No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

KRYSTLE HOFFMAN, PETITIONER,

v.

PEOPLE OF THE STATE OF ILLINOIS, RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

PETITION FOR WRIT OF CERTIORARI

JAMES E. CHADD
State Appellate Defender

CHRISTOPHER MCCOY
Deputy Defender
Counsel of Record
OFFICE OF THE STATE APPELLATE DEFENDER
SECOND JUDICIAL DISTRICT
One Douglas Avenue, Second Floor
Elgin, IL 60120
(847) 695-8822
2nddistrict.eserve@osad.state.il.us

ANN FICK
Assistant Appellate Defender

Attorneys for Petitioner

QUESTION PRESENTED

The question presented is:

Whether a defendant's due process rights under the Fourteenth Amendment are violated when a court refuses to apply the rule of lenity to an ambiguous sentencing statute and instead resolves the ambiguity under the guise of the absurd-principles doctrine, thereby violating basic rules of statutory construction.

LIST OF ALL PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii):

- *People v. Hoffman*, 2025 IL 130344. Docket No. 130344, Supreme Court of Illinois. Order denying petition for rehearing, entered September 22, 2025.
- *People v. Hoffman*, 2025 IL 130344 (O'Brien, J., dissenting, joined by Neville and Rochford, JJ.). Docket No. 130344, Supreme Court of Illinois. Opinion reversing in part the Appellate Court's order, entered June 26, 2025.
- *People v. Hoffman*, 2023 IL App (2d) 230067 (Jorgensen, J., specially concurring). Docket No. 2-23-0067, Appellate Court of Illinois, Second District. Opinion and order vacating in part the judgment below and remanding for a new sentencing hearing, entered December 21, 2023.
- *People v. Hoffman*, No. 18-CF-395, Circuit Court of the Twenty-Third Judicial Circuit, Kendall County, Illinois. Judgment of conviction entered February 24, 2023.

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The opinion of the Second District Appellate Court of Illinois is published at 2023 IL App (2d) 230067 (Appendix A). The opinion of the Supreme Court of Illinois reversing in part the opinion of the Second District Appellate Court of Illinois is published at 2025 IL 130344 (Appendix B).

JURISDICTION

The Illinois Appellate Court, Second District, vacated in part the judgment below on December 21, 2023 (Appendix A). The Illinois Supreme Court granted the State's petition for leave to appeal on May 29, 2024. On June 26, 2025, the Illinois Supreme Court reversed in part the ruling of the Appellate Court (Appendix B). On September 22, 2025, the Illinois Supreme Court denied a timely petition for rehearing (Appendix D). Petitioner invokes the jurisdiction of this Court under 28 U.S.C. §1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

Fourteenth Amendment to the Constitution of the United States

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, §1.

STATEMENT OF THE CASE

This case presents a fundamental question concerning the due process implications of the Illinois Supreme Court's refusal to apply the rule of lenity to a newly-enacted sentencing statute it deemed ambiguous and to instead resolve the ambiguity under the absurdity doctrine, which in turn rendered superfluous key language of the statute, added language that did not exist, and undermined legislative intent.

A. As part of a comprehensive criminal justice reform bill, Illinois enacts a sentencing reduction statute.

In February of 2021, the Illinois General Assembly passed, and the governor signed into law, a large, high-profile package of criminal justice reforms commonly referred to as the Safe-T Act. See Pub. Act 101-652 (H.B. 3653, approved Feb. 22, 2021, eff. July 1, 2021). Perhaps best-known for eliminating Illinois' cash bail system, Public Act 101-652 included many other important components, including revisions to the Code of Corrections. Among those was the addition of the following provision:

> (c-1.5) Notwithstanding any other provision of law to the contrary, in imposing a sentence for an offense that requires a mandatory minimum sentence of imprisonment, the court may instead sentence the offender to probation, conditional discharge, or a lesser term of imprisonment it deems appropriate if: (1) the offense involves the use or possession of drugs, retail theft, or driving on a revoked license due to unpaid financial obligations; (2) the court finds that the defendant does not pose a risk to public safety; and (3) the interest of justice requires imposing a term of probation, conditional discharge, or a lesser term of imprisonment. The court must state on the record its reasons for imposing probation, conditional discharge, or a lesser term of imprisonment.

730 ILCS 5/5-4-1 (c-1.5) (2022).

B. Krystle Hoffman pleads guilty to drug-induced homicide and elects to be sentenced under the new statute.

On September 14, 2022, Krystle Hoffman pleaded guilty to one count of drug-induced homicide following the overdose death of Lorna Haseltine. (C. 146-148; R. 132) The factual basis for the guilty plea stated that on August 12, 2017, Hoffman agreed to obtain drugs for Haseltine. (R. 135) Money was sent through Western Union, and Hoffman picked up that money as part of the transaction. (R. 135) In a subsequent interview with police, Hoffman admitted that on August 12 she and Haseltine texted about the drug transaction. Hoffman told police that she and a third person, Mark, went to Haseltine's house to drop off heroin. "Mark actually reached over Krystle Hoffman to hand a package of what she thought was heroin to Lorna Haseltine," the prosecutor said at the plea hearing. (R. 135) Afterward, Haseltine went upstairs to take a bath. (R 134) About an hour later she was found unresponsive in the bathtub. (R. 134) The post-mortem examination showed Haseltine died as a result of, among other substances, fentanyl and heroin intoxication. (R. 135) The trial court accepted the plea, finding it was made knowingly and voluntarily. (R. 125, 136) Hoffman's plea did not include any sentencing provisions; however, on the date of the plea hearing she filed a notice of election to be sentenced pursuant to a newly-enacted sentencing statute, 730 ILCS 5/5-4-1 (C-1.5)(2022). (C. 132)

The sentencing hearing was held December 19, 2022. (R. 139) The prosecution presented two witnesses in aggravation, Haseltine's father and her sister. Stanely Haseltine testified that his daughter struggled with drugs, and her nine-year-old son was the one who discovered her body. (R. 146, 150) Haseltine's sister read a victim impact statement. (R. 152)

Numerous witnesses testified in mitigation. Anthony Aloisio was the father of Hoffman's long-time boyfriend, Kevin. (R. 152-153) Kevin had been a drug user for a long time, his father said. (R. 154) About two years before the sentencing hearing, Hoffman broke up with Kevin, a decision Aloisio supported. (R. 157-158) Two months after the breakup, in May of 2021, Kevin died from a drug overdose. (R. 153, 158)

Aloisio said Krystle "never gave up trying to get [Kevin] to stop using drugs and alcohol." (R. 155) She "never, ever used drugs at all" during the time Aloisio knew her. (R. 156) "She was the driving and motivating factor to help Kevin to get his life in order," Aloisio testified. (R. 156)

Aloisio said Hoffman had seen the suffering a person experiences when they stop using drugs and her compassion for their suffering was what led to her to "the mistakes she made." (R. 159-160) He concluded his testimony by saying, "I vouch for Krystle and her honesty and integrity and the love she shows." (R. 160)

Melissa Schuberth was Hoffman's best friend and said Hoffman was a hard worker who never once used drugs. (R. 161-162, 165) It was Hoffman's nature to help others. (R. 162) "Krystle is the kindest person I've ever known. She made a very bad decision that day. And she has the greatest heart I've ever known. If anybody has ever needed anything, Krystle has been there," Schuberth said. (R. 162-163) Defense counsel asked if she would describe Hoffman as naive. Schuberth answered, "a bit naive and gullible." (R. 165)

Hoffman's other friends described her similarly. Thany Haddon said Hoffman helped her escape a very bad domestic relationship. (R. 168) She said Hoffman was "naive at times," and helping people is what makes her happy. "She would do anything

to be able to help them," Haddon said. (R. 170) Misty McKinney testified that Hoffman helped her and their mutual friends "many times." (R. 189) "She's the kind of person that gives the shirt off her back to anybody, and even if she doesn't have anything to give, she did always make sure they had something before she would," McKinney said. (R. 189) She said Hoffman was "a little bit" gullible, and "very easily swayed" because she wanted to make others happy. (R. 190)

Donna Carter, Hoffman's aunt, also testified that it was Hoffman's nature to be helpful; however, people often exploited that characteristic. "She's been taken advantage of her whole life," Carter said. Another aunt, Valerie Carter, echoed that testimony. She described Hoffman as a "people pleaser" who does not want to let anyone down. She said Hoffman is very generous, but people often took advantage of her generosity. (R. 192) "[S]he's kind of naive and gullible," which made her a target of "[p]eople that aren't very good quality." (R. 192-193)

Hoffman's father, Terry Hoffman, testified that his daughter was "a little bit slow" in school and had to be taken out of classes for additional help. (R. 172) She was "very gullible" and more of a follower rather than a leader. (R. 173, 176) "She was being used a lot by different people constantly," he said. (R. 176)

Suzanne Rubin, Hoffman's psychotherapist, testified that Hoffman suffers from depression and anxiety. (R. 178-179) Hoffman also has co-dependency issues, which Rubin described as "essentially fusing yourself with another person." (R. 179) People pleasing and gullibility are part of that personality profile. (R. 179) Hoffman had made progress in dealing with her depression and co-dependency and poses no risk to the public, according to Rubin. (R. 180) "I have quite a bit of background in assessing risk

potential, and the likelihood of recidivism in any regard with Krystle in my personal and professional opinion is extremely low," Rubin said. (R. 181) On cross-examination, Rubin acknowledged she was aware that Hoffman committed a crime while out on bond. Rubin said when she was speaking about recidivism, "I was specifically referring to the charge for which she's being charged." (R. 182)

In her statement to the court, Hoffman said she takes full responsibility for her actions and apologized to Lorna Haseltine's family. (R. 222-223)

After taking a short recess, the trial court made its ruling. The court said it took into consideration the fact that Hoffman's conduct caused or threatened serious harm and that a sentence was necessary to deter others from committing the same crime. (R. 224) He gave no weight to the fact that she had been charged with a DUI during the pendency of this case because she took full responsibility for it. (R. 224-225) The court applied several factors in mitigation, including that she did not contemplate her act would cause or threaten serious physical harm, she led a law-abiding life to this point, the circumstances were unlikely to recur, and her character and attitude indicated she was not likely to commit another crime. (R. 225)

The judge found Hoffman posed no risk to public safety and that the case did involve the use or possession of drugs. (R. 226) He said, "Certainly, if the Court had broad discretion in imposing a sentence, it may very well be that a term of probation would be appropriate under the very specific facts of this case." (R. 226) The judge said that, nonetheless, the newly-enacted sentencing statute, 730 ILCS 5/5-4-1 (C-1.5), did not apply to the offense of drug-induced homicide. (R. 227) He sentenced Hoffman to the mandatory minimum of six years in prison and ordered her to pay restitution. (R.

227; C. 149) The judge denied her motion to reconsider the sentence. (C. 181)

C. The Illinois Appellate Court, Second District, reversed the trial court, and the Illinois Supreme Court reversed the Appellate Court based on the absurdity doctrine.

In a published decision issued on December 21, 2023, the Illinois Appellate Court, Second District, reversed the lower court's ruling, finding that section 5-4-1 (c-1.5) applies to drug-induced homicide. *People v. Hoffman*, 2023 IL App (2d) 230067, ¶ 40 (Jorgensen, J., specially concurring). App. 1-2. The court stated that, for purposes of the appeal, it was necessary to determine only whether drug-induced homicide was an offense that required a mandatory minimum sentence of imprisonment and whether the offense "involves the use or possession of drugs". App. 11. It answered both questions affirmatively, finding that the plain language of the statute as well as the legislative history supported that conclusion. App. 13, 15-16.

In reaching its decision, the court found that section 5-4-1(c-1.5) did not exclude Class X felonies such as drug-induced homicide, nor was its applicability restricted based on the class of an offense. To find otherwise would be improperly injecting an exception into the section. App. 11-12.

The court, using the dictionary definition of the word "involves," determined that drug-induced homicide necessarily involved the possession of drugs. It noted that Hoffman was charged with drug-induced homicide "because she 'unlawfully *delivered* heroin, a controlled substance, containing fentanyl, to *** Haseltine." (Emphasis in original.) It stated, "we conclude that delivering a controlled substance is connected to or includes possession because, without possession, a drug could not be delivered." App. 12-13.

The court stated that it found the language of the statute unambiguous, but had it found ambiguity, the legislative history supported its interpretation. It noted the legislature had been warned that the provision could include drug-induced homicide but still voted to add it to the Code of Corrections. App. 15-16. The court also said that the fact the section applies to drug-induced homicide "does not mean that every defendant convicted of that offense will be subject to sentencing under this provision" because of the additional requirements included in the provision. App. 16.

In a concurring opinion, Justice Jorgensen voiced concern "with the breadth of the result." App. 22. She acknowledged the plain language of the statute supports the majority's decision, but "if the legislature takes issue with the potential broad application of section 5-4-1(c-1.5) to *all* delivery offenses, then I hope it takes the opportunity to clarify its intent." (Emphasis in original.) App. 23.

In a 4-3 decision, the Illinois Supreme Court reversed the Appellate Court on June 26, 2025. *People v. Hoffman*, 2025 IL 130344 (O'Brien J., dissenting, joined by Neville and Rochford, JJ.). App. 25-26. The majority initially noted, "we observe that this statute is not a model of clarity in legislative law. The legislature seemingly intended to allow the trial court to depart from mandatory minimum prison terms for certain offenses it deemed to be less serious. Beyond that, little is clear." App. 29. The court found 5-4-1(c-1.5) to be ambiguous. App. 30. As such it "resort[ed] to extrinsic tools of statutory interpretation." App. 31. It discussed at length the legislative history but concluded, "it supports neither party" and "did not clarify what the collective legislative body intended when section 5-4-1(c-1.5) was enacted." App. 31, 33.

Finding no resolution through the legislative history, the court turned to the

absurdity doctrine, stating it "may reject an otherwise reasonable interpretation of a statute if that interpretation would lead to absurd results." It found that Hoffman's interpretation, that the statute encompassed drug-induced homicide, "would indeed lead to absurd results." App. 33-34. It used hypothetical scenarios to illustrate its point. Noting that "certain Class X offenses may also be committed by deliberately delivering drugs to a victim as a tool to further violate the victim's person," the court cited as examples predatory criminal sexual assault of a child and aggravated criminal sexual assault committed by delivering any controlled substance to the victim. It concluded, "there is no reason why a defendant's use of drugs against another would reduce the defendant's culpability." The court then noted that the above-cited offenses could also be committed by being armed with a firearm or displaying a dangerous weapon. The court said, "Defendant has failed to identify any conceivable reason why the legislature would empower the trial court to return to society individuals who commit offenses by weaponizing drugs but deny the trial court's authority to do the same for defendants who commit the same offenses through other means." App. 34-35.

Hoffman had argued that the other provisions of the statute – that the defendant not be a threat to the public and that the interest of justice requires a sentencing deviation – would limit the type of defendants eligible for a reduced sentence. The court responded, "Those requirements, however, do not explain why the legislature would make sentencing relief available for the aforementioned delivery offenses in the first instance." App. 35.

The Illinois Supreme Court stated, "In light of the presumption that the legislature did not intend absurd results, [the statute's] reference to an offense that

'involves the *** possession of drugs,' cannot mean any offense that includes or necessarily entails possession and, in turn, delivery." App. 35. It held that the statute's reference to an offense that involves drug possession applies only to offenses requiring a mandatory minimum prison term "for the mere possession of drugs, not for any and all offenses that implicate drug possession[.]" App. 36. It further stated that its interpretation "furthers the legislative purpose of alleviating the effects of mandatory minimum prison terms, as some offenders will be entitled to a sentencing deviation." App. 35-36.

In so finding, the court rejected application of the rule of lenity. It stated that the "traditional tools of statutory construction" allowed it to determine the legislature's intent. As a result, there was no "grievous ambiguity" that required application of the rule. App. 36.

The dissent disagreed with the majority's finding that the statute was ambiguous and with its "speculative belief that the application of the sentence reduction statute to the instant case will lead to absurd results in the future." App. 37. It said that the word "involves" is an unambiguous term which made the legislature's intent "crystal clear – if the offense involves the use or possession of drugs and the other requirements of the statute are met, the defendant is eligible for a lesser sentence." App. 39.

The dissent argued that the majority's interpretation violated the "cardinal rule of statutory construction that a court 'may not depart from the plain language and meaning of a statute by reading into the statute exceptions, limitations, or conditions that the legislature did not express.'" [Citations omitted.] App. 39. Moreover, its

interpretation "disregards and removes the word 'use' from the statute." App. 40. The dissent concluded, "that the legislature's selection of this unambiguous language illustrates its clear intent to widen the statutory scope of the sentence reduction statute to allow trial courts to exercise discretion to impose a lower sentence in circumstances where the offense 'involves the use or possession of drugs' and the respective 'public safety,' and 'interest of justice' requirements of the statute are also met." App. 41.

Although the dissent found the statute unambiguous, it went on to discuss the majority's decision to reject application of the rule of lenity. The dissent noted the majority found ambiguous: (1) the word "involves," (2) the phrase, "the offense involves the use or possession of drugs," and (3) the statute's legislative history. As a result, there was no remaining text or history for the court to consider. "Put more plainly, all of the ambiguity boxes have been checked." It continued, "Ignoring this reality, the majority curiously proceeds to reject defendant's argument that the 'the rule of lenity requires us to construe the statute in her favor.'" App. 42-43.

The dissent then addressed the majority's use of the absurdity doctrine. The dissent wrote, "the majority's entire dispositional outcome in the instant case rests upon speculating whether the application of the sentence reduction statute to the instant case will lead to absurd results in future hypothetical scenarios." App. 43. None of the scenarios envisioned by the majority were before the court. App. 44. "[T]he question is not whether a reviewing court can contrive a hypothetical absurd result that *may* arise in the future if the sentence reduction statute is applied in the instant case. The appropriate question is instead whether the 'proffered reading of a statute

leads to absurd results,'" a question in the present tense form rather than the future tense form. [Emphasis in original.] The dissent rejected the majority's characterization of the absurdity doctrine as a traditional tool of statutory construction. Quoting *In re D.F.*, 208 Ill. 2d 223, 250 (2003) [internal citation omitted], the dissent said, "'[T]he absurd results doctrine should be used sparingly because it entails the risk that the judiciary will replace legislative policy on the basis of speculation that the legislature could not have meant what it unmistakably said.'" App. 44.

Hoffman filed a petition for rehearing in the Illinois Supreme Court in which she argued, among other things, that the court denied her constitutional right to due process by failing to apply the rule of lenity. App. 47, 54, 57-58. Hoffman's petition for rehearing was denied on September 22, 2025. App. 60.

REASONS FOR GRANTING CERTIORARI

This is a case of competing tools of statutory construction: the absurdity doctrine and the rule of lenity. Both have deep historical roots. Both are to be used sparingly, according to courts and scholars. Only one of them, the rule of lenity, implicates a defendant's constitutional right to due process under the Fourteenth Amendment. U.S. Const. amend. XIV, §1. This case—with an uncontested set of relevant facts—presents an ideal vehicle to address the important question of whether a defendant's due process rights are violated when a court refuses to apply the rule of lenity when interpreting an ambiguous sentencing statute and instead resolves the ambiguity based on a tortured application of the absurdity doctrine that renders superfluous key words and undermines legislative intent.

Review of the question presented is critically important to protect the due process rights of defendants by establishing that the rule of lenity prevails when interpreting an ambiguous sentencing statute under the absurdity doctrine violates basic rules of statutory construction.

The Fourteenth Amendment provides, in pertinent part, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, §1. 2. The "venerable principle" known as the rule of lenity enshrines those due process rights. *Bittner v. United States*, 598 U.S. 85, 101 (2023). As this Court has stated, "[T]he rule exists in part to protect the Due Process Clause's promise that 'a fair warning should be given to the world in language that the common world will understand of what the law intends to do if a certain line is passed.'" *Bittner*, 598 U.S. at 103 (quoting *McBoyle v. United States*, 283

U.S. 25, 27 (1931)).

Instead of applying the rule of lenity to a newly-enacted sentencing statute it deemed ambiguous, the Illinois Supreme Court relied on the absurdity doctrine to determine that the General Assembly could not have meant what the statute's plain language said. In so doing, it deprived Krystle Hoffman of her due process right to a fair warning of "what the law intends to do" following her plea of guilty to one count of drug-induced homicide. Review should be granted here to prevent the erosion of due process rights by courts that choose to guess at the intent of the legislature under the guise of the absurdity doctrine rather than apply the rule of lenity.

A. The rule of lenity serves the vital purpose of protecting due process rights.

The rule of lenity is almost as old as the country itself, with its American roots dating back to 1795, when the Supreme Court decided *United States v. Lawrence*, 3 U.S. (3 Dall.) 42, 45 (1795). *Restoring the Rule of Lenity as a Canon*, 95 N.Y.U L. Rev. 918, 925. This Court has stated that the rule "is founded on 'the tenderness of the law for the rights of individuals' to fair notice of the law 'and on the plain principle that the power of punishment is vested in the legislative, not in the judicial department.'" *United State v. Davis*, 588 U.S. 445, 464-65 (2019) (quoting *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76, 95 (1820) (Marshall, C.J.)). The rule of lenity "provides a time-honored interpretive guideline when the congressional purpose is unclear." *Liparota v. United States*, 471 U.S. 419, 427 (1985). "The touchstone of the rule of lenity is statutory ambiguity." *Burgess v. United States*, 553 U.S. 124, 135 (2008) (quoting *Bifulco v. United States*, 447 U.S. 381, 387 (1980) (internal quotation marks omitted)).

Over the centuries, this Court has put forth varying thresholds for when the rule of lenity comes into play. In 1961, this Court stated that the rule of lenity comes into operation "only at the end of the process of construing what Congress has expressed, not at the beginning as an overriding consideration of being lenient to wrongdoers." *Restoring the Rule of Lenity as a Canon*, 95 N.Y.U L. Rev. 918, 928 (quoting *Callanan v. United States*, 364 U.S. 587, 596 (1961)).

In 1974, this Court found no "grievous ambiguity or uncertainty in the language and structure" of a firearms statute, so it did not apply the rule of lenity. *Huddleston v. United States*, 415 U.S. 814, 831 (1974); see *Restoring the Rule of Lenity as a Canon*, 95 N.Y.U L. Rev. 918, 925. The "grievous ambiguity" threshold has guided much of the recent jurisprudence related to the rule of lenity. See *Chapman v. United States*, 500 U.S. 453, 463 (1991); *Staples v. United States*, 511 U.S. 600, 619, n. 17 (1994); *Muscarello v. United States*, 524 U.S. 125, 139 (1998); *Dean v. United States*, 556 U.S. 568, 577 (2009); *Barber v. Thomas*, 560 U.S. 474, 488 (2010); *United States v. Castleman*, 572 U.S. 157, 172 (2014); *Ocasio v. United States*, 578 U.S. 282, 295, n. 8 (2016); *Pugin v. Garland*, 599 U.S. 600, 610 (2023).

Some cases, however, have relied on different thresholds. In *United States v. Granderson*, 511 U.S. 39, 54 (1994), this Court said the rule of lenity applies where the "text, structure, and history fail to establish that the Government's position is unambiguously correct." And, in *United States v. Shabani*, 513 U.S. 10, 18 (1994), this Court said it is applicable only when a statute remains ambiguous after consulting traditional canons of statutory interpretation. Most recently, this Court has stated that lenity has no "role to play where 'text, context, and structure' decide the case." *Bondi*

v. VanDerStok, 604 U.S. 458, 484 (2025)(quoting *Van Buren v. United States*, 593 U.S. 374, 393-94 (2021)).

In *Wooden v. United States*, Justice Gorsuch filed a concurring opinion which discussed the rule of lenity. He discussed the history of lenity and its relationship to due process. "From the start, lenity has played an important role in realizing a distinctly American version of the rule of law—one that seeks to ensure people are never punished for violating just-so rules concocted after the fact, or rules with no more claim to democratic provenance than a judge's surmise about legislative intentions." *Wooden v. United States,* 595 U.S. 360, 392 (2022) (Gorsuch, J., concurring, joined in part by Sotomayor, J.). Justice Gorsuch further stated, "Where the traditional tools of statutory interpretation yield no clear answer, the judge's next step isn't to legislative history or the law's unexpressed purposes. The next step is to lenity." *Id.*

In the case at hand, the Illinois Supreme Court did not follow that procedure. It found 730 ILCS 5/5-4-1 (c-1.5) (2022) ambiguous but refused to apply the rule of lenity. App. 30-31. Instead, it turned to the absurdity doctrine, imagining various hypothetical scenarios in which Hoffman's interpretation of the statute would lead to absurd results. It concluded, "In light of the presumption that the legislature did not intend absurd results, section 5-4-1(c-1.5)'s reference to an offense that 'involves the *** possession of drugs' cannot mean any offence that includes or necessarily entails possession and, in turn, delivery." App. 35. That conclusion, based on future defendants, denied Krystle Hoffman her right to due process. Instead of construing the statute in her favor, the court imposed its own belief of what the legislature intended

Like the rule of lenity, the absurdity doctrine has long history. One of the

earliest references to the doctrine came in 1819 when this Court decided *Sturges v. Crowinshield*, 17 U.S. (4 Wheat.) 122, 203 (1819). John F. Manning, *The Absurdity Doctrine*, 116 Harv. L. Rev. 2387, 2388 (2003). In the 1868 case *United States v. Kirby,* this Court stated, "All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to injustice, oppression, or an absurd consequence. It will always, therefore, be presumed that the legislature intended exceptions to its language, which would avoid results of this character." *United States v. Kirby*, 74 U.S. 482, 486-87 (1868). Unlike the rule of lenity, this doctrine is not based on due process, but rather "the intuition that some [ ] outcomes are so unthinkable that the federal courts may safely presume that legislators did not foresee those particular results and that, if they had, they could and would have revised the legislation to avoid such absurd results." John F. Manning, *The Absurdity Doctrine*, 116 Harv. L. Rev. 2387, 2394 (2003).

In 1930, this Court in *Crooks v. Harrelson* warned that courts should apply the absurdity doctrine with "great caution and circumspection in order to avoid ursupation" of legislative power. *Crooks v. Harrelson*, 282 U.S. 55, 60 (1930). In *The Absurdity Doctrine*, John F. Manning analyzed the doctrine, cautioning, "[A]voiding absurd results may not implement, but may instead undermine, the only relevant expression of legislative intent." 116 Harv. L. Rev. 2387, 2395 (2003). The Illinois Supreme Court's application of the absurdity doctrine to 730 ILCS 5/5-4-1 (c-1.5) did just that – it undermined the General Assembly's intent by inserting limitations that did not exist and rendering superfluous the word "use."

The statute at issue provides that a trial court *may* sentence an offender to probation, conditional discharge, or a lesser term of imprisonment if the offense "involves the use or possession of drugs," the defendant does not pose a risk to public safety, and the interest of justice requires imposing a lesser sentence. 5/5-4-1 (c-1.5). (Emphasis added.) In the proceedings below, Hoffman argued that the discretionary statute could be applied to her because the offense to which she pled guilty, drug-induced homicide, involved the use or possession of drugs and required a six-year mandatory minimum term of imprisonment.

B. The opinion below violated Hoffman's due process rights.

The Illinois Supreme Court's interpretation of the sentencing reduction statute began with a faulty premise. It stated "the parties dispute what it means for an offense to constitute one that 'involves the *** possession of drugs." App. 29. On the contrary, the dispute related to the entire phrase, "the offense involves *the use or* possession of drugs." [Emphasis added.] Framing the controversy only in terms of possession of drugs violated a cardinal rule of statutory interpretation: each word and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. *Washington Mkt. Co. v. Hoffman*, 101 U.S. 112, 115-16 (1879).

Later, the court acknowledged Hoffman's argument that inclusion of the word "use" was significant. However, it stated that she did not "explain[ ] the import of that significance." Moreover, the court asserted, since a person must possess a drug in order to use it, "the addition of 'use' undermines defendant's argument that section 5-4-1(c-1.5) encompasses delivery offense solely because delivery requires possession." App. 31. It continued, "Such reasoning would seemingly render the term 'use' superfluous

because use, like delivery, necessarily entails possession." App. 31. The dissent – which the majority never addressed – countered that, "By focusing only on drug possession and omitting drug use from its interpretation of the statutory text, the majority violates the well-established principle that all words in a statute are to be considered when construing it." App. 40.

The majority then looked to the text of the statute, specifically the meaning of the word "involves." It concluded, "The respective definitions ascribed to 'involves' by each party makes some sense within the context of the statute." As a result, it said, the statute was ambiguous and extrinsic tools of statutory interpretation must be used to divine legislative intent. App. 30-31.

Having found ambiguity, the court examined the legislative history of the new statute but found it supported neither party. App. 31. It said the debates "shed no light on which offenders should be returned to society or which mandatory minimums were considered to have been unduly harmful." App. 32. Although the debates may not have provided conclusive proof of the General Assembly's intent in passing the legislation, they offered powerful clues which should have guided the court's decision here.

The bill's alternate chief sponsor said the statute was an effort "to make sure that we don't stand as a super judiciary and stand in the place of the Judiciary." Illinois Senate Transcript, 2019 Reg. Sess. No. 50, at 19, May 24, 2019 (statement of Rep. Sims). He continued, "[T]he reason that we have been trying desperately to reform our criminal justice system, to tear down the problems that we have, is because of the mandatory minimum sentencing." *Id.* The bill's chief sponsor said, "This Bill simply allows judges to give what we are calling smart sentences to individuals who are

convicted of a crime but do not pose a threat to public safety." Illinois House Transcript, 2019 Reg. Sess. No. 40, at 175, April 11, 2019 (statement of Rep. Harper).

The Illinois Supreme Court did not acknowledge that the statute was meant to give trial courts more discretion to sentence defendants as individuals, although it later referenced the "legislature's purpose of alleviating the effects of mandatory minimum terms." App. 35-36. According to the court, the legislative history did not clarify the intent of the "collective legislative body." App. 33. Since it determined that neither the statutory text nor the legislative history resolved the ambiguity in the statute, the court should have relied on the rule of lenity. See *Bifulco v. U. S.*, 447 U.S. 381, 400 (1980) (finding that its statutory analysis revealed "at the least, a complete absence of an unambiguous legislative decision," and that "to the extent that doubts remain, they must be resolved in accord with the rule of lenity"); *United States v. Santos*, 553 U.S. 507, 514 (2008)(applying lenity and stating "[T]he tie must go to the defendant").

Instead of applying the "time-honored interpretive guideline" that is the rule of lenity, *Liparota v. United States*, 471 U.S. 419, 427 (1985), the Illinois Supreme Court relied on the absurdity doctrine to conclude that the statute applied only to "the mere possession of drugs." App. 33-34, 36. However, this interpretation adds limitation to the statute which do not exist. In *United States v. Gonzalez*, this Court was asked to do the same thing when interpreting "whether the phrase 'any other term of imprisonment'" in a sentencing statute "'means what it says, or whether it should be limited to some subset' of prison sentences.'" *United States v. Gonzales*, 520 U.S. 1, 5, (1997) (quoting *Maine v. Thiboutot*, 448 U.S. 1, 4 (1980)). It found "Congress did not

add any language limiting the breadth" of the word "any." *Gonzales*, 520 U.S. at 5. Similarly here, the Illinois General Assembly did not limit the breadth of statute by using the word "mere" in section 5-4-1(c-1.5).

To justify its holding, the Illinois Supreme Court invented various hypothetical situations in which the defendant's interpretation of the statute – that it could apply to a large swath of convictions that "involved the use or possession of drugs" – would supposedly lead to absurd results. App. 33-34. It stated, "it would be absurd for the legislature to extend the same sentencing grace to a defendant who merely possess drugs and a defendant whose actions leads to someone's death." App. 34.

Hoffman argued that the statute's other provisions ameliorate such imagined absurdities. The court, however, rejected Hoffman's theory about the prophylactic effect of the statute's additional requirements, stating it did "not explain why the legislature would make sentencing relief available for the aforementioned delivery offenses in the first instance." App. 35. In rejecting Hoffman's argument, the Illinois Supreme Court failed to account for basic common sense. It is highly unlikely that a trial court would find such a defendant convicted of predatory criminal sexual assault of a child committed by delivering to the child any controlled substance – an example provided by the court – eligible for a reduced sentence. A judge would simply be unable to find such a defendant was not a threat to the public and that a deviation from the mandatory minimum sentence served the interest of justice.

None of the doomsday scenarios imagined by the court were at issue in Hoffman's case. Like the dissent stated, "the majority's entire dispositional outcome in the instant case rests upon speculating whether the application of the sentence

reduction statute to the instant case will lead to absurd results in future hypothetical scenarios." App. 43. As Justice Thomas stated in his concurring opinion in *Borden v. United States*, "A court may only 'adjudge the legal rights of litigants in actual controversies.'" *Borden v. United States,* 593 U.S. 420, 447-48 (Thomas, J., concurring in judgment)(quoting *United States v . Raines*, 362 U.S. 17, 21 (1960)). The possibility of absurdity is not enough to deny application of the rule of lenity.

As this Court has stated, "'Laws enacted with good intention, when put to the test, frequently, and to the surprise of the law maker himself, turn out to be mischievous, absurd or otherwise objectionable. But in such case the remedy lies with the law making authority, and not with the courts.'" *Griffin v. Oceanic Contractors, Inc.*, 458 U.S. 564, 575 (1982) (quoting *Crooks v. Harrelson*, 282 U.S. 55, 60 (1930)). Nevertheless, based on what *might* happen in a future case involving a different defendant, Krystle Hoffman, who was out on bond for the majority of the trial and appellate proceedings, was sent back to prison to serve the remainder of her six-year sentence.

Significantly, Hoffman is precisely the type of defendant who would benefit from a reduced sentence under the new statute. The trial court here found she posed no risk to public safety, and "if the Court had broad discretion in imposing a sentence, it may very well be that a term of probation would be appropriate under the very specific facts of this case." (R. 226) She had no criminal history and was consistently described as a kind but somewhat gullible person. (R. 162-163, 165, 170, 173, 190, 192-193) She expressed sincere remorse for her involvement in Lorna Haseltine's death. (R. 222-223) Applying the sentencing reduction statute to this case is far from absurd.

A State cannot be permitted to curtail the reach of a sentencing reduction statute based on hypothetical absurdities not at issue in the case before it. Moreover, it cannot render superfluous words in the statute nor add words to reach a decision that comports with its subjective belief of what the legislature intended. Although these principles should be self-evident, they were abandoned here, preventing Hoffman from even the *possibility* of receiving sentencing relief. As Justice Gorsuch stated in his concurring opinion in *Wooden v. United States*, "Where the traditional tools of statutory interpretation yield no clear answer, the judge's next step isn't to legislative history or the law's unexpressed purposes. The next step is to lenity." *Wooden v. United States*, 595 U.S. 360, 388 (2022)(Gorsuch concurring).

This Court has never addressed the question of whether lenity can supercede the absurdity doctrine when employing the latter violates fundamental rules of statutory construction. By all accounts, both are "traditional tools of statutory construction." App. 36. While the rule of lenity has been referred to as a tool of "last resort," that does not mean it is never applicable. *United States v. Davis*, 588 U.S. 445, 496 (2019)(Kavanaugh, J., dissenting, joined by Thomas and Alito, JJ., and joined in part by Roberts, C.J.)("the rule of lenity is a tool of last resort"). Moreover, it does not give a court the license to deny liberty to a defendant based on what *might* happen in a future case with a different defendant. By rejecting application of the rule of lenity, the Illinois Supreme Court here denied Hoffman her right to fair warning of the penalty that could result from her pleading guilty to drug-induced homicide. In order to preserve the due process protections provided by the rule of lenity, this Court should grant review in this case.

CONCLUSION

For the foregoing reasons, petitioner, Krystle Hoffman, respectfully prays that this Court grant certiorari to decide the question presented.

Respectfully submitted,

//s// Christopher McCoy

CHRISTOPHER MCCOY
Deputy Defender
Counsel of Record
OFFICE OF THE STATE APPELLATE DEFENDER
SECOND JUDICIAL DISTRICT
One Douglas Avenue, Second Floor
Elgin, IL 60120
(847) 695-8822
2ndDistrict@osad.state.il.us

ANN FICK
Assistant Appellate Defender

Attorneys for Petitioner