case, along with the SDP proceedings, where *Spurlock* demanded trial on the criminal proceeding while causing delay in the SDP proceeding, that the State continually requested, with the court, to docket and set for a hearing before the speedy trial term would have expired on the defendant's demand for trial, but the most logical decision should have been that because the SDPA is "in lieu of a criminal prosecution," that both the criminal and SDPA proceedings are to be run in a linear process with the SDP petition being addressed first as the act requires.

The Appellate Court in this case held that both the criminal and the SDP proceedings were one (1) continuous process, and because the SDP counsel, in this case, agreed to the continuances, it was delay attributable to the defendant. (725 ILCS 5/103-5(A) Logan, 2022 IL App (1st) 190021-U, which actually applies the Speedy Trial Statute to the defendant's SDP proceeding, a contradiction to the Spurlock decision, and now poses a legal question that this court should feel compelled to address and answer.

The delay caused by Spurlock during his SDP proceedings was a delay attributable to the defendant (725 ILCS 5/103-5(a)) and that delay should have tolled "ANY" Speedy Trial Term, NOT the SDPA, the State did not need more time, nor was there any chance that it could not have effectively proceeded with the SDP proceeding within the 120 day trial term that defines the Speedy Trial Statute. Spurlock caused his own delay, and that delay should have tolled his speedy trial term on the underlying criminal proceeding, so there was no need for the appellate court, that decided Spurlock, to write in a tolling provision that the legislature never wrote into either the SDPA, or the Speedy Trial Statute. (725 ILCS 5/103-5). The Defendant now argues that the Spurlock court set a precedent that effectively denies every criminal defendant, who the State may choose, a constitutional right to the equal protection clause and a Statutory Speedy Trial right. This argument was never presented to the Supreme Court as its legal logic would not have furthered any argument in the Spurlock case, therefore, being moot for Spurlock.

The Defendant asserts that the Sexually Violent Persons Commitment Act (SVPA) 725 ILCS 207/1 (West 2000) affords a respondent both a probable cause hearing (207/30(b)), and a 120 day trial term, (207/35(A)), under the Speedy Trial Statute. (725 ILCS 5/103-5(a)(West 2014)). These provisions are not included in the SDPA, which makes the SDPA and its provisions vague and ambiguous compared to the SVPA which denies any defendant facing SDP proceedings, the constitutional right to the equal protection clause of the Fourteenth amendment of the United States Constitution, and at least the same protections afforded to a SVPA respondent.

This Defendant argued against the Spwlock decision during his direct appeal, but the appellate court held that the issue in the defendant's case was delay attributable to the defendant as trial counsel agreed to all the continuances that was challenged on appeal, the very reason the Spwlock court should have held, instead of adding a tolling provision to the SDPA, that it actually reasoned, was a right that a respondent in a SDP proceeding was not entitled to because of the civil nature of the SDPA. The Spwlock Court set a precedent that strips a defendant facing SDP proceedings of any Statutory Speedy Trial rights, while the appellate Court in this defendant's case, broadened the SDPA well beyond its intended purpose of treatment and rehabilitation, which effectively denies this defendant any right to due process, and the equal protection clause of the Fourteenth amendment.

The Defendant contends that because both the SDPA and the SVPA are governed under the same Code of Civil Procedures (735 ILCS 5/11-101 et seq. (West 2010)), there is no rational basis to treat individuals charged under the SDPA, any differently than those charged under the SVPA, as it pertains to both a right to a probable cause hearing (725 ILCS 207/30(b) (2000)) and a 120 day trial term (725 ILCS 207/35(a) (2 West 2005)) that is afforded to individuals during SVPA proceedings, were 207/30(b) holds that, whenever a petition is filed under Section 15 of this act, the court shall hold a hearing to determine whether there is probable cause to believe that the person named in the petition is a sexually violent person. If the person named in the petition is in custody, the court shall hold a probable cause hearing within 72 hours after the petition is filed, excluding Saturdays, Sundays and legal holidays. The Court may grant a continuance of the probable cause hearing for no more than 7 additional days upon the motion of the respondent, for good cause. The SVPA further provides (207/35(a)) that a trial to determine whether the person who is the subject of a petition under Section 15 of this Act is a sexually violent person shall commence no later than 120 days after the date of the probable cause hearing under Section 30 of this Act. Delay is considered to be agreed to by the person unless he or she objects to the delay by making a written demand for trial or an oral demand for trial on the record. Delay occasioned by the person temporarily suspends for the time of the delay the period within which a person must be tried. (207/35(A) 2000)

Any continuances granted shall be subject to Section 103-5 of the Code of Criminal Procedure of 1963. (725 ILCS 5/103-5 (a) (west 2014) The Speedy Trial Statute, the same provisions that the Spurlock Court should have reasoned and held in their decision, instead of adding a provision that has never been written into either the SDPA or the Speedy Trial Statute.

Even though it is arguable if an individual facing SDPA proceedings are similarly situated to individuals facing the SVPA proceedings, as several courts have held, including the Supreme Court in *People v. Masterson*, 2011 IL 110072, where they reasoned that; ⁶ "After carefully comparing the SDPA and the SVPA, we conclude that respondent is not similarly situated to individuals committed under the SVPA. First, in contrast to the SDPA's broad applicability to all criminal offenses, (which this defendant contends only apply to who it can be filed against, not who can actually be adjudged a SDP) the SVPA applies only to a limited number of offenses deemed ¹¹ "Sexually Violent" by the general assembly. Furthermore, the SVPA, unlike the SDPA, expressly requires a conviction, or a trial that ends in a insanity finding, of the most serious type of violent sex crime.

In other words, individuals who are subject to commitment under the SVPA constitute a distinct, and presumably more dangerous group because they have been convicted, or tried but declared insane, of the most serious and violent types of sex offenses. ⁹ *Masterson*, 2011 IL 110072. The Court then went on to state; ⁶ "The two schemes also differ procedurally. As this Court has already determined,

the SDPA provides an alternative to criminal prosecution, while the SVPA provides for commitment in addition to criminal proceedings. *People v. Burns*, 209 Ill.2d 551, 571, 809 N.E.2d 107, 283 Ill. Dec. 914 (2004). Consequently, although the SDPA and the SVPA share a common goal of protecting the public from mentally disordered individuals who present a risk of sex crimes recidivism, and both potentially subject individuals to indefinite commitment, it is nonetheless apparent that they address separate groups of individuals in a manner unique to each group." *Masterson*, 2011 IL 110072.

The Defendant argue that even though most courts look at the individuals in which each act effects, they believe the individuals facing SVPA proceedings are a smaller, more violent group of people. The defendant argues that is something that should be decided on a case by case basis, because "NO" court, not even the Supreme Court in *Masterson*, can say that the acts of sexual assault or the acts of sexual molestation of children "ARE NOT" violent sex crimes, and the defendant points to the SDPA (725 ILCS 205/1.01 west 2010) that all persons suffering from a mental disorder, [committed] coupled with criminal propensities to the commission of sex offenses, and who have demonstrated propensities toward acts of sexual assault or acts of sexual molestation of children. The fact that the respondent in a SDP proceeding would have had to have demonstrated propensities toward acts of sexual assault or acts of sexual molestation of children, proves that the SDPA also requires a conviction for a violent sex crime.

The Court in *People v. Beshears*, 65 Ill. App.2d 446 (1965), held that the testimony of a policeman from the East St. Louis Police Department, that the defendant had been arrested on two prior

occasions for offenses similar to that involved in that case. That evidence was not competent, because evidence of arrests is not competent to prove commission of crime. *Beshears*, 65 Ill. App. 2d 446 (1965), therefore this defendant asserts that an individual being adjudicated under either the SDPA or the SVPA, must have already been convicted of a violent sex crime to prove demonstrated propensities. *Beshears* Court also applied due process and Section 103-5 to its holding.

The Defendant concedes that proceedings under the SDPA does effect a greater possible amount of individuals as the SDPA can be initiated against "ANY" person charged with a criminal offense, Section 3 of the SDPA, and the SVPA can only be initiated against an individual no earlier than 90 days prior to the individual's release from prison. 725 ILCS 207/15 (West 2000). Another reason to bring both Acts in line.

The Defendant asserts that is the reason this court needs to address both the equal protection clause of the SDPA and SVPA, and the *Spurlock* holdings that effectively strips a presumed innocent person (pre-trial), facing "Any" criminal charge, of their 120 day Statutory Speedy Trial right, all the while, individuals who proceed under the SVPA, which this court deem are "more dangerous" than those facing SDP proceedings, they are protected by a Statutory Speedy Trial right that the *Spurlock* Court reasoned, would prevent the court from having enough time to effectively proceed with a SDPA proceeding. The Defendant argues that the legislature that enacted the SDPA in 1938 is not the same legislature that enacted the SVPA on January 1, 1998, 60 years after the SDPA.

Even though the legislature enacted the SVPA to affect individuals who would already be effected by their criminal conviction, and individuals who face SDP proceedings would face those proceedings for possibly any criminal charge, not just a sexually violent offense, it is unimaginable to believe that the legislature, in 1938, would enact a civil commitment procedure that by its vagueness, would deny any criminal defendant their rights to a Speedy trial, and the fact that a more modern legislature who enacted the SVPA felt it was important to write into that act, a probable cause hearing time frame and a 120 day trial term guided by the Illinois Speedy trial statute (725 ILCS 5/103-5 (West 1998)) within the SVPA, there is no rational reason why this court would not want to address the inherent vagueness and ambiguities that plague the Sexually Dangerous Persons Act, that the legislature addressed and corrected within the SVPA when they enacted the SVPA, 60 years after the SDPA was enacted.

There is absolutely no reason why a person who has been convicted of a violent sex crime, who has served all but 90 days of his prison sentence, be better protected by the legislature who wrote into the act, a 120 day trial term that is defined by the Illinois Speedy Trial Statute, 725 ILCS 207/35(A) 2000. While not protecting a pre-trial, presumed innocent, charged with any criminal charge person, those same 120 day trial term that the Spurlock Court held a respondent was not entitled to under the SDPA.

This Court should, at the least, bring the provisions that governs an individuals statutory speedy trial right during a

SDPA proceeding in line with the provisions that protect an individual's 120 day statutory speedy trial right during SVPA proceeding.

It is common sense that the crimes of 1938 are different than the crimes of 1998, and as times change, so should the laws that affect individuals in 2017 (like this defendant) that govern a act from 1938. The 1998 legislature understood that when they wrote a 120 day trial term that's defined by the Statutory speedy trial, into the SVPA,

The Defendant asks this court, the legal question, why are the provisions that guide the SDPA, so vague and ambiguous, and effectively unconstitutional, while the provisions that are written into the SVPA, some 60 years later, so detailed and void of ambiguities that continue to plague the SDPA, and offer a respondent under the SVPA the right to a Statutory Speedy trial were the SDPA does not, especially if, like the Supreme Court in *Masterson* reasoned, that the SVPA only effect a limited group of individuals who have already been convicted of a violent sex offense, and who has served all but 90 days of his prison sentence, while an individual in a SDP proceeding is petitioned against as an alternative to a criminal prosecution? Pre trial detainee's are presumed innocent, so why would a person that is presumed innocent, afforded less rights than those already convicted of a violent sex crime? Please answer or correct this injustice. In *Beshars*, 65 Ill. App.2d 446 (1965), after (3) months and (2) days, the State filed the SDP petition, and the reviewing court determined that not only was his due process right violated, but because he was not prosecuted on the criminal case within 4 months, no remand

was needed. It is perfectly clear from the Beshears decision, that although a defendant may face SDP proceedings, those proceedings do not toll the 120 day speedy trial term, as the Beshears court did not find that an examination under the SDPA met the definition of the competency provisions of the Code that would toll a defendant's speedy trial term.

The Court stated: "The competency provisions of the Code are found in Ch. 38, § 104-1 et seq., and are concerned with the ability of a defendant to understand the nature and purpose of the proceedings against him or his ability to assist in his own defense. This was not the type of psychiatric examination to which Beshears was subjected, even though it is possibly the type of conclusion that was made by Dr. McMahon." Beshears, 65 Ill. App. 2d 446 (1965)

This Defendant asserts that although the Beshears court reversed his SDP finding because of a clear violation to the requirements of due process, its reasoning for no remand on the criminal charges are also just as clear, were the Court held that Beshears filed a motion for discharge on the basis of the four month rule and because he was held in jail for more than four months cannot be prosecuted, and thus cannot serve as the basis for proceeding under the SDPA, no proper legal purpose would be served by remanding this cause. Beshears, 65 Ill. App. 2d 446 (1965). The Beshears court not remanding shows clearly they applied the speedy trial statute to its holding on the underlying criminal charges, proving the ambiguities in the SDPA, where two different courts, from the same district, reasoned the speedy trial statute as it pertains to the SDPA completely differently, as the petition was filed before the 120 trial term expired.

The Beshears Court properly applied due process to the decision to reverse Beshears adjudication under the SDPA, and vaguely applied the Speedy Trial Statute in reasoning not to remand that case back to the circuit court for any criminal proceedings after reversing the SDP proceeding, but until the decision in Spurlock, no court has logically defined the SDPA and the Speedy Trial Statute together and how one could effect the other, even though the Spurlock court used the wrong logic.

The Defendant argues that the SDPA is vague and ambiguous in regards to a Speedy trial protection right and the appellate courts reasoning that this defendant never motioned to dismiss the SDP proceedings and therefore the court never had the opportunity to have the State explain itself, Logan, 2022 IL App (1st) 190021-4, further supports the defendant's argument that a respondent of a SDP proceeding be afforded the same essential protections of the procedural provisions of the SRPA.

Had the SDPA had the provision of a preliminary hearing like a respondent in a SRP proceeding, the defendant's right to a speedy trial would have never been able to be violated and the State would have had to show the court a valid reason for filing the SDP petition against this defendant when it did and for what purpose.

There is no logical reason not to protect a defendant facing SDP proceedings all the while providing more rights to a already convicted violent sex offender who has served all but 90 days of his criminal prison sentence.

The Appellate

courts holding in this case, rendered the Sexually Dangerous Persons Act (SDPA) and its intended purpose, Unconstitutional and the decision was in direct contradiction of cases that have already been decided in the Illinois Supreme Court.

Cases such as *People V. Trainor*, 196 Ill. 2d 318 (2001), *People V. Crane*, 195 Ill. 2d 42 (2001) and *Allen V. Illinois*, 478 U.S. 364 (1986), were the SDPA has been found to protect mentally ill people from being criminally punished for crimes they may have committed while mentally ill, and for the purpose of treatment and rehabilitation.

The SDPA's purpose is twofold: (1) to protect the public by sequestering a sexually dangerous person until such a time as the individual is recovered and released, and (2) to subject sexually dangerous persons to treatment such that the individual may recover from the propensity to commit sexual offenses and be rehabilitated. *People V. Cooper*, 132 Ill. 2d 347, 355, 138 Ill. Dec. 282, 547 N.E. 2d 449 (1989). The Defendant argues that the SDPA was never intended to be used because the unavailability of the State's witnesses or the inability to locate those witnesses, it was never intended to be used as a threat to compel a defendant to plead guilty to a criminal offense, and it definitely was never intended for the purpose of retaliation for a defendant who rejects the State's proposed plea offer in exchange for a criminal conviction. (R.172-73)

But, that's exactly what the State used the SDPA for in

this case, against this defendant, and anything other than treatment and rehabilitation, would be in direct contradiction to the Supreme Courts previous decisions in cases such as Trainor, 196 Ill.2d 318 (2001), and Allen, 107 Ill.2d 91, 89 Ill. Dec. 847, 481 N.E.2d 690, and the legislatures intended purpose that both the SDPA, and SVPA has even wrote into that statute, where a defendant is discharged upon a Jury Finding that he has recovered from his mental disorder that served as the basis for the persons commitment under either act. 725 ILCS 205/0.01 et seq (west 2010), 725 ILCS 207/1 et seq (2000).

The Defendant argues that the Appellate Courts decision to affirm the defendants conviction, based on "judicial speculation, over the facts of the case, "on the record", has by all intents and purposes rendered the SDPA and the legislatures intended purpose, unconstitutional and without any speedy trial rights, whether Constitutionally or Statutorial.

The Supreme Court of Illinois has held the SDPA as constitutional because of the legislative intent to promote "treatment and rehabilitation" in lieu of "punishment, retribution and deterrence. Trainor, 196 Ill.2d 318 (2001).

The Appellate Courts decision in this case is a clear contradiction to the Supreme Courts decision in Trainor, because it validated the SDPA being used because of the unavailability of the State's witnesses, as a coercive tactic to compell the defendant to plead guilty, and as retaliation for the defendant rejecting a preposed plea offer that the State offered when it was unable

to answer ready for trial on the criminal case, even after substantial effort, over three years into the criminal proceeding and several failed trial dates. (R.172-73; C.137-41; R.182)

The Appellate Courts decision in this case has broadened the legislative intended scope of the SDPA to validate the procedures used by the State prosecutor against this defendant in order to affirm the defendants conviction, even after finding the defendant was prejudiced by the delay that was caused by the State's eleventh hour switch from a criminal proceeding to a civil proceeding, but the court stated that they could not find enough evidence to prove a improper purpose for the State filing the SDP petition when they did, and for the Stated purpose of a contingency if the defendant rejected the State's proposed plea offer. *People V. Logan*, 2022 IL App (1st) 1190021-U 9145.

The Appellate Court found the State linked its desire to reopen plea negotiations with the filing of a SDP petition, where the prosecutor stated: "I would like to open up discussions about a possible plea negotiation. And if those efforts fail, I am prepared to file a motion for the Court to appoint qualified evaluators pursuant to the Sexually Dangerous Persons Act and a petition to declare the defendant a sexually dangerous person." On August 29, 2017, the defendant rejected the State's plea offer, and the State filed its SDP petition as she said she would.

The Appellate Court stated that: the State's express link of its inability to proceed to trial and filing an SDP petition

are concerning and, at least circumstantially, suggest an improper purpose. Without more evidence, however, we cannot determine whether the delay sought to gain a tactical advantage or included an inability to locate witnesses or the unavailability of those witnesses. see *id.* at 53-54 (unavailability of witnesses or inability to locate them are "valid explanation" for delay). We weigh this factor neutrally because Logan never made an effective demand or moved for dismissal in the trial court, the court never had the opportunity to have the State explain itself. Logan, 2022 IL App (1st) 190021-U 9145.

The Defendant asserts that the appellate courts reasoning is refuted by the record, because the record shows that both the defendant made a oral demand (R. 187-90), and SDP counsel demanded trial, in writing, on October 16, 2017, (C.157; R. 202-3) although counsel agreed to each continuance thereafter, (R. 206) that decision was both a misunderstanding of the defendants right to a constitutional speedy trial right, and ineffective assistance of counsel for such a self defeating speedy trial demand and protection.

The Defendants oral demand for trial happened on the very same court date as both the State filed the SDP petition in question, and defendants original counsel was withdrawing stating unfamiliarity with the SDPA and the civil procedures that govern the Act. (R. 182-90)

The Appellate Courts reasoning that the defendant never moved to dismiss, so the court never had the opportunity to have the State explain itself, but that to is also refuted by the record, as SDP Counsel filed a motion to dismiss (the only possible way for a defendant facing SDP proceedings to challenge the State's purpose for filing a petition)

the SDP petition on December 7, 2017, but the State withdrew the petition on January 22, 2018, before the motion was ever heard by the court, a action by the State, beyond the defendants controll, but effectively, after almost five months of delays in the defendants criminal proceeding, and the defendants tolled speedy trial term. (R. 225)

The SDPA and its provisions are vague, ambiguous, and unconstitutional, if it can be used in the manner in which the State used it in this case, especially to be used to purposely toll a defendants right to a statutory speedy trial term because of the decision held in Spurlock, 388 IL App. 3d 365 (2009), all the while denying a criminal defendant the right and protection of a constitutional speedy trial right, as the courts decision, in this case, broadened the available reasoning for the State to file a petition under the SDPA beyond "ANY" previous decisions for filing a SDP petition and the legislative intent for the SDPA. Therefore, abrogating any speedy trial protections for any defendant the State chooses to file a SDP petition against, and as argued above, not just a defendant facing a sex related charge, as the SDPA is defined in Section 3, as: "When any person is charged with a criminal offense," the SDPA does not specify a sexual offense or that the defendant be a sex offender to initiate SDP proceedings, "just to be found a sexually dangerous person," but there is nothing in the act that stops the State from filing a SDP petition against, just, any criminal defendant if they choose to, like the Masterson Court stated in their analysis why the SDPA differs from SVPA.

The Defendant concedes the facts of the Spurlock case are distinguishable from the facts of this case, but argues that because the decision in Spurlock was wrong, the different facts support the arguments raised above. The defendant asserts that the way the appellate court "should have" reasoned the Spurlock case would not have changed whether or not Spurlock was denied a Statutory Speedy Trial Term, as this defendant pointed out above, that ANY delay caused by Spurlock, whether in the SDPA or criminal proceedings, should have tolled ANY Speedy trial term, not the SDPA, so there was never any reason for the Spurlock court to go beyond the words of the SDPA and their plain meaning to add a tolling provision to a Statutory Speedy trial term that the legislature never included in over 70 years when Spurlock was decided, or that the legislature used within the Speedy Trial Statute that, if applied correctly, would have tolled Spurlocks Speedy trial demand as delay attributable to the defendant. 725 ILCS 5/103-5 (A) (west 2010) The Spurlock court never considered the SVPA provisions and that acts entitlement to both a probable cause hearing, 207/30 (b) and a 120 day trial term, 207/35 (a) when it analyzed the effects of a speedy trial term during SDP proceedings, something this defendant argues, denied him the right to both a probable cause hearing and a Statutory Speedy trial right, the same protections afforded to every respondent during a SVP proceeding, effectively denying this defendant a constitutional right to the equal protection clause of the fourteenth amendment of the United States Constitution.

This case does not currently set any precedent as it is unpublished, but only because of the wrong decision that was made in People V. Spurlock.

The Illinois Rape Shield Statute has a provision that allows a criminal defendant a constitutional right to confront their accuser to explain facts in evidence such as injuries, pregnancies and the presence of semen, 725 ILCS 5/115-7(A) (West 2012). But nowhere in the Statute does it state that a criminal defendant must know the answers to "ANY" question it feels it needs to ask or be able to show what the answers would be if they were asked.

The Illinois Courts have violated this defendant's right to confront his accuser simply because the defendant was unable to show the court what the answers would have been if they were allowed to ask them or how they would be relevant to any determination of guilt in this case.

The Evidence clearly identifies which underwear the alleged victim in this case testified to wearing when the incident occurred (Exhibit 1F, white underwears with owls), the evidence also shows that someone other than this defendant was identified in the semen recovered from those underwear, and that this defendant was excluded as a possible contributor to the only sperm fraction tested from those underwear, which means this defendant should have been allowed to question the alleged victim about the unidentified semen found that could have shown a different perpetrator to the crime or a motive to fabricate the allegations against this defendant which violated this defendant's constitutional right to confront his accuser.

REASONS FOR GRANTING THE PETITION

The Defendant respectfully asks this court to grant this petition so it can properly review and clarify the SDPA and its provisions that the legislature intended when it enacted the SDPA, as the appellate courts holdings in both this case and the Spurlock case, has broadened the intent that the Illinois Supreme Court has deemed constitutional for treatment and rehabilitation. The Act mirrors a criminal proceeding and affords most of the same safeguards to protect a persons constitutional rights but the legislative vagueness has rendered the Act ambiguous and unconstitutional, which if allowed to go unchallenged, there would be nothing to stop Illinois or any other State from using a civil commitment procedure, that mirrors a criminal statute, to violate or deny any criminal defendant of their most basic constitutional rights such as their rights to a constitutional speedy trial, right to confront their accuser, or even their right to the equal protection clause of the fourteenth amendment.

By allowing a State to have such a Act that can change any criminal proceeding to a civil proceeding and virtually deny a criminal defendant the safeguards of the United States Constitution by using a State Act that is vague and ambiguous to interpretate what rights a criminal defendant has or needs, can circumvent each and every constitutional right afforded by the United States Constitution whenever a State may choose, whenever it chooses, which by all intent and purposes, would give the State the unbridled power to circumvent a criminal defendants constitutional rights.

No State should be able to enact any Act or Statute that could be used to circumvent a criminal defendants constitutional rights afforded to every criminal defendant by the United States Constitution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Edward Logan

Date: 12-22-2023