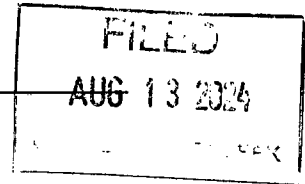


No 24-5514

ORIGINAL

IN The
Supreme Court of the United States



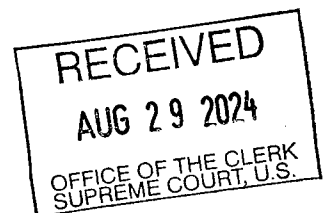
Christopher Jensen m12919
- Petitioner

^{VS.}
State of Illinois
- Respondent

On Petition For A Writ of Certiorari To
4th District Appellate Court, Illinois

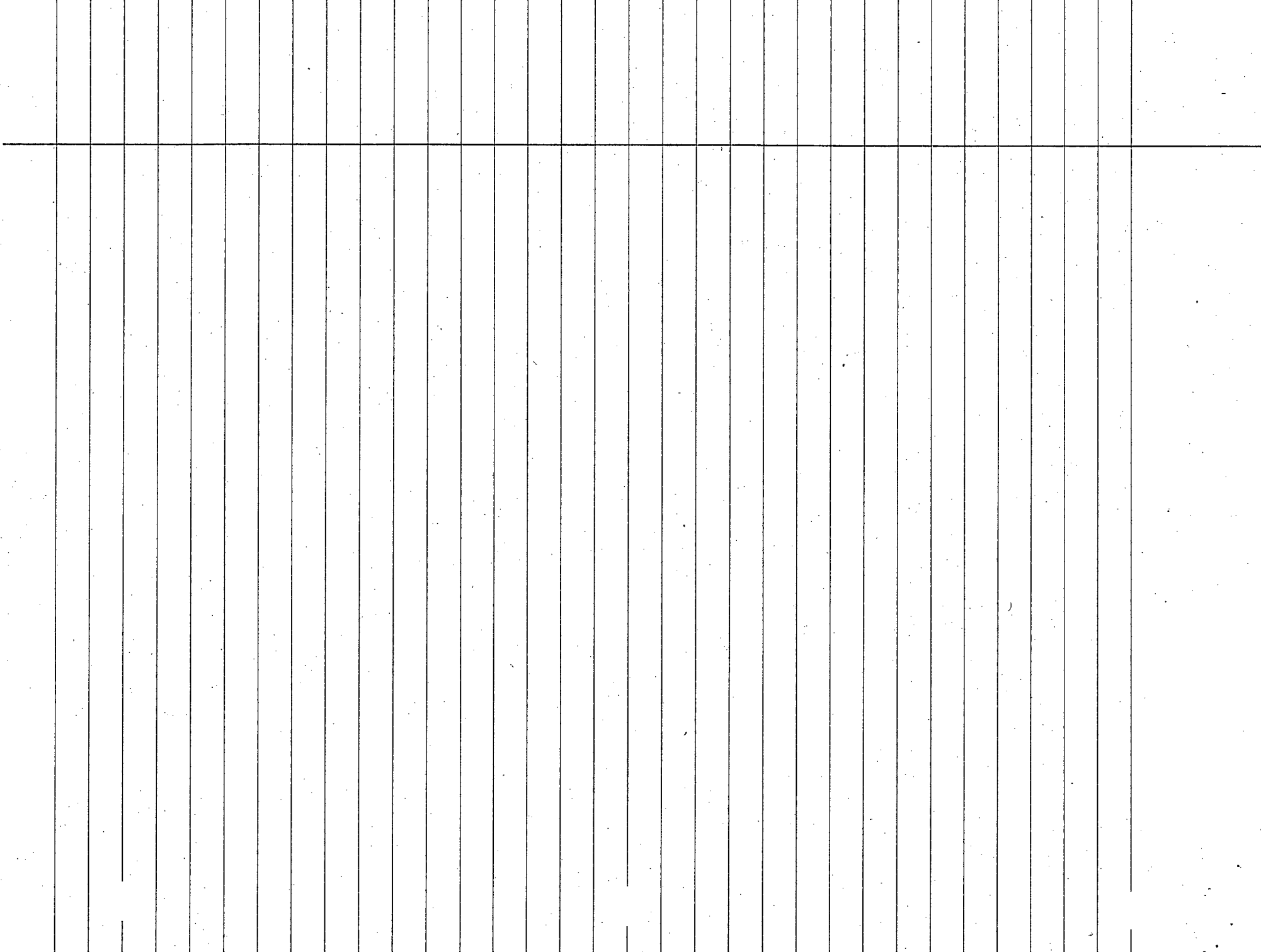
Petition For A Writ of Certiorari

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P.O. Box 1000
Menard, IL 62259



Questions Presented

- 1) When two Records are conflicting, Can a Reviewing Court Speculate or make Assumptions without any proof, to decide which Record is the accurate account of what truly took place?
- 2) How do you decide what Record is accurate or correct when two Records are conflicting, If there's no proof as to what really took place?
- 3) When there's a probability of 2 versions of events taking place, is it not the risk of depriving defendants of their rights what the assessments of the courts are trying to avoid?



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:

Table of Contents

Pg #

Opinion Below

1

Jurisdiction

2

Constitutional and Statutory provisions Involved

3

Statement of Case

4-6

Reason for Granting the Writ

7-17

Conclusion

18

Exhibits A-F

23-30

Index To Appendices pg 20-22

Appendix A: Decision of the 4th District Appellate Court,
Illinois.

Appendix B: Decision of the Circuit Court of Winnebago
County.

Appendix C: Decision of Illinois Supreme Court Denying Review

* Cases

Table of Authorities 1 of 2

Cited

pgs

Apprendi v. New Jersey	530 U.S. 466 (2000)	7
People v. Ogunola	87 Ill. 2d 216 (1981)	7
People v. Williams	181 Ill. 2d 297 (1998)	7
People v. Park	65 Ill. 2d 132 (1976)	7
People v. Roberts	182 Ill. App 3d 313 (1 st Dist 1989)	7
People v. Williams	120 Ill. App 3d 900 (1 st Dist 1983)	7
People v. Proctor	2012 IL App (1 st) 103288	8
People v. Dylan E.A.	2023 IL App (4 th) 220503-U	8
People v. Hartfield	2022 IL 126729	8, 16
People v. Jenkins	69 Ill. 2d 61 (1977)	8
People v. Durr	2018 IL App (3d) 150562	9, 16
People v. Herron	215 Ill. 2d 167 (2005)	9
People v. Cadwallader	181 Ill. App. 3d 488 (4 th Dist 1989)	10
People v. Pollock	202 Ill. 2d 189 (2002)	11
People v. Jensen	2024 IL App. (4 th) 230126-U	11
People v. Durr	215 Ill. 2d 283 (2005)	13, 14
People v. Jimeron	404 Ill. App. 3d 621 (2010)	14
People v. Lane	2011 IL App (3d) 080858	14
People v. Martinez	361 Ill. App. 3d 424 (2005)	14
People v. Ramirez	344 Ill. App. 3d 296 (2003)	14
People v. Allen	109 Ill. 2d 177 (1985)	14, 15
People v. Brooks	158 Ill. 2d 260 (1994)	15
People v. Lilly	291 Ill. App 3d 662 (1997)	15
People v. Gayles	24 Ill. 2d 242 (1962)	15
People v. Sini	57 Ill. App. 3d 716 (1978)	15
People v. Bland	228 Ill. App. 3d 1080 (1992)	15
People v. Cruz	2012 IL App. (1 st) 092712-U	15
People v. Gray	215 Ill. App 3d 1039 (1991)	16
People v. Layhew	139 Ill. 2d 476 (1990)	16
People v. Naylor	229 Ill. 2d 584 (2008)	17
People v. Kunkel	102 Ill. 2d 181 (1984)	4
People v. Jensen	2016 IL App (2d) 131348-U	4

Table of Authorities 2 of 2

pg 5

Statutes and Rules

ILL. Const. 190, art. I, §§ 2, 8, 13	7
ILL. Sup. Ct. R. 451	8
735 ILLCS 5/2-1107(b) (2013)	8, 9
ILL. Sup. Ct. R. 329	14
ILL. Sup. Ct. R. 615	17
I.P.I. 313	4, 6
I.P.I. 24-25.06	5, 6
I.P.I. 6.07X	5
I.P.I. 11.53	5, 6
I.P.I. 11.54	5, 6

IN The
Supreme Court of the United States

pg 1

Petition For Writ of Certiorari

Petitioner respectfully prays that a writ of Certiorari issue to review the judgement below.

Opinions Below

[X] For Cases from State Courts:

The opinion of the highest State Court to review the merits appear at Appendix A to the petition and is unpublished.

The opinion of the Appellate Court of Illinois appears at Appendix A to the petition and is reported at 2024 IL App (4th) 230126-U

Jurisdiction

pg 2

☒ For Cased from State Courts:

The Illinois Supreme Court Denied
Discretionary Review on May 29, 2024.

C. A copy of that decision appears at Appendix

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

Constitutional and Statutory provisions Involved pg 3

- 1) Petitioner was deprived his liberty, without Due process of law guaranteed by the Fifth Amendment of the United States Constitution.
- 2) Petitioner was deprived of a trial by an Impartial jury a right guaranteed by the Sixth Amendment of the United States Constitution.
- 3) Petitioner was deprived his liberty without Due process of law and denied equal protection of the law guaranteed by the Fourteenth Amendment of the United States Constitution.

Statement of fact

pg 4

In May 2011, defendant was charged with four Counts of attempted first degree murder (720 ILCS 5/12-4(a), 9-1(a)(1) (west 2008), three Counts of Home Invasion (id. § 12-11(a)(3), (a)(4), (a)(5), Six Counts of aggravated battery with a firearm (id. § 12-4.2(a)(1)), and one Count of unlawful possession of a weapon by a felon (id. § 24-1.1(a)). The State alleged these offenses occurred in June of 2009.

In October 2013, a jury found defendant guilty of Attempt first degree murder (720 ILCS 5/12-4(a) (west 2008)), 9-1(a)(1), Home invasion (id. § 11(a)(4)) and aggravated battery with a firearm (id. § 12-4.2(a)(1)). In a case that relied on a Credibility Contest, Defendant Claimed Self-Defense (A Drug Deal gone bad) and Tim Alfordson Claimed it was a Home Invasion, Robbery, and a shooting, but later admitted nothing was missing. There were no witnesses called that actually saw the event that occurred on June 29th 2009 nor was there any corroborating evidence to support Alfordson's claim. The jury took 6 hours to deliberate and found defendant guilty on Halloween. The trial court later sentenced defendant to an aggregate sentence of seventy years in prison.

Defendant appealed, and in March 2016, the Second District Appellate Court remanded for a preliminary hearing pursuant to People v. Kankel, 102 Ill. 2d 181, 464 N.E. 2d 1045 (1984), People v. Jensen, 2016 IL App (2d) 131348-U. After conducting a Kankel hearing the court denied defendant's motion for new trial.

In his second direct appeal defendant argued, inter alia that reversible error occurred where the common-law record shows that the jury did not receive all of the correct written instructions and also received instructions that were not relevant to the case (see exhibit). At the jury instruction conference, the prosecution offered people's instruction 66, consisting of I.P.I. 313. (R844) This instruction directs a jury that the defendant's previous conviction may be considered only as it may affect his believability

as a witness. The Court indicated that this instruction would be given. (R.844) The defense offered defendant's instruction No. 1 based on I.P.I. No. 24-25.06 which, in turn, describes when a person is justified in the use of force likely to cause death or great bodily harm in defense of self. The trial judge indicated that this instruction would be given. (R.830) The parties agreed that defendant's version of I.P.I. No. 6.07X should be given. In that version, the instruction for Attempt Murder included the third proposition that the State had to prove beyond a reasonable doubt that the defendant was not justified in using the force he did. (C.296) The prosecution had proposed instruction #23, which only included two propositions, but agreed that defendant's version was correct. (C.296; R.819, 830) Copies of the defendant's proposed instructions are included in the Common-law record, labeled with the corresponding "Defendant's Instruction" number. (C.295-298)

The trial judge's oral instructions informed the jury that, in order for the State to prove attempt murder, the State had to prove beyond a reasonable doubt that the defendant was not justified in using the force he did (I.P.I. 6.07X) (R.906) He orally instructed the jury pursuant to I.P.I. No. 24-25.06 on the circumstances in which a person may use deadly force in defense of self. (R.907) The Court orally instructed the jury on the definition of Home Invasion and issues in Home Invasion (I.P.I. 11.53, I.P.I. 11.54) (R.910-11) The Court orally instructed the jury that the defendant's previous conviction of an offense may only be considered by the jury as it may affect the credibility of the defendant. (I.P.I. 3.13) (R.905)

The Common-law record in this case shows that the record contains separate sections for "People's Instructions" (C.222-292), "Defendant's Instructions," (C.295-298), "Jury Instructions Given," (C.300-342), and "Withdrawn or Refused Instructions" (C.348-365). The pages of jury instructions in the section "Jury Instructions Given" are devoid of markings indicating their source in the Illinois Pattern Instructions or which party offered the instruction.

(C.301-342) The Section includes 20 jury instructions (C.301-326) and 16 unsigned jury verdict forms (C.327-342) The signed "guilty" and "proven" forms appear in another volume of the record. (CS. 43-54)

These pages do not include many of the agreed-upon instructions, including I.P.I. NO. 24-25.06 outlining the circumstances when an individual may use force likely to cause death or great bodily harm. While written issue instructions on aggravated battery with a firearm include a third proposition that the State must prove beyond a reasonable doubt that defendant was not justified in using the force he did (C.322), the issue instruction for Attempt murder does not contain this third proposition. (C.323) There was no written instruction on the definition of or the issues for Home invasion. I.P.I. 11.53, I.P.I. 11.54. There is also no instruction pursuant to I.P.I. 3.13 which directs a jury to use evidence of the defendant's prior conviction only as it may affect Credibility. The Section of the record labeled "Jury Instructions Given", also includes several instructions that were not orally presented to the jury (C.306, 308, 310, 313)

The Appellate Court affirmed defendant's convictions, finding that, "Given the noticeably large number of misplaced and absent documents, the record was simply improperly compiled". (Jensen at 92). Defendant Appealed to the Illinois Supreme Court and they denied Discretionary Review May 29, 2024.

Applicable law

pg 7

The Due Process Clause of the Fourteenth Amendment provides that proof beyond a reasonable doubt be shown to prove a defendant's guilt. The Appellate Court should need proof beyond a reasonable doubt to prove that a record is incorrect. Instructions that deprive a jury the opportunity to acquit a defendant deprives a defendant of his Constitutional rights to a fair and impartial jury guaranteed by the Sixth Amendment of the United States Constitution. Defendant's Constitutional rights were violated when the Illinois Appellate Court made a assumption, in essence saying defendant's don't have any rights.

A criminal defendant is entitled to have a jury determine every element of the charged crime beyond a reasonable doubt. Apprendi v. New Jersey 530 U.S. 466, 476-77 (2000); Const. amend. V, VI, XIV; Ill. Const. 1970 art. I, §§ 2, 8, 13. It is essential to a fair trial that the jury not be permitted to decide a defendant's guilt or innocence of a crime without being told the essential characteristics of that crime. People v. Ogunsola, 87 Ill.2d 216, 222 (1981). Moreover, it is the trial court's "burden to insure the jury is given the essential instructions as to the elements of the crime charged." People v. Williams, 181 Ill.2d 297, 318 (1998). With regard to instructions on the presumption of innocence, the burden of proof, and elements of the offense, the burden is on the court to ensure the jury is properly instructed. People v. Park, 65 Ill.2d 132, 137 (1976). The failure of the court to provide essential jury instructions on the elements of the crime and the burden of proof deprives the defendant of a fair trial. People v. Roberts, 182 Ill. App. 3d 313, 317 (1st Dist. 1989); People v. Williams, 120 Ill. App. 3d 900, 904 (1st Dist. 1983). When an instructional error "creates a serious risk that the jurors incorrectly convicted the defendant because they did not understand the applicable law, so as to severely threaten

the fairness of the trial," reversal is required. People v. Anderson 2012 IL App. (1st) 103288 ¶157. Whether the jury instructions accurately conveyed the applicable law is reviewed de Novo. Id. ¶134. People v. Dylan E.A. 2023 IL App. (4th) 220503-U*; 2023 Cites People v. Hartfield 2022 IL 126729, ¶161, 460 Ill. Dec. 870, 202 N.E. 3d 890. People v. Jenkins 69 Ill. 2d 61, 370 N.E. 2d 532, 12 Ill. Dec. 728 (1977). The Court held, when instructions are contradictory, "the jury cannot perform its Constitutional function." Hartfield 2022 IL 126729, ¶158, 202 N.E. 3d 890 (quoting Jenkins 69 Ill. 2d at 66, 370 N.E. 2d at 534). The Court further stated, "It is well established that the giving of contradicting instructions on an essential element in the case is prejudicial error, and is not cured by the fact that another instruction is correct."

Illinois Supreme Court Rule 451 governs jury instructions in Criminal Cases. The rule indicates that "except as otherwise provided in these rules, instructions in Criminal Cases shall be tendered, settled, and given in accordance with Section 2-1107 of the Code of Civil Procedure". ILL. SUP. CT. R. 451(c). That provision of Code provides that "the originals and copies of all instructions, whether given, modified or refused, shall be filed as a part of the proceedings in the cause." 735 ILCS 5/2-1107 (6) (2013)

Discrepancy in the Record

pg 9

The defendant asserted that one of the fundamental problems with the Appellate Court view lies in the assumption that the Clerk was the only one capable of creating this Compiling Error, where no other Errors can be found in her work. The Appellate Court even Cites 735 ILCS 5/2-1102(b) (West 2013) in their decision yet, failed to take into consideration that the "Jury Instructions Given" Section of the Common-law record is the only Section not accurately Compiled. The Appellate Court also ignored the crucial fact that the correct jury instructions were nowhere to be found in the Common-law record, period! Aside from the instructions in the "Jury Instructions Given" Section, all of the written instructions in the Common-law record are labeled "Defendants Instructions", "Peoples Instruction", or labeled with a "W" to indicate "Withdrawn", or "R" to indicate "Refused". (C. 295-298; 277-292; 348-365). None of these instructions could have been given to the jury, as they were not "Clean Copies". Thus, the question remains: If the Clean Copies of the instructions in the "Jury Instructions Given" section of the Common-law record do not actually represent what was given to the jury, what happened to the supposed correct instructions that the Appellate Court determined that the jury received?

People v. Darr 2018 IL App. (3d) 150562 quotes People v. Herron 215 Ill. 2d 167, 177, 830 N.E. 2d 467, 294 Ill. Dec. 55 (2005) "The defendant need not prove that the error in the instruction actually misled the jury.*** We deal with probabilities, not certainties; we deal with risks and threats to the defendant's rights. When there is error in a close case, we choose to err on the side of fairness, so as not to convict an innocent person." Herron 215 Ill. 2d. at 193. The Appellate Court in Illinois has side stepped this issue, by flat out saying it didn't happen, so as to not have to deal in probabilities. The probability that the compiling error happened before the jury received the instructions, thus forcing the jury to deliberate without the

Correct written instructions. In people v. Cadwallader, 181 Ill. App. 3d 488, 503 (4th Dist. 1989) two instructions were incorrectly read to the jury and then the jury spent 35 minutes deliberating before the jury was finally given written jury instructions. The 4th District Appellate Court found plain error for the jury to be deprived, "For any amount of time," of the "essential instructions that would have explained the elements of the crimes charged...". Id. The Appellate Court stated, "Without jury instructions to guide them," the jury was, "erroneously left to its own speculation and improvisation". Id.

Is it a coincidence that the only Instructions that were missing had to do with defendant's Affirmative defence? The defendant won't go as far as to say the State deliberately compiled the jury instructions incorrectly in their favor, but it is more likely that the instructions were compiled erroneously by the State or judge before they were given to the jury to deliberate, as to after by the Clerk. At the beginning of the jury conference the judge was given four copies of different Instructions to sift through. (See exhibit A) The report of proceedings also contained multiple instances where the judge and the prosecutor were confused about various copies and versions of instructions. Which may in part, explain how the instructions were given incorrectly. For example, after discussing which version of G.O.F.R. to give the jury, the judge said that he was going to wait to rule on that one and was going to "hold it out" (See exhibit B) Later the judge stated that he was confused because he had two "clean copies" of the People's version of that instruction and

After the judge read the instructions to the jury, the judge and prosecutor both acknowledged that there were mistakes with the wording of three of the instructions. (See exhibit C.) The judge told the prosecutor to reprint them and said, "have a separate set of these," for him and that "the clean copies will go back to the jury room." (See exhibit D) One of the prosecutors reprinted them, but made another

Mistake, telling the judge that the "Clean Copy of [People's instruction 37B] she gave you is incorrect, the dirty copy was not" so she was, "going to print out a new dirty copy". (See exhibit E) After the judge read the correct version of those instructions, the jury went to deliberate. Nowhere in the record does it state or show who, how, or when the jury received the written instructions used to deliberate with. For the Appellate Court to not consider all the mistakes made before the jury received the written instructions contradicts the standard set out in the case law they used and otherwise provided. The task of a reviewing court is to determine whether the instructions, considered together, fully and fairly announce the law applicable to the theories of the State and the defense, People v. Pollock, 202 Ill.2d 189, 210, 780 N.E.2d 669, 269 Ill. Dec. 197 (2002).

The Appellate Court held that "given the noticeably large number of misplaced and absent documents, the record was simply improperly compiled." People v. Jensen 2024 IL App. (4th) 230126-U. Essentially, the Court found that because the alleged error was so bad - that the instructions labeled "Given" were not even close to what should have been given - it cannot possibly have been what happened. This logic reduces what was likely reversible error denying defendant a fair trial into nothing more than a compiling error, despite the fact that clean copies of the correct written instructions do not exist anywhere in the common-law record.

The Appellate Court's reasoning that the contents of the common-law record just got jumbled by an inattentive clerk might make sense if the correct written jury instructions appeared elsewhere in the common-law record. If "clean copies" of the correct instructions existed in another part of the record, that could provide support for the idea that they were likely given to the jury during deliberations and merely got placed in the wrong part of the common-law record. However, in this instant case, "clean copies" of the correct written instructions

do not exist anywhere in the Common-law record. If the Appellate Court is correct and the jury received the correct instructions during their deliberations, the question remains: Where are they?

For the Appellate Courts scenario to be true, the correct instructions would have had to have been somehow discarded after the jury reached their verdict. It defies logic that any member of the court personnel would throw out some written instructions and add some written instructions to the record at the same time that aren't suppose to be there, rather than give the judge exactly what the jury deliberated with to be placed into the Appellate record.

Allowing the Appellate Courts to make one sided conflicting examinations causes a breakdown in the principles and guarantees that make the legal system what it is. Making a assumption when there is clear and ambiguous evidence pointing at the probability of another truth, is preposterous. These Court proceedings were not confined to their proper form or function. This dereliction denied defendants right to Due process of law in violation of the defendant's Fourteenth and Sixth Amendment of the United States Constitution. Due process of law is meant to protect individual rights. An eminent judge of the Supreme Court had said that, "they were intended to secure the individuals from arbitrary exercise of powers of government unrestrained by the established principles of private right and distributive justice". The Illinois Courts are leaving defendants with no way to protect their rights or get equal justice. The Appellate Courts hand down decisions as if they are the law of the land. If this goes unchecked how many more Defendants rights will be taken with no re-Courde.

Appellate Court's Erroneous Analysis

pg 15

Defendant humbly asks this Court to put its foot down. The Illinois courts are abusing their power and their discretion as their ruling in defendant's case is based on a assumption rather than actual evidence. A baseless assumption out of the convenience of finality, which is improper. The Appellate Court agrees that the written jury instructions section in the common-law record entitled "Jury Instructions Given" are deficient (See exhibit F) and cites some of the correct precedents. Appellate Courts "look at the record as a whole to resolve inconsistencies" between the common-law record and report of proceedings. (People v. Duris, 215 Ill.2d 283, 306, 830 N.E.2d 527, 504 (2005)). The Appellate Court uses "Duris" as they try to say it is similar to defendant's case. "Duris" jury instruction error was a erroneous alternative verdict form marked "Given, no objection", that "Duris" claimed the jury received because it was found in the common-law record this way. The Illinois Supreme Court concluded the jury never received the alternative instruction, it was just mistakenly marked "Given, no objection", during the instruction conference. The defendant only sees two similarities - One that the common-law record should an error occurred and two the defendant contends that his is called "compiling error" happened at the instruction conference phase of trial as well. The latter, even in "Duris" the Appellate Court concluded that "Duris" failed to demonstrate that he was prejudiced by the altered instruction. A mistakenly marked alternative verdict form is completely different than what written instructions missing, inaccurate written instructions, and written instructions given that weren't suppose to be given. In "Duris" it also states, "The common-law record contained written verdict forms mirroring those read to the jury by the trial court". Defendant doesn't see how much more different these two cases can get. But, if we give inference to the Illinois Supreme Court, how can they say one error happened in the jury instruction conference,

whereas that is impossible to have happened in defendant's case? There reliance on People v. Durr, 215 Ill.2d 283, 301 (2005) which held that a jury instruction error can be found to be de minimis, means that a defendant either had too many suspected errors in the jury instructions - making it unbelievable that the jury was so instructed - or too few errors - so that no fundamental unfairness occurred. What is a defendant to do?

Though defendant believes the Appellate Court viewed his case in the wrong light, the bigger issue is the Standard of Review and precedence being used and set. ("When a conflict exists between the common-law record and the report of proceedings, a court must give the report of proceedings precedence.") People v. Jimerson 404 Ill. App. 3d 621, 634, 936 N.E.2d 749, 761 (2010). In cases regarding jury instructions, we must presume that the trial court provided the jury with the appropriate written instructions, giving precedence to the report of proceedings. Id. See; People v. Lane, 2011 IL App. (3d) 080858, ¶ 24, 951 N.E.2d 1279. (We also must start with the presumption that the trial court acted correctly in a situation as the instant issue.) People v. Martinez, 361 Ill. App. 3d 424, 427, 837 N.E.2d 479, 481 (2005). (When there is a conflict between the report of proceedings and the common-law record, the report of proceedings prevail.) People v. Ramirez 344 Ill. App. 3d 296, 300, 800 N.E.2d 844, 846 (2003). This defendant is confused, The Illinois Courts are picking and choosing what standard of review best suits their motive with no regard to fundamental fairness the court system is suppose to abide by. Do these rules and cases not matter - Illinois Supreme Court Rule 329 States in part "Any controversy as to whether the record accurately disclosed what occurred in the trial court shall be submitted to and settled by that court and the record made to conform to the truth" Further in People v. Allen 109 Ill.2d 177, 184, 486 N.E.2d 873, 93 Ill. Dec. 340 (1985) A rule 329 hearing was held and Stenographer Debra Bailey explained during cross-examination: "That the mistake in the original transcript of

Proceedings was caused by her reliance on a set of jury instructions given to her by the State's Attorney's office. Bailey did not compare the set of instructions given to her to the set of jury instructions marked given by the trial judge, contained in the common-law record of this case." The report of proceedings that holds precedence was only found out to have been recorded inaccurately only after Debra Bailey's testimony at the 329 hearing. Is for the Appellate Court to assume and conclude that because there were so many errors in the defendant's common-law record that it was not plausible for the jury to have actually received what was in the common-law record is ludicrous. (The common-law record, including the docket sheets, "imports verity and is presumed correct") People v. Brooks 158 Ill. 2d 260, 274, 633 N.E. 2d 692, 198 Ill. Dec. 831 (1994); People v. Lilly 291 Ill. App. 3d 662, 665, 687 N.E. 2d 1070, 227 Ill. Dec. 588 (1997). The trial court record can only be impeached, contradicted or amended by reason of other matters appearing of record. People v. Gayles 24 Ill. 2d 242, 244, 181 N.E. 2d 83 (1962); People v. Dilli, 57 Ill. App. 3d 716, 719, 373 N.E. 2d 724, 15 Ill. Dec. 378 (1978). A reviewing court is bound by the certified record of proceedings in the trial court, and the record is presumed to be correct unless it can be shown to be otherwise. People v. Allen, 109 Ill. 2d at 184; People v. Bland, 228 Ill. App. 3d 1080, 1086, 593 N.E. 2d 639, 170 Ill. Dec. 750 (1997). When a conflict exists between the common-law record and the report of proceedings, the court should resolve the conflict by looking at the record as a whole. Allen, 109 Ill. 2d at 184. (All cited in People v. Cruz 2012 IL App. (1st) 092712-U, 2012 Ill. App. unpub. Lexis 193

The defendant believes he showed the Appellate Court the contradiction in the record of proceedings by means of the common-law record, but this was disregarded on a hunch rather than actual evidence. This finding is improper, just as Illinois holding that the report of proceedings should prevail over any record without proof is improper.

Using the very same record used to show that an error occurred to correct it, is absurd. The only way you know an

error even occurred is if you have two conflicting records. So how can one take precedence over the other without sufficient proof? Multiple cases decided before People v. Hartfield 2022 IL 126729, 916.1, 460 Ill. Dec. 870, 202 N.E.3d 890, have held a correct written instruction cures an error in an oral reading of an instruction. People v. Gray 215 Ill. App.3d 1039, 1052, 576 N.E.2d 177, 186, 159 Ill. Dec. 508 (1991); People v. Darr 2018 IL App. (3d) 150562 9784, 419 Ill. Dec. 889, 95 N.E.3d 10. So why in this instant case does the common-law record - written jury instructions - hold no weight. These rulings are contradicting!

The judicial system has always relied on the need of some form of proof to support a decision dating back to King Henry the II where three main methods were proof by oath, proof by ordeal, and proof by battle. Today the judicial system is more complex and goes by a law of procedure. The idea that laws and legal proceedings should be fair is included in this procedure as it defendants right to have the proper procedures followed which is guaranteed by the 14th and 5th Amendments of the United States Constitution. People v. Layman 139 Ill.2d 476; 564 N.E.2d 1232 (1990) lays out the proper analysis the Appellate Court should perform - "That is to look at the totality of circumstances to determine whether each defendant received a fair trial, a tedious and time consuming process." But a process that protects defendants constitutional rights and upholds the integrity of the judicial process, which the Appellate Court fails miserably to do.

The Appellate Court states multiple reasons why and multiple times that the evidence is overwhelming in their decision. Yet, states none of the reasons why or how the defendants brief shows the case was clearly balanced. The Appellate Court is being one sided and mischaracterizes the evidence. Neither version of events that took place on June 29, 2009 are supported by any witnesses that testified that testified or is there any corroborating evidence. ("Evidence is clearly balanced when it involves a credibility

Context") People v. Naylor 229 Ill. 2d 584, 608, 893 N.E.2d 653, 323 Ill. Dec. 381 2008. Again this is not the proper analysis to be taken. This is the First prong Standard of review for Plain error review [Illinois Sup. Ct. R. 615(a)] - A reviewing Court may exercise discretion and excuse a defendant's procedural default. The Court has traditionally identified two instances when it is appropriate to do so: (1) When a clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or (2) when a clear or obvious error occurred and that error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence. A jury that is improperly instructed clearly affects the fairness of a defendant's trial and challenges the integrity of the judicial process. Especially in this instant case where so many errors were found in the jury instructions given to the jury.

The Illinois Appellate Court's decision did nothing to restore confidence in the jury's verdict in this case and the Court's opinion opened the door for other Courts to affirm convictions by relying on baseless assumptions about the record and making one sided, arbitrary decisions. The defendant begs this Court to take action and not allow the Illinois Court System to circumvent the Plain Error Doctrine by saying no error occurred.

Conclusion

Pg 18

The Short-Sighted reasoning of the Appellate Court of Illinois here - basing their finding that no error occurred on a mere hunch, rather than Concrete facts from the record - could have negative ramifications in other cases. Allowing a reviewing Court to ignore the contents of the record on appeal when it is convenient, choosing instead to rely on baseless assumptions about that record, leaves open the possibility that future Courts could likewise ignore the record if it benefits their holding. It is of the utmost importance that decisions like this not be allowed to set standards or precedents. For these reasons the petition for a writ of certiorari should be granted.

Respectfully Submitted,

Ch J — ML2917

Date: _____