

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted August 1, 2025
Decided August 7, 2025

Before

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

CERTIFIED COPY

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Teste:

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Court of Appeals for the
Seventh Circuit



Nos. 24-2934 & 24-3205

JACOB RUBINI,
Petitioner-Appellant,

Appeals from the United States District
Court for the Northern District of
Illinois, Eastern Division.

v.

BRITTANY GREENE,
Respondent-Appellee.

No. 24 CV 1943
Lindsay C. Jenkins,
Judge.

ORDER

Jacob Rubini has filed a notice of appeal from the denial of his petition under 28 U.S.C. § 2254 and an application for a certificate of appealability. This court has reviewed the final order of the district court and the record on appeal. We find no substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Accordingly, the request for a certificate of appealability is DENIED. Rubini's motion to proceed in forma pauperis is DENIED as moot.

Appendix (A)

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

September 8, 2025

Before

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

Nos. 24-2934 & 24-3205

JACOB RUBINI,
Petitioner-Appellant,

Appeals from the United States District
Court for the Northern District of
Illinois, Eastern Division.

v.

BRITTANY GREENE,
Respondent-Appellee.

No. 1:24-cv-01943
Lindsay C. Jenkins,
Judge.

ORDER

On consideration of Petitioner Jacob Rubini's petition for rehearing en banc, filed August 22, 2025, no judge in active service has requested a vote on the petition for rehearing en banc, and all judges on the original panel have voted to deny the petition for panel rehearing.

Accordingly, the petition for rehearing en banc filed by Petitioner Jacob Rubini is DENIED.

Appendix (B)

Rubini v. Greene, 24 CV 1943 (N.D. Ill. Sep 30, 2024)

1

Jacob A. Rubini (R00268), Petitioner,

v.

Brittany Greene, Respondent

No. 24 CV 1943

United States District Court, N.D. Illinois, Eastern Division

September 30, 2024

MEMORANDUM OPINION AND ORDER

LINDSAY C. JENKINS, UNITED STATES DISTRICT JUDGE

Jacob A. Rubini (“Rubini”), an Illinois state prisoner, petitions for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his 2019 conviction for home invasion and aggravated domestic battery. [Dkt. 1.] For the reasons stated below, the petition is denied.

I. Background^[1]

In November 2018, Rubini was charged with home invasion, aggravated domestic battery, and attempted criminal sexual assault. *People v. Rubini*, 2021 IL App (2d) 200064-U, ¶ 4. The charges stem from an incident on November 25, 2018, when Rubini entered the home of his ex-girlfriend, K.C., assaulting her and causing great bodily harm. *Id.*

2

K.C. and a responding police officer, Johnathan Finze (“Finze”), were involved in or testified during the order of protection hearing as well as during pre-trial and trial proceedings. Portions of their testimony and alleged discrepancies between them are relevant to the issues raised in this habeas petition, so the Court summarizes the key facts below.

A. Order of Protection Proceedings

Four days after the assault, K.C. petitioned for an order of protection; the trial court immediately issued an emergency order against Rubini. [Dkts. 16-3 at 43-51; 16-4 at 1.]^[2] The trial court extended the order twice before the State sought a plenary order of protection in March 2019, pursuant to section 112A-11.5(a) of the Illinois Code of Criminal Procedure. [Dkts. 16-4 at 1-2; 16-2 at 111; 16-3 at 5-7, 10.] Under that provision, a state court must enter an order of protection where there is *prima facie* evidence of a sexual offense, which can include an indictment charging a crime of domestic violence or a sexual offense. [Dkts. 16-3 at 11, 15; 16-4 at 1-2.]

At a hearing that month, the State argued that the indictment provided *prima facie* evidence of sexual assault and entitled K.C. to a plenary order of protection without requiring her testimony in the proceedings. [Dkts. 16-3 at 10-11.] Rubini’s counsel objected, arguing that the statute was unconstitutional because it allowed for an order of protection without giving Rubini the opportunity to confront his accuser. [Dkts. 16-2 at 111; 16-3 at 12.] After counsel requested time to file a motion on the issue, the trial court continued the matter and extended the order for two weeks.

Appendix (D)

[Dkt. 16-4 at 1-2.] Before the court ruled, K.C. dismissed her petition for a plenary order after the court denied the State's motion to consolidate Rubini's criminal case with the order of protection proceedings. [Dkts. 1 at 59; 16-2 at 111; 16-3 at 29-31; 16-4 at 2.]

B. Trial and Conviction

In October 2019, the matter proceeded to a jury trial on the three criminal charges. *Rubini*, 2021 IL App (2d) 200064-U, ¶ 5. The State presented testimony from multiple witnesses, including K.C., who testified as follows: Rubini moved into K.C.'s condo shortly after the two began dating in the summer of 2018. *Id.* at ¶ 7. K.C. explained that she never gave Rubini keys to her condo and instead left the doors unlocked when she was not home. *Id.* She further testified that Rubini had agreed to make monthly payments, but she never received any money from him. *Id.* This led K.C. to ask Rubini to move out, which he did in November 2018, about a week and a half before Thanksgiving. *Id.* at ¶ 8.

K.C. testified that she and Rubini continued their relationship after he moved out. *Id.* at ¶ 9. Although he no longer lived with her, Rubini visited for Thanksgiving dinner, stayed the night, and left the following day. *Id.* at ¶¶ 9-10. K.C. testified that later that evening, she went to bed around 10:00 p.m. with all the doors locked. *Id.* at ¶¶ 10, 20. She awoke to Rubini on top of her, pinning her down. *Id.* She told him to get off and asked how he got inside, to which he replied, "The doors were open." *Id.* at ¶ 10. K.C. testified that she felt Rubini's exposed penis against her, so she grabbed it as hard as she could in an attempt to free herself, but Rubini responded by hitting her, ripping off her camisole, and throwing "her across the room." *Id.* at ¶¶ 10-11.

4

Sometime after 1:00 a.m., K.C. escaped to her neighbor's home, where she watched Rubini leave her condo through her patio sliding door. *Id.* K.C.'s neighbor called the police. *Id.*

K.C. testified that when the police arrived, they escorted her back to her home. *Id.* at ¶ 13. She testified that although the sliding patio door was "wide open" when she fled to find help, the door was closed and locked when she returned with the police. *Id.* ¶¶ 20-21. According to K.C., she did not lock the sliding patio door, and to regain entry, the police had to enter through a front window. *Id.* at ¶ 21. The next morning, K.C. went to the hospital and was treated for her injuries, including a cheekbone fracture. *Id.* ¶¶ 14-15, 24, 33-34.

Officer Finze testified before the grand jury and at trial regarding his observations upon arriving at the scene. *Id.* ¶ 24; *see* Dkts. 16-4 at 3; 16-6 at 7-8. Finze's trial testimony was as follows: K.C. was at her neighbor's apartment; she appeared visibly "shaken [and] frightened" with "redness all around her face," "dried blood around her nose," "a bump on her forehead," and redness on her left ear. *Rubini*, 2021 IL App (2d) 200064-U, ¶ 24. Finze escorted K.C. back to her condo, but she was unable to open either the sliding or front door, as both were locked. *Id.* Finze found an open window, climbed through it, and unlocked the front door from the inside. *Id.* Once inside, Finze observed that the bedroom was in disarray with blood on the sheets and pillows, crooked pictures on the wall, and a broken crucifix on a nightstand. *Id.* ¶ 25.

5

Following closing arguments, a jury found Rubini guilty of home invasion and aggravated domestic battery, but not guilty of criminal sexual assault. *Id.* ¶ 46. The trial court merged the home invasion and aggravated domestic battery convictions and sentenced Rubini to 20 years. *Id.* ¶ 48. On direct appeal, the Illinois Appellate Court affirmed the conviction and sentence. *Id.* ¶¶ 1-2, 61, 77. Rubini did not file a petition for leave to appeal ("PLA") to the Illinois Supreme Court. [Dkt. 16-5 at 51.]

C. Postconviction Proceedings

Rubini filed a *pro se* petition for state postconviction relief, which raised the following claims: (1) the State violated *Brady v. Maryland*, 373 U.S. 83 (1963), by "blocking" K.C. from testifying in the order of protection proceedings; (2) the State knowingly used K.C.'s perjured testimony at trial; (3) the State used Finze's false testimony in the grand jury proceedings to obtain an indictment; (4) K.C. testified pursuant to an undisclosed agreement with the State that reduced a felony DUI charge to a misdemeanor; (5) the admission of the crowbar

found by K.C. after the incident violated the Illinois Rules of Evidence; (6) trial counsel was ineffective for posting Rubini's bond with funds in counsel's escrow account; (7) trial counsel was ineffective for failing to obtain and introduce evidence showing that Rubini lived with K.C. at the time of the assault; (8) trial counsel was ineffective for failing to call certain witnesses^[3] who could have established that Rubini lived in the condo; (9) trial counsel was ineffective for not presenting evidence that Rubini posted bond for K.C.

6

for her DUI in October 2018; (10) trial counsel was ineffective for failing to obtain telephone records of calls made by K.C. while in custody for the DUI; and (11) trial counsel was ineffective for not allowing Rubini to testify at trial. [Dkts. 16-4 at 4; 165 at 50-77.]

Although the trial court did not address each claim, it summarily dismissed the petition at the first stage of the proceedings, finding there was no prosecutorial misconduct or perjured testimony, and the order of protection proceedings had no impact on the outcome of the case. [Dkts. 16-5 at 102-04.]

On appeal, appointed counsel moved to withdraw under *Pennsylvania v. Finley*, 481 U.S. 551 (1987), stating that an appeal would lack arguable merit. [Dkt. 16-6.] Rubini filed a response. [Dkt. 16-7.] The Illinois Appellate Court agreed with appointed counsel's conclusions, granted the motion to withdraw, and affirmed the judgment dismissing Rubini's postconviction petition. *People v. Rubini*, No. 2-22-0320 (Ill.App.Ct. May 31, 2023), ECF No. 16-4. The Illinois Supreme Court denied Rubini's postconviction PLA. *People v. Rubini*, 221 N.E.3d 388 (Ill. 2023) (Table), ECF No. 16-10.

Rubini then filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

II. Legal Standard

Under the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2254, a petitioner in custody pursuant to the judgment of a state court must make two showings to be eligible for a writ of habeas corpus: (1) "that he is in custody in violation of the Constitution or laws or treaties of the United States,"

7

§ 2254(a), and (2) that the state postconviction court's adjudication of his claim "resulted in a decision that" either "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States," or "was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding," § 2254(d)(1)-(2).

The requirements of § 2254 are difficult to clear. As the Supreme Court "has stated unequivocally, and on more than one occasion, . . . 'clearly established law as determined by [the Supreme] Court refers to the holdings, as opposed to the dicta, of [the Supreme] Court's decisions as of the time of the relevant state-court decision.'" *Berkman v. Vanibel*, 33 F.4th 937, 945 (7th Cir. 2022) (quoting *Yarborough v. Alvarado*, 541 U.S. 652, 660-61 (2004)). The "contrary to" prong does not apply unless "the state court applies a rule that contradicts the governing law set forth in [Supreme Court] cases . . . [or] confronts a set of facts that are materially indistinguishable from a decision of [the Supreme] Court and nevertheless arrives at a result different." *Williams v. Taylor*, 529 U.S. 362, 405-06 (2000). And a state court decision is not an "unreasonable application" of clearly established federal law unless it is "objectively unreasonable," "lying well outside the boundaries of permissible differences in opinion." *Felton v. Bartow*, 926 F.3d 451, 464 (7th Cir. 2019) (cleaned up). The decision must be "so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement." *Harrington v. Richter*, 562 U.S. 86, 103 (2011).

8

III. Analysis

In his *pro se* federal habeas petition, Rubini brings the following four claims:^[4]

1. The State violated his right to question K.C. by preventing her from testifying in the order of protection proceedings (Ground One) [Dkt. 1 at 5, 8];

2. The State knowingly used K.C.'s perjured testimony at trial (Ground Two) [*Id.* at 8];
3. The State knowingly used Finze's perjured testimony in the grand jury proceedings to obtain an indictment (Ground Three) [*Id.*]; and
4. The State failed to disclose BMO Harris joint checking account statements and a rent receipt at trial (Ground Four) [*Id.* at 9.]

Respondent argues that Grounds One and Two are meritless, and Grounds Three and Four are defaulted. [Dkt. 16 at 6-15.] As explained below, the Court agrees that Rubini is not entitled to habeas relief on any of his claims.

9

A. Ground One: Testimony in the Order of Protection Proceedings

Rubini contends that the State violated his due process rights^[2] by engaging in prosecutorial misconduct and suppressing evidence when it prevented K.C. from testifying in the order of protection proceedings “[i]n an attempt to stop further damage to her [criminal case].” [Dkts. 1 at 5, 8; 23 at 1-2.]

A due process claim based on suppression of evidence is governed by *Brady v. Maryland*, 373 U.S. 83 (1963). See *Dekelaita v. United States*, 108 F.4th 960, 968 (7th Cir. 2024). Under *Brady*, the prosecution violates due process by withholding from the defense evidence that is exculpatory—that is, evidence that is both favorable and material. *Smith v. Cain*, 565 U.S. 73, 75 (2012). This includes evidence that tends to undermine a witness's credibility. *Weary v. Cain*, 577 U.S. 385, 392 (2016) (citing *Giglio v. United States*, 405 U.S. 150, 153-54 (1972)). To establish a *Brady* violation, Rubini must point to evidence that was (1) favorable to the defense, (2) suppressed by the government, and (3) “material to an issue at trial.” *United States v. Shields*, 789 F.3d 733, 746 (7th Cir. 2015).

10

On postconviction review, the Illinois Appellate Court identified the controlling Supreme Court precedent-*Brady*—and correctly articulated the standard. [Dkt. 164 at 7-8.] Having identified and applied the correct federal law, the Illinois Appellate Court's decision is not contrary to clearly established federal law.

Nor was the Illinois Appellate Court's application of *Brady* unreasonable. Under *Brady*, “[e]vidence is favorable to the defense when it is either exculpatory or could be used for purposes of impeachment.” *United States v. Lawson*, 810 F.3d 1032, 1042 (7th Cir. 2016) (citing *Kyles v. Whitley*, 514 U.S. 419, 433 (1995)). Evidence is exculpatory if it “is ‘supportive of a claim of innocence’ to the crimes charged.” *United States v. Reyes*, 270 F.3d 1158, 1167 (7th Cir. 2001) (citing *United States v. Agurs*, 427 U.S. 97, 106-07 (1976)).

The Illinois Appellate Court focused its analysis on the “favorable to the defense” prong of *Brady*, concluding that even if “the State ‘blocked’ K.C.’s testimony in [the order of protection proceedings], and thereby suppressed evidence, it is a matter of pure speculation whether K.C.’s testimony would have been favorable to the defense.” [Dkt. 16-4 at 8.] K.C. testified at trial and was cross-examined by Rubini’s counsel, and her testimony was far from favorable to the defense, (see Rubini, 2021 IL App (2d) 200064-U, ¶¶ 8-9, 17-19, 21). Rubini provides nothing more than sheer speculation that K.C.’s potential order of protection testimony would have been favorable as exculpatory or impeachment evidence, which falls short of establishing a *Brady* violation. See *United States v. Shields*, 789 F.3d 733, 747-48 (7th Cir. 2015) (while the prosecution has an affirmative obligation to disclose *Brady* material, the

11

defendant must establish an alleged violation “by offering more than mere speculation or unsupported assertions.”) Therefore, federal habeas relief is not available as to Ground One.

B. Ground Two: Use of K.C.’s Allegedly Perjured Testimony

Rubini’s second claim is that the State violated his due process rights by knowingly using K.C.’s perjured testimony at trial to secure his conviction. [Dkt. 1 at 8.] He contends that the State knew her testimony was false because K.C.’s order of protection petition marked “Shared/Common Dwelling” in the “Relationship Code”

section, which, according to Rubini, conflicts with her testimony that he had moved out of the condo before the assault. [Dkts. 1 at 8; 23 at 2-3.]

“[D]ue-process rights are violated when the government obtains a conviction through the knowing use of false testimony.” *United States v. Hilliard*, 851 F.3d 768, 782 (7th Cir. 2017) (citing *Napue v. Illinois*, 360 U.S. 264, 269 (1959)). “Under *Napue*, a petitioner must show that: 1) the prosecution’s case included perjured testimony; 2) the prosecution knew, or should have known, of the perjury; and 3) there is any likelihood that the false testimony could have affected the judgment of the jury.” *Ashburn v. Korte*, 761 F.3d 741, 757 (7th Cir. 2014) (cleaned up).

The Illinois Appellate Court, citing only state law, correctly stated the applicable standard for evaluating *Napue* claims:

It is well established that “the State’s knowing use of perjured testimony to obtain a criminal conviction constitutes a violation of due process of law.” However, to set aside a conviction on this basis, the defendant must show prejudice in the form of a reasonable likelihood that the perjured testimony affected the jury’s verdict.

12

[Dkt. 16-4 at 8 (citing *People v. Olinger*, 680 N.E.2d 321, 345, 348 (Ill. 1997) (relying on *United States v. Bagley*, 473 U.S. 667, 678-80 (1985) to describe *Napue*’s materiality prong); *People v. Moore*, 217 N.E.3d 377, 385 (Ill. App. Ct. 2022).] See also *Hanson v. Beth*, 738 F.3d 158, 163 (7th Cir. 2013) (“[T]he Supreme Court has said that a state court does not need to cite, or even be aware of, its precedents ‘so long as neither the reasoning nor the result of the state-court decision contradicts them.’”) (quoting *Early v. Packer*, 537 U.S. 3, 8 (2002)).

In rejecting Rubini’s claim, the Illinois Appellate Court found that K.C. did not commit perjury because the checked box in her order of protection petition indicating “Shared/Common Dwelling” referred to her past relationship with Rubini and did not reflect their living arrangement at the time of the incident. [Dkt. 16-4 at 8-9.] It emphasized that the narrative portion of K.C.’s petition stated that Rubini had “broke into [] *my* sliding glass door,” which “indicated that she and [Rubini] were not cohabitating on the date of the incident.” [Id. at 8 (emphasis in original).] As a result, it determined that K.C. did not perjure herself and that the order of protection petition did not support Rubini’s argument that he had authority to be in the condo on the night of the assault. [Id. at 9.] Therefore, the Illinois Appellate Court’s application of *Napue* was reasonable.

To be sure, the record does not contradict the Illinois Appellate Court’s finding that K.C.’s order of protection petition referred to her past relationship with Rubini. In the narrative portion of her order of protection petition, K.C. stated that on the night of the assault, Rubini “came into my bedroom,” “had been at his house,” and

13

that he “went back to my condo and took my phone.” [Dkt. 16-3 at 45.] Likewise at trial, K.C. testified that in November 2018, she told Rubini to move out of her condo about a week and a half before the offense, but that they continued to have contact afterward. *Rubini*, 2021 Ill. App. (2d) 200064-U, ¶¶ 8-9. Although Rubini slept at K.C.’s condo after he moved, K.C. testified that Rubini did not have permission to be there on the night of the assault. *Id.* at ¶¶ 9-10, 19.

Simply put, Rubini has adduced no evidence that K.C. committed perjury, and without evidence that the prosecution’s case included perjured testimony, there is no basis for a claim under *Napue*. See *Ashburn*, 761 F.3d at 757 (“petitioner must show that [] the prosecution’s case included perjured testimony”) The Court cannot conclude that the Illinois Appellate Court’s decision was unreasonable, so Rubini is not entitled to federal habeas relief on Ground Two.

C. Ground Three: Use of Officer Finze’s Allegedly False Testimony

Like his second claim, Rubini’s third claim asserts that the State knowingly used Finze’s perjured testimony at the grand jury proceeding to obtain the indictment. [Dkt. 1 at 8.] According to Rubini, Finze testified before the grand jury that “he saw damage to the patio door upon arriv[ing] at K.C.’s condo,” but later “testif[ied] at trial [] that he never saw damage to the patio door.” [Id.] Respondent contends that the Court should not review this claim on the merits because it is procedurally defaulted. [Dkt. 16 at 11-12.]

Federal courts may not review state prisoners' habeas claims that have been "procedurally defaulted in state court," a doctrine that advances "comity, finality, and federalism interests." *Davila v. Davis*, 582 U.S. 521, 527-28 (2017). "Procedural

14

defaults take several forms," *Johnson v. Foster*, 786 F.3d 501, 504 (7th Cir. 2015), one of which occurs when a state court judgment rests upon adequate and independent state grounds. *Davila*, 582 U.S. at 527; *Flint v. Carr*, 10 F.4th 786, 793 (7th Cir. 2021); *Thomas v. Williams*, 822 F.3d 378, 384 (7th Cir. 2016). A ground is adequate if it is "firmly established and regularly followed." *Flint*, 10 F.4th at 793 (quoting *Beard v. Kindler*, 558 U.S. 53, 60 (2009)). A ground is independent "if it does not depend on the merits of the petitioner's claim." *Id.* (internal quotation omitted). When a state court refuses to adjudicate a petitioner's federal claims because he did not raise them in accordance with the state's procedural rules, "that will normally qualify as an independent and adequate state ground for denying federal review." *Id.* at 794 (internal quotation omitted).

Here, on postconviction review, the Illinois Appellate Court dismissed Rubini's claim because he failed to attach transcripts of Finze's grand jury testimony or any other evidence to substantiate his allegations, noting that Rubini did not provide an explanation for his failure to do so. [Dkt. 16-4 at 10.] Illinois law requires a postconviction petition to "have attached thereto affidavits, records or other evidence supporting its allegations or [to] state why the same are not attached." 725 ILCS 5/122-2. Dismissal for failure to attach affidavits, records or other evidence is an independent and adequate state ground because the Illinois Appellate Court relied on the lack of evidentiary materials to dispose of the claim. *United States ex rel. Johnson v. Gaetz*, 2010 WL 2044930, at *4 (N.D. Ill. May 24, 2010) (explaining appellate court's dismissal for lack of evidentiary support is an independent and

15

adequate state ground). Because the Illinois courts relied upon an independent and adequate state law ground, the claim is procedurally defaulted, and the Court cannot address the merits of the claim.^[6] See *Richardson v. Lemke*, 745 F.3d 258, 268-69 (7th Cir. 2014).

A court may excuse the procedural default and reach the merits of a petitioner's claim only if he demonstrates either: (1) cause for the default and actual prejudice or (2) that failure to consider the claims will result in a fundamental miscarriage of justice. *Snow v. Pfister*, 880 F.3d 857, 864 (7th Cir. 2018). Here, Rubini makes no argument that either exception applies, so the Court will not excuse his default. Accordingly, Rubini is not entitled to federal habeas relief on Ground Three.

D. Ground Four: Undisclosed Bank Statements and Rent Receipt

Rubini's final claim is that the State violated *Brady* by failing to disclose joint BMO Harris bank statements and a rent receipt, which he asserts would prove that he lived in K.C.'s condo at the time of the assault. [Dkt. 1 at 9.] Respondent argues this claim is procedurally defaulted because Rubini did not raise it through one full round of state court review. [Dkt. 16 at 13-16.] The Court agrees.

Under § 2254(b), "a state prisoner must exhaust available state remedies before presenting his claim to a federal habeas court." *Davila*, 582 U.S. at 527 (citing § 2254(b)(1)(A)). To satisfy the exhaustion requirement, "state prisoners must give

16

the state courts one full opportunity to resolve any constitutional issues by invoking one complete round of the State's established appellate review process." *O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999). In Illinois, this includes presenting the claims in a petition for leave to appeal to the state supreme court. *Snow*, 880 F.3d at 864 (citing *Boerckel*, 526 U.S. at 845-46). If the "federal issue was not fairly presented to the state courts and those courts would now hold the claim procedurally barred," the procedural default doctrine precludes" federal habeas corpus review. *Thomas*, 822 F.3d at 384 (quoting *Ward v. Jenkins*, 613 F.3d 692, 696 (7th Cir. 2010)).

Rubini did not present his *Brady* claim in state court, so it is defaulted. [Dkts. 16-4-16-6.] True, Rubini pursued a related argument through one full round of state postconviction review when he asserted that his trial counsel was ineffective for not "showing BMO-Harris joint checking account" records "and a \$300 rent receipt."

[Dkt. 16-5 at 74-76.] But this is not the same as the argument he raises now. Now, he makes the opposite argument in the form of a *Brady* claim—that the State failed to disclose to him the BMO-Harris joint checking account and rent receipts. [Dkt. 1 at 9.] Because Rubini did not raise the *Brady* claim in state court, it is procedurally defaulted.¹⁷ See *Thomas*, 822 F.3d at 384.

Even if it were not procedurally defaulted, the claim fails on the merits because Rubini's post-conviction petition makes clear that he knew of the bank records and rent receipt. “[E]vidence cannot be said to have been suppressed in violation of *Brady*”

17

if it was already known to the defendant.” *Camm v. Faith*, 237 F.3d 1096, 1110 (7th Cir. 2019) (quoting *Avery v. City of Milwaukee*, 847 F.3d 433, 443 (7th Cir. 2017)). Accordingly, Ground Four is denied.

IV. Certificate of Appealability and Notice of Appeal Rights

This Court's denial of Rubini's petition is a final decision ending the case. Rubini may appeal only if he obtains a certificate of appealability from this Court or the Court of Appeals. 28 U.S.C. § 2253(c)(1)(A). The Court declines to issue a certificate of appealability because Rubini does not make a substantial showing of the denial of a constitutional right, *see* § 2253(c)(2), and reasonable jurists would not debate, much less disagree with, this Court's resolution of his petition. *See Arredondo v. Huibregts*, 542 F.3d 1155, 1165 (7th Cir. 2008). If Rubini wishes to appeal, he must request a certificate of appealability from the Court of Appeals pursuant to Federal Rule of Appellate Procedure 22 and 28 U.S.C. § 2253(c), in addition to filing his notice of appeal.

Rubini must file a notice of appeal in this Court within 30 days after judgment is entered. Fed. R. App. P. 4(a)(1). He need not bring a motion to reconsider this decision to preserve his appellate right, but if he wishes the Court to reconsider its judgment, he may file a motion under Federal Civil Procedure 59(e) or 60(b). A Rule 59(e) motion must be filed within 28 days of entry of judgment and suspends the deadline for filing an appeal until the motion is ruled on. *See* Fed.R.Civ.P. 59(e); Fed. R. App. P. 4(a)(4)(A)(iv). A Rule 60(b) motion must be filed within a reasonable time and, if seeking relief under Rule 60(b)(1), (2), or (3), must be filed no more than one year after entry of the judgment or order. *See* Fed.R.Civ.P. 60(c)(1). A Rule 60(b)

18

motion suspends the deadline for filing an appeal until the motion is ruled on only if the motion is filed within 28 days of the judgment. Fed. R. App. P. 4(a)(4)(A)(vi). The time to file a Rule 59(e) or 60(b) motion cannot be extended. *See* Fed.R.Civ.P. 6(b)(2).

V. Conclusion

For the foregoing reasons, the petition for a writ of habeas corpus [Dkt. 1] is denied. The Court declines to issue a certificate of appealability pursuant to 28 U.S.C. § 2253(c). Final judgment shall enter in favor of Respondent Greene and against Petitioner Rubini. Civil case terminated.

Notes:

¹⁷ In reviewing a petition for federal habeas corpus, the Court presumes that the state court's factual determinations are correct unless Petitioner rebuts those facts by clear and convincing evidence. 28 U.S.C. § 2254(e)(1); *Weaver v. Nicholson*, 892 F.3d 878, 881 (7th Cir. 2018). Rubini does not challenge any of the underlying facts in his petition, so the Court draws the facts from the Illinois Appellate Court's opinion in his direct appeal, *People v. Rubini*, 2021 IL App (2d) 200064-U; the Illinois Appellate Court's order denying Rubini's postconviction appeal, *People v. Rubini*, No. 2-22-0320 (Ill.App.Ct. May 31, 2023), ECF No. 16-4; and the state court records that Respondent provided pursuant to Rule 5 of the Rules Governing Section 2254 Cases.

¹⁸ Citations to docket filings generally refer to the electronic pagination provided by CM/ECF, which may not be consistent with page numbers in the underlying documents.

¹⁹ The Illinois Appellate Court evaluated Rubini's claims that his trial counsel was ineffective for failing to call two witnesses—a neighbor and K.C.'s probation officer—as one claim (Claim Eight). [Compare Dkts. 16-4 at 4, 11; with 16-5 at 73; and 16-6 at 13 (listing these as two separate claims).]

¹⁴ Rubini's habeas petition includes a handwritten reference to an attached document described as "Questions Presented Pro-se[] Post Conviction." The "Questions Presented" document is nearly identical to a page in postconviction counsel's *Finley* motion. Claims One, Two, and Three in the *Finley* motion and the "Questions Presented" correspond to Grounds One, Two, and Three of the habeas petition. The "Questions Presented" introduces a *Brady* claim, which is also Ground Four of the habeas petition. [Compare Dkts. 1 at 5-7; with 16-6 at 13; and 16-9 at 17.] No claim in the "Questions Presented" document cites supporting facts. Instead, each claim cites the relevant portion of his postconviction petition. [See, e.g., Dkt. 1 at 6 ("Ground (6) his counsel was ineffective for posting bond of his behalf (C. 702).")]

While the Court must liberally construe a *pro se* § 2254 petition, this does not relieve Rubini from complying with Habeas Rule 2(c), which requires a petitioner to "specify all the grounds for relief available" to a petitioner and "state the facts supporting each ground." *Mayle v. Felix*, 545 U.S. 644, 655-56 (2005) (emphasis added); *see Jenkins v. Doyle*, 2008 WL 3982181, at *4 (E.D. Wis. Aug. 22, 2008) ("The [] 'notice pleading' permitted in civil suits is inadequate in habeas cases, since 'the petition is expected to state facts that point to a real possibility of constitutional error.'") (quoting Advisory Committee Note to Habeas Rule 4 Governing Section 2254 Cases). Indeed, the four claims included on the face of his petition leave little doubt that Rubini fully understood this requirement because he provided factual support for each individual claim. [Dkt. 1 at 5, 8-9.] Moreover, while Federal Rule of Civil Procedure 10(c) permits a habeas petitioner to incorporate facts from an appended brief to plead his petition with sufficient particularity, *see Ross v. Williams*, 950 F.3d 1160, 1167 (9th Cir. 2020) (citing *Dye v. Hofbauer*, 546 U.S. 1, (2005)), Rubini's postconviction petition is not among the exhibits appended to his § 2254 petition. Consequently, the Court limits its habeas review to the four handwritten claims in Rubini's § 2254 petition form.

¹⁵ Although Rubini's habeas petition appears to frame Ground One as a Sixth Amendment confrontation clause claim, (*see* Dkt. 1 at 5 ("Prosecutor's violated petitioner's right to question his accuser" in the order of protection proceedings")), his reply brief confirms that he is asserting a due process violation. [Dkt. 23 at 1-2 (alleging that the State violated "[the Fourteenth] Amendment right to Due Process," engaged in "official misconduct," and "suppression of evidence.").] Even if Rubini raised a Sixth Amendment claim, it lacks merit. "The right to confrontation is basically a trial right." *United States v. Andrus*, 775 F.2d 825, 836 (7th Cir. 1985) (citing *Barber v. Page*, 390 U.S. 719, 725 (1968)). The Seventh Circuit has declined to recognize a right to confrontation in criminal proceedings outside the trial context. *See, e.g., id.* (the confrontation clause does not apply at preliminary hearings); *United States v. Isom*, 635 F.3d 904, 907 (7th Cir. 2011) (the confrontation clause does not apply at sentencing hearings).

¹⁶ Even if Rubini had not procedurally defaulted, this claim fails on the merits because the trial jury's guilty verdict renders harmless any possible error in the grand jury proceedings. *See United States v. Montez*, 858 F.3d 1085, 1091 (7th Cir. 2017) (a trial jury's guilty verdict renders an error in the grand jury proceedings harmless); *Tyson v. Trigg*, 50 F.3d 436, 442 (7th Cir. 1995) (finding a grand jury irregularity harmless because "[t]he conviction proves that there was probable cause to try" the habeas petitioner).

¹⁷ As mentioned, procedural default can be excused if a petitioner can show cause and prejudice or that failure to review the claim would result in a miscarriage of justice, *see Sison*, 880 F.3d at 864, but Rubini does not attempt to make such a showing here. Even if he had, the claim fails on the merits.

10/28/2024	<u>1</u>	State prisoner's habeas corpus case docketed. Certificate of Appealability denied 09/30/2024. IFP pending in the District Court. Docketing Statement due for Appellant Jacob A. Rubini by 11/01/2024. Transcript information sheet due by 11/12/2024. [1] [7414305] [24-2934] (HTP) [Entered: 10/29/2024 09:43 AM]
10/28/2024	<u>2</u>	Pro se motion filed by Appellant Jacob A. Rubini for certificate of appealability. [2] [7414401] [24-2934] (JR) [Entered: 10/29/2024 11:36 AM]
10/31/2024	<u>3</u>	Notification from the District Court that a motion to proceed on appeal in forma pauperis is pending. [3] [7414968] [24-2934, 24-2969] (CG) [Entered: 10/31/2024 11:54 AM]
11/01/2024	<u>4</u>	ORDER: The appellant shall file, on or before November 15, 2024, a brief memorandum stating why this appeal should not be dismissed as unnecessary. A motion for voluntary dismissal under Rule 42(b) of the Federal Rules of Appellate Procedure will satisfy this requirement. Briefing is SUSPENDED pending further court order. (See order for further details) [7415292] JXK [4] [7415292] [24-2934] (CG) [Entered: 11/01/2024 11:17 AM]
11/07/2024	<u>5</u>	Docketing Statement filed by Appellant Jacob A. Rubini. Prior or Related proceedings: Yes. 24-2696 [5] [7416456] [24-2934] (EF) [Entered: 11/07/2024 02:30 PM]
11/25/2024	<u>6</u>	Filed District Court order DENYING Appellant Jacob A. Rubini in leave to proceed on appeal in forma pauperis. Date IFP denied: 11/25/2024. Issued Circuit Rule 3(b) 30 day notice for failure to pay the docketing fee. Fee or IFP forms due on 12/26/2024 for Appellant Jacob A. Rubini [7419920] [6] [7419920] [24-2969, 24-2934] (AP) [Entered: 11/25/2024 02:18 PM]
11/25/2024	<u>7</u>	Pro se motion filed by Appellant Jacob A. Rubini to dismiss case 24-2969 pursuant to FRAP 42(b). [7] [7419977] [24-2969] (CAH) [Entered: 11/25/2024 03:32 PM]
11/26/2024	<u>8</u>	ORDER re: Motion to dismiss appeal no. 24-2969. [7] This case is DISMISSED, pursuant to Federal Rule of Appellate Procedure 42(b). Appellant's appeal from the district court's judgment will proceed under No. 24-2934. Mandate issued, no record to be returned. [8][7420203] [24-2969] (PS) [Entered: 11/26/2024 11:07 AM]
11/26/2024	<u>9</u>	ORDER: In light of the voluntary dismissal of Appeal No. 24-2969, this appeal will proceed to a determination of whether a certificate of appealability should issue. JXK [7420213] [24-2934] (PS) [Entered: 11/26/2024 11:19 AM]
12/04/2024	<u>10</u>	Filed District Court order GRANTING Appellant Jacob A. Rubini leave to proceed on appeal in forma pauperis. Date IFP granted: 12/04/2024. [10] [7421586] [24-2934] (AP) [Entered: 12/04/2024 01:04 PM]
12/05/2024	<u>11</u>	ORDER: The court, on its own motion, orders these appeals are CONSOLIDATED for purposes of briefing and disposition. These consolidated appeals will proceed to a determination whether a certificate of appealability should issue. JXK [11] [7421930] [24-2934, 24-3205] (HTP) [Entered: 12/05/2024 01:04 PM]
12/13/2024	<u>12</u>	Prose motion filed by Appellant Jacob A. Rubini in 24-2934, 24-3205 to proceed on appeal in forma pauperis. [12] [7423684] [24-2934, 24-3205] (CAG) [Entered: 12/13/2024 03:23 PM]
12/27/2024	<u>13</u>	Appearance form filed by Attorney Aaron Williams for Appellee Brittany Greene. [13] [7425891] (L-Yes; E-Yes; R-No) [24-3205, 24-2934] [13] [7425891] [24-3205, 24-2934]--[Edited 12/27/2024 by HTP to reflect addition of counsel.] (Williams, Aaron) [Entered: 12/27/2024 09:45 AM]
08/07/2025	<u>14</u>	ORDER: Jacob Rubini has filed a notice of appeal from the denial of his petition under 28 U.S.C. § 2254 and an application for a certificate of appealability. This court has reviewed the final order of the district court and the record on appeal. We find no substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). Accordingly, the request for a certificate of appealability is DENIED. Rubini's motion to proceed in forma pauperis is DENIED as moot. [12] [2] David F.

JACOB A. RUBINI,
Petitioner – Appellant

v.

BRITTANY GREENE, Warden,
Respondent – Appellee

24-2934 Jacob Rubini v. Brittany Greene

Hamilton, Circuit Judge and Michael B. Brennan, Circuit Judge. [14] [7467468] [24-2934, 24-3205] (HTP) [Entered: 08/07/2025 12:03 PM]

08/11/2025 15 Pro se motion filed by Appellant Jacob A. Rubini in 24-2934, 24-3205 for status. [15] [7468110] [24-2934, 24-3205] (DAB) [Entered: 08/11/2025 03:39 PM]

08/11/2025 16 Pro se motion filed by Appellant Jacob A. Rubini in 24-2934, 24-3205 for appointment of counsel. [16] [7468112] [24-2934, 24-3205] (DAB) [Entered: 08/11/2025 03:40 PM]

08/12/2025 17 ORDER re: 1. Motion. 2. Motion. In light of the court's final order dated August 7, 2025, the appellant's motions will be filed without further court action. The clerk will send the appellant a copy of the court's public dockets. CDH [17] [7468460] [24-2934, 24-3205] (HTP) [Entered: 08/12/2025 03:36 PM]

08/22/2025 18 15 copies Filed Petition for Rehearing and Petition for Rehearing En banc by Appellant Jacob A. Rubini in 24-2934, 24-3205. DIST. [18] [7470374] [24-2934, 24-3205] (NHV) [Entered: 08/22/2025 03:17 PM]

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF NextGen 1.8 (rev. 1.8.1)
Eastern Division

Jacob A Rubini

Plaintiff,

v.

Case No.: 1:24-cv-01943

Honorable Lindsay C. Jenkins

Brittany Greene

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, October 30, 2024:

MINUTE entry before the Honorable Lindsay C. Jenkins: Petitioner's motion for a new trial [37] is denied. The motion is one page long and quotes the Supreme Court's recent decision in United States v. Rahimi. The motion also attaches a variety of documents from various sources, but Petitioner has in no way shown or developed any argument that the Court should revisit its prior decision. The Court has already denied Petitioner habeas relief, and declines to grant the requested relief for the reasons already stated [see [27].] Petitioner is reminded that he must promptly submit a current copy of his inmate trust fund account so that the Court can rule on his motion to appeal in forma pauperis. Mailed notice. (jlj,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

United States Court of Appeals
For the Seventh circuit

Jacob Rubini,
Petitioner - Appellant.

v.

Brittany Greene
Respondent - Appellee.

No. 24 Cv 1943

Nos. 24-2934 + 24-3205

U.S.C.A. - 7th Circuit
RECEIVED

AUG 22 2025

Hayley C. Jenkins,

A Petition for rehearing en banc

A Person has a right to Confront there Accuser, At civil
restraining order hearings!

The Seventh Circuit has declined to recognize A right to
confrontation in Criminal Proceedings outside the trial context.

which conflict's with United States v. Rahimi, 144 S. Ct. 1889

Supreme Court of the United States

outcome: Judgment reversed and remanded. 8-1 decision, 5 concurrences

The right of self defence is the first law of Nature."

Rahimi [¶1895] + [¶1896] our Justice's of the U.S. Supreme court
often refer to Mr. Rahimi right to confront his Accuser, when
his girlfriend C.M. testimony was given in a civil restraining
order, Rahimi had an opportunity to contest. He did not do so.

Therefore finding him a credible threat and thus taken away
his 2nd Amendment right to bear arms.

(1) Appendix (C)

W

United States Court of Appeals
For the Seventh Circuit

Petition for rehearing En banc

NO. 24 Cv 1943

Nos. 24-2934+ 24-3205

Case in Point: K.C. files a civil order of Protection on November 29, 2018, 2018 op 2212 Lake County, Illinois, 5 days later from the alleged crime of home invasion, which is nowhere in the common law!

Ms. Cramer indicates on 2018 op 2212 that her AND Mr. Rubini are tenants in common AND boyfriend and girlfriend at the time of the alleged crimes. Both K.C. and Mr. Rubini move to hold a hearing. So as Mr. Rubini can confront his accuser. There is no States Attorney present, because this is a civil restraining order brought by K.C. raising numerous accusations. Both civil parties agree to have a hearing on March 01, 2019. Mr. Rubini hired a transcriber for the hearing. Not the trial court or the States Attorney. 03/07/2019 R46-R58 when the States Attorney learned of the hearing in progress. She invited herself and deferred the hearing. The States Attorney then on 03/05/2019 R35-R42 states her intent R39 line 16 "And Not have ~~her~~ to testify in the order of Protection case, And I would like to take advantage of that as opposed to having her have to testify in her order of Protection."

Times and dates of records of proceeding are correct.

03/07/2019 R46-R58 is op 2018 2212 Civil hearing happened first

Then 03/05/2019 2018 cf 2693 R35-R42

United States Court of Appeals
For the Seventh Circuit

Petition for reharing en banc

No. 21 cu 1443

Nos. 21-2934 + 21-3205

Mr. Rubin's only intent on March 01, 2019 was to defend himself as the 6th Amendment allows, and as U.S. v. Roshimi 144 S.Ct. 1489, (Affirm's).

I am Enclosing Emergency order of Protection 4 PAGES
2018 op 2212

March 01, 2019 hearing 20 Pages 2018 op 2212

March 05, 2019 Status 2018 cf 2693 2 Pages Double sided.
"Page 6 R 39"

Enclosing these documents is only a attempt to save time and money to All Parties. Just as I tried to save time and money early on in this case.

* To: Clerk Please file stamp and return
A copy if possible.

I Did not send a copy to
opposing counsel. *


Jacob Rubin #00268
Western Illinois C.C.
2500 Rt 44 South
Mt. Sterling, Illinois 62353

Confidential P.h.A. Exhibit 2

EMERGENCY ORDER OF PROTECTION

COURT PH. (847) 377-3380

COURT NINETEENTH JUDICIAL CIRCUIT

COUNTY Lake STATE OF ILLINOIS

CASE NO. 2018OP002212 REF CASE

PETITIONER

KATHLEEN

S

CRAMER (62)

First

Middle

Last

Petitioner's Address/ Alternative Address

460 N MAIN ST, UNIT N101

WAUCONDA

IL

60084

(Street/PO Box)

(City)

(State)

(Zip)

Petitioner

And/or on behalf of other protected person(s)

Child(ren) as noted in Remedies 1, Part C of this order

Dependent _____ (name)

High Risk Adult _____ (name)

RESPONDENT

JACOB

RUBINI (37)

First

Middle

Last

Relationship to Petitioner BG CS

Respondent's Address

Home 511 KIMBALL WAUCONDA IL 60084

(Street/PO Box)

(City)

(State)

(Zip)

Work

(Street/PO Box)

(City)

(State)

(Zip)

Work Hours :

RESPONDENT IDENTIFIERS

SEX	RACE	DOB	HT.	WT.
M.	WHITE	03/13/1981	6'7"	210
EYES	HAIR	SOCIAL SECURITY #		
BROWN	BROWN			
DRIVER'S LIC. #	STATE	License Plate #		
	IL	IL		

Caution Indicators:

(A) Considered armed and/or dangerous

Distinguishing Features (scars, marks, tattoos, martial arts):

(S) Suicidal

TATTOO-LEFT SHOULDER; FACIAL HAIR

(Y) Considered armed, dangerous and suicidal

THE COURT FINDS:

That it has jurisdiction over the Petitioner and subject matter and the Respondent will be provided with reasonable notice and an opportunity to be heard within the time required by Illinois law.

THE COURT ORDERS: (Additional findings are set forth herein)

That Respondent is prohibited from further acts/threats of abuse on protected persons. (See R01)

That Respondent is ordered to stay away from Petitioner and/or other protected persons. (See R03)

The Circuit Clerk is directed to send within 24 hours Daycare/School Notice(s). (See R05-c)

The terms of this Order shall be effective until 12/19/2018 05:00 PM
(Date) (Time)

A hearing on the entry of a Plenary/Interim Order of Protection is set for: 12/19/2018 at 01:30 PM
(Date) (Time am/pm)

at the Lake County Courthouse, 18 N. County Street, Waukegan, Illinois in Courtroom: T511

A PLENARY (FINAL) ORDER OF PROTECTION MAY BE ENTERED AGAINST YOU BY DEFAULT IF YOU FAIL TO APPEAR AT SUCH HEARING.

Confidential

Confidential P.h.A. Exhibit 2

Case No. 2018OP002212

Ref. Case _____

RELATIONSHIP CODE

The Petitioner/ Abused Person stands in relationship to the Respondents (check all that apply):

X	RELATIONSHIP	X	RELATIONSHIP	X	RELATIONSHIP
<input type="checkbox"/>	Spouse (SE)	<input type="checkbox"/>	Parent (PA)	<input type="checkbox"/>	Grandparent (GP)
<input type="checkbox"/>	Ex (former) Spouse (XS)	<input type="checkbox"/>	Sibling (brother/sister) (SB)	<input type="checkbox"/>	In-Law (IL)
<input checked="" type="checkbox"/>	Boyfriend/Girlfriend (Dating Relationship) (BG)	<input type="checkbox"/>	Step-child (SC)	<input type="checkbox"/>	Person with Disability (PD)
<input type="checkbox"/>	Child in common (parties not married) (CC)	<input type="checkbox"/>	Step-sibling (SS)	<input type="checkbox"/>	Person responsible for High Risk Adult (PR)
<input checked="" type="checkbox"/>	Shared / common dwelling (CS)	<input type="checkbox"/>	Step-parent (SP)	<input type="checkbox"/>	Personal Assistant or Caregiver to Person with Disability (PC)
<input type="checkbox"/>	Child (CH)	<input type="checkbox"/>	Grandchild (GC)	<input type="checkbox"/>	Other Related by Blood or Marriage (OF)

FINDINGS [General]

The Court, having reviewed the verified petition and having examined the petitioner under oath or affirmation, finds that:

- Venue is proper (750 ILCS 60/209)
- The Respondent has abused the Petitioner and/or the child(ren) so identified on Part C of this order and/or the protected person(s) listed on page 1 of this order (750 ILCS 60/214 (a)).
- The abused person(s) is/are unable to bring this Petition on his/her own behalf due to age, health, disability, or inaccessibility (750 ILCS 60/214 (a)).
- The Petition has been filed on behalf of a high-risk adult with disabilities who has been abused, neglected, or exploited by a family or household member.
- An Order of Protection has previously been entered in the instant proceeding or in another proceeding in which any party, or a child of any party, or both, has/have been designated as either a respondent or a protected person (750 ILCS 60/223.1).

IT IS ORDERED the following remedies that are checked apply in this case.

PART A. REMEDIES INVOLVING PERSONAL PROTECTION

- 1. (R01) (Police Enforced) With respect to all protected persons, Respondent is prohibited from committing the following acts of abuse or threats of abuse (check all that apply):
 - Harassment, interference with personal liberty, physical abuse, or stalking.
 - Intimidation of a dependent.
 - Willful deprivation.
 - Neglect.
 - Exploitation.
- 2. (R03) (Police Enforced) Stay Away
 - a. Residence
 - Respondent is ordered to stay at least 500 feet away from residence of the petitioner and/or protected person(s) located at 460 N MAIN ST, UNIT N101, WAUCONDA, IL 60084

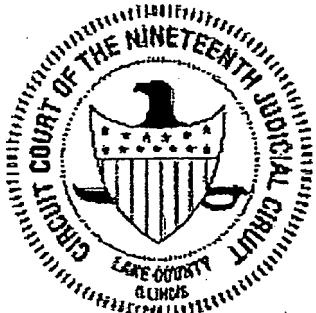
F.H. 52

Confidential! P.h.A. Exhibit 2

Case No. 2018OP002212

Ref. Case _____

I hereby certify that this is a true and correct copy of the original order on file with the court.



(Seal of the Clerk of Circuit Court)

Eva Cartwright Weinstein

Clerk Of Circuit Court of
Lake County, Illinois

Date: 11/29/2018

NOTICE TO RESPONDENT

You may petition the court, in accordance with Section 224 of the Act to re-open the order, if you did not receive actual prior notice of the hearing in accordance with Section 211 of the Act, alleging that you have a meritorious defense to the order or that the order, or any of its remedies, was not authorized by the act.

cc: Petitioner Respondent(via Sheriff) Counsel of Record Sheriff Advocate Jail
 States Attorney

DEFINITION OF TERMS USED IN THIS PETITION

1. **Abuse:** "Abuse" means physical abuse, harassment, intimidation of a dependent, interference with personal liberty or willful deprivation but does not include reasonable direction of a minor child(ren) by a parent or person *in loco parentis*.
2. **Domestic Violence:** "Domestic Violence" means abuse as defined in paragraph one.
3. **Exploitation:** "Exploitation" means the illegal, including tortious, use of a high risk adult with disabilities or of the assets or resources of a high-risk adult with disabilities. Exploitation includes, but is not limited to, the misappropriation of assets or resources of a high-risk adult with disabilities by undue influence, by breach of fiduciary relationship, by fraud, deception, or extortion, or the use of such assets or resources in a manner contrary to law.
4. **Family or Household Members:** Include spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship. In the case of a high-risk adult with disabilities, "family or household members" includes any person who has the responsibility for a high-risk adult as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a high-risk adult with disabilities voluntarily, or by express or implied contract, or by court order.
5. **Harassment:** "Harassment" means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances, would cause a reasonable person emotional distress, and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:
 - a. creating a disturbance at petitioner's place of employment or school;

Confidential

Confidential P.h.A. Exhibit 2

Case No. 2018OP002212

Ref. Case _____

(R18) The Circuit Clerk shall serve this order on the following wireless telephone provider(s) to transfer all financial responsibilities and the right to use the phone number(s) listed below to the petitioner.

Name of the wireless service provider	Name of the account holder on the plan	US State in which the phone is registered	Billing telephone number of the account holder	The telephone number to be transferred

(R17) Respondent is further ordered and enjoined as follows:

NO PHYSICAL, NO WRITTEN, NO VERBAL, NO THIRD PARTY, AND NO SOCIAL MEDIA CONTACT

PART E. RULINGS PURSUANT TO 750 ILCS 60/221 (A) (2) and (b) (2)

The relief request in paragraph(s) _____ of the Petition is/are

Denied

Reserved

because the balance of hardships does not support the granting of the remedy, and the granting of the remedy will result in hardship to Respondent that would substantially outweigh the hardship to the Petitioner from the denial of the remedy, or because

THE EMERGENCY ORDER WAS ISSUED ON:

Date 11/29/2018
Time 11:26 AM _____ am / pm

JUDGE DANIEL JASICA
TRAN#: IRO24584521126101065

Appendix H

Confidential

FILED

3/6/2019 2:43 PM

ERIN CARTWRIGHT WEINSTEIN

3/1/2019

Clerk of the Circuit Court

Lake County, Illinois

Page 1

IN THE CIRCUIT COURT
OF THE 19TH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

KATHLEEN S. CRAMER,)
Petitioner,)
vs.) No. 2018 OP 2212
JACOB RUBINI,)
Defendant.)

REPORT OF PROCEEDINGS at the hearing of
the above-entitled cause before the Honorable
Charles D. Johnson Judge of said Court, on the
1st day of March, 2019, at the hour of 2:34
o'clock p.m.

REPORTED BY: LISA M. BRINGLE, CSR
LICENSE NO.: 084-003301

LAKE-COOK REPORTING, LTD.
847-236-0773

3/1/2019

Page 2

1 APPEARANCES:

3 MS. KATHLEEN S. CRAMER, Petitioner,

4 Appearing pro se;

6 MR. ISIOMA EBIRINGAH

7 1231 North Ashland Avenue

8 Chicago, Illinois 60622

9 (815) 295-3659

10 cta@chicagotrustedattorneys.com

11

12 On behalf of the Respondent.

13

14 ALSO PRESENT:

15 MR. JACOB RUBINI, Respondent;

16 MS. BRITTA GIRMSCHEID,

17 Assistant State's Attorney of Lake County,

18 Illinois.

19

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24

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3/1/2019

Page 3

1 THE COURT: 18 OP 2212. This is
2 Kathleen Cramer versus Jacob Rubini.

3 The petitioner, Ms. Cramer, is
4 present. Ma'am, if you would stand right there,
5 please, on that piece of metal.

6 And the respondent is also present.

7 Counsel, for the record?

8 MR. EBIRINGAH: For the record, Isioma
9 Ebiringah, for Attorney David Smith representing
10 Jacob Rubini, I-s-i-o-m-a and E-b-i-r-i-n-g-a-h.

11 THE COURT: Got it. Welcome.

12 MR. EBIRINGAH: Thank you, your Honor.

13 THE COURT: The matter is before the
14 Court for a hearing to determine if a plenary or
15 two-year Order of Protection should be issued.

16 Counsel, what do you want to do?

17 MR. EBIRINGAH: Your Honor, we are ready
18 to go to hearing today.

19 THE COURT: All right. I feel compelled
20 to point out that Mr. Rubini is currently facing
21 criminal charges, Class X felony, home invasion
22 and several other offenses in which Ms. Cramer
23 is, I'm told, the complaining witness.

24 So who here thinks it's a good idea

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3/1/2019

Page 4

1 to have either the petitioner or the respondent
2 go on record as to what they are going to
3 testify to in a Class X felony case?

4 MR. EBIRINGAH: Your Honor, I spoke with
5 my client. We do not intend to have Mr. Rubini
6 testify today, but I believe that the petitioner
7 in this matter has to prove her case for the
8 Order of Protection by a preponderance standard.

9 THE COURT: Very true.

10 MR. EBIRINGAH: So we believe that based
11 on her testimony alone, we would be able to
12 rebut her allegations for the Order of
13 Protection.

14 THE COURT: So without meaning to sound
15 rude, it's a discovery deposition?

16 MR. EBIRINGAH: Your Honor, I believe
17 that Mr. Rubini has the right by the
18 Constitution to confront any witnesses against
19 him, and the witness in this matter is seeking
20 to have an Order of Protection entered, so
21 Mr. Rubini is only here to sort of express his
22 constitutional right to confront the witness.

23 THE COURT: I appreciate that, and well
24 said, by the way.

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3/1/2019

Page 5

1 Ma'am, have you been in
2 conversation with anybody, any of the victim
3 witness counselors from the State's Attorney's
4 Office regarding your testimony in the criminal
5 case that's pending?

6 MS. CRAMER: Just the State's Attorney,
7 Debbie Vanderwall. Is that what you mean?

8 THE COURT: Yeah, and I don't recognize
9 that name. That's weird.

10 THE CLERK: It's the blond.

11 (Discussion off the record.)

12 THE COURT: Oh, that Debbie. I am
13 sorry. I thought you were talking about an
14 Assistant State's Attorney. I'm sorry.

15 And she knows you're here today?

16 MS. CRAMER: Yes, she does.

17 THE COURT: I'll tell you what, with all
18 due respect to everybody and everybody's
19 constitutional rights, I'm going to pass this
20 for a second just to make sure we are all on the
21 same page.

22 MR. EBIRINGAH: Okay.

23 THE COURT: All right. Have a seat.

24 MR. EBIRINGAH: All right. Thank you

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847-236-0773

3/1/2019

Page 6

1 very much.

2 (A short break was taken.)

3 THE COURT: Back on the record, Cramer
4 versus Rubini.

5 What are we doing, folks?

6 MS. GIRMSCHEID: Your Honor, I'm
7 stepping up for Ms. Cramer in the Order of
8 Protection.

9 THE COURT: And you're Assistant State's
10 Attorney Britta Girmscheid; is that right?

11 MS. GIRMSCHEID: Yes.

12 THE COURT: And you are the attorney
13 handling the criminal case; am I correct?

14 MS. GIRMSCHEID: Correct, 18 CF 2693.

15 THE COURT: Thank you.

16 Go ahead. What do you propose?

17 MS. GIRMSCHEID: My understanding in
18 catching up is that Ms. Cramer had an emergency
19 Order of Protection that was issued, and it's
20 now up today for the plenary to issue.

21 THE COURT: You are correct.

22 MS. GIRMSCHEID: We would be relying on
23 725 ILCS 5/112A-11.5, that the indictment
24 alleging criminal sexual assault in 18 CF 2693

LAKE-COOK REPORTING, LTD.
847-236-0773

3/1/2019

Page 7

1 would be the prima facie evidence for our case
2 in this Order of Protection.

3 THE COURT: Do you have a copy of that
4 statute? I read it when it first came out, but
5 I don't have it right in front of me.

6 MS. GIRMSCHEID: I have it in a book.

7 THE COURT: Books are good. Thank you.

8 All right. So the statute in
9 question, 725 ILCS 5/112A-11.5, says, in
10 relevant part, "The Court shall grant the
11 Petition and enter a Protective Order if the
12 Court finds prima facie evidence that a crime
13 involving domestic violence, a sexual offense,
14 or a crime involving stalking has been
15 committed. The following shall be considered
16 prima facie evidence of the crime."

17 Subparagraph 1, "An information,
18 complaint, indictment or delinquency petition
19 charging a crime of domestic violence, a sexual
20 offense or stalking" or charging an attempt to
21 commit any of those offenses -- I'm paraphrasing
22 that last part.

23 So, Counsel, have you had a chance
24 to take a look at the statute in question?

LAKE-COOK REPORTING, LTD.
847-236-0773

3/1/2019

Page 3

1 MR. EBIRINGAH: I have seen the statute
2 before, your Honor. I would like to make a
3 record and make a couple of objections.

4 THE COURT: Go ahead.

5 MR. EBIRINGAH: First objection, your
6 Honor, being that the statute itself -- I
7 understand this may not be the venue for it --
8 but it is unconstitutional. It robs Mr. Rubini
9 due process right. It robs him the right to
10 confront any individual or any accuser at this
11 point and ends up entering an Order of
12 Protection without Mr. Rubini having that right.

13 I would also like to note, I know
14 on the last court date of January 17 of 2019, we
15 did step up on this matter. The complaining
16 witness was here on that date. She indicated to
17 your Honor that she was prepared and ready for
18 the hearing, Ms. Kathleen Cramer did.

19 We informed your Honor that we were
20 just stepping up, that we would need time to
21 prepare for hearing. We subsequently got a date
22 that would accommodate her work schedule. We
23 did obtain a court reporter to record the
24 proceedings for the hearing. We did prepare for

LAKE-COOK REPORTING, LTD.
847-236-0773

3/1/2019

Page 9

1 the hearing by speaking to Mr. Rubini and
2 diligently going through whatever documents were
3 necessary for that. We came in today prepared
4 to go to hearing and are ready.

5 I don't know or -- I don't know
6 that there was a basis for the matter to be
7 initially passed, nor do I know that the State's
8 Attorney's Office can represent Ms. Cramer in a
9 civil matter for which she is pro se.

10 I do understand that her victim
11 advocate was here to advise Ms. Cramer prior to
12 that. And Ms. Cramer was in front of your
13 Honor, and it seemed that she was -- that she
14 was ready for hearing. So I would note that
15 objection just for the record, your Honor.

16 THE COURT: Sure. And your points are
17 all well taken.

18 First of all, I will just say kind
19 of as a matter of opinion that when this statute
20 was first enacted -- and, by the way, it was
21 effective January 1st of last year, 2018 --
22 several attorneys called it to my attention and
23 voiced similar concerns as you are now about the
24 constitutionality of essentially finding prima

3/1/2019

Page 10

1 facie evidence based solely on the existence of
2 an information, complaint or indictment. So put
3 another way, I've heard those arguments before,
4 and I recognize them as being in the dialogue.

5 Secondly, I don't view
6 Ms. Girmscheid as being present to necessarily
7 represent Ms. Cramer, because that would not be
8 proper for an Assistant State's Attorney to do
9 so, but appearing, rather, as a friend of the
10 Court and calling to the Court's attention the
11 statute, which, frankly, had gotten past me when
12 we were talking about it earlier. I wasn't even
13 focusing on that aspect of the case.

14 But that having been done and
15 recognizing your objections, as well as the
16 objection that the matter has been continued
17 from time to time to provide you the opportunity
18 to get ready and provide Ms. Cramer the
19 opportunity to be present, the statute says what
20 it says, and whatever I may think about it from
21 a constitutional perspective, I'm not going to
22 find it to be unconstitutional at this time,
23 particularly not in an oral argument to do so.

24 And the Court takes judicial notice

LAKE-COOK REPORTING, LTD.
847-236-0773

3/1/2019

Page 11

1 of the existence of 18 CF 2693, in which
2 Mr. Rubini is charged by indictment, if I'm not
3 mistaken, with the offense of home invasion --
4 and, clerk, if you could pull it, please -- home
5 invasion, domestic battery, criminal sexual
6 assault and unlawful restraint and aggravated
7 domestic battery. There are eight counts. At
8 least six of them, by my reading, fall clearly
9 within the ambit of the statute which creates a
10 prima facie case to support a Protective Order
11 just by the existence of the indictment.

12 That being the case, the Court
13 will, in fact, find that a prima facie case for
14 the existence of a Protective Order has been
15 made.

16 Do you wish to present any evidence
17 in opposition?

18 MR. EBIRINGAH: Your Honor, if we may
19 pass briefly, I would like to speak with the
20 attorney of record and discuss potentially
21 whether we would be presenting evidence in
22 opposition to that or potentially maybe even
23 asking for a date to present a motion in
24 opposition.

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3/1/2019

Page 12

1 THE COURT: Okay. And by "the attorney
2 of record," you're talking about the Assistant
3 Public Defender who represents Mr. Rubini or --

4 MR. EBIRINGAH: Oh, no. I was thinking
5 to speak with --

6 THE COURT: Oh, I apologize. I
7 misunderstood you. Okay. That makes sense.
8 And by "pass the case," you don't mean --

9 MR. EBIRINGAH: Really briefly to speak
10 with him. It shouldn't take more than three to
11 five minutes, your Honor.

12 THE COURT: Okay. Yes, pass.

13 MR. EBIRINGAH: Thank you very much.

14 (A short break was taken.)

15 THE COURT: Back on the record, Cramer
16 versus Rubini.

17 Counsel, have you had the
18 opportunity to make the call you wanted to make?

19 MR. EBIRINGAH: Yes, your Honor. In
20 speaking with counsel, we've had a similar
21 issue. I believe that the statute has been
22 amended. We would like an opportunity to
23 respond. I believe that we would like to
24 address it via motion, if at all possible.

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3/1/2019

Page 13

1 THE COURT: Yes, sure, sounds like a
2 good idea. In fact, I'd be interested in seeing
3 the response. That's an issue, obviously,
4 that's important.

5 So you do understand that I would
6 need to extend the existing Order of Protection
7 to give you an opportunity to do those things?

8 MR. EBIRINGAH: Understood.

9 THE COURT: All right. So what kind of
10 a date would you like, sir?

11 MR. EBIRINGAH: Your Honor, may we
12 have -- I apologize. I was trying to find --

13 THE COURT: No, don't worry about it.

14 MR. EBIRINGAH: If we could have a
15 March --

16 THE COURT: Please don't say anything
17 the last week of March.

18 MR. EBIRINGAH: No, we are not trying to
19 go that far out. We are looking for a shorter
20 date.

21 If the 13th of March would work for
22 the Court?

23 THE COURT: Yes.

24 MS. GIRMSCHEID: Is that a day that you

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847-236-0773

3/1/2019

Page 14

1 want Ms. Cramer to be back here?

2 THE COURT: Well, I was just going to
3 inquire about that. What would you like to have
4 happen on that date?

5 MR. EBIRINGAH: Your Honor, we can argue
6 the motion, and if Ms. Cramer is seeking to
7 proceed, we can proceed on the Order of
8 Protection on that date.

9 THE COURT: Well, let me just, if I may,
10 hold on one second.

11 All right. The only reason I'm
12 hesitating is there was a case that came up
13 earlier today that I made particular note of.
14 We are going to have -- they say they want to
15 have a fairly lengthy hearing on -- that one is
16 going to follow me. I'm going to be out of this
17 courtroom as of an hour and 20 minutes, and so
18 I'll be next door doing other kinds of cases.

19 The new judge who will be in here
20 at that time will not be hearing the one that
21 I'm remembering that is concerning me. I will
22 be. So still, if I have two big hearings on the
23 same day, that seems like we are going to run
24 into some issues.

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3/1/2019

Page 15

1 Can I encourage you to find maybe
2 the 12th or 14th or somewhere in that
3 neighborhood other than the 13th?

4 MR. EBIRINGAH: I can definitely check
5 the calendar.

6 THE COURT: Yes, please. I just don't
7 want us to run into a situation where we are
8 doing two huge hearings. Maybe the 12th? My
9 clerk tells me the 12th is the better of those
10 choices or perhaps the week after.

11 MR. EBIRINGAH: 12th should work, your
12 Honor.

13 THE COURT: All right. So March 12th at
14 1:30. That will be for hearing on what I
15 perceive to be your response to -- I'm just
16 trying to figure out what the nature of the
17 motion is going to be. I guess let's call it
18 your objection to the Court's finding of a prima
19 facie case, for lack of a better title.

20 MR. EBIRINGAH: Thank you, your Honor.

21 THE COURT: And how soon? Because that
22 is 11 days from now. How soon do you think you
23 might have such a pleading on file?

24 MR. EBIRINGAH: Your Honor, we should

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3/1/2019

Page 16

1 have it on file by 3/7.

2 THE COURT: That's great. Wow, that's
3 actually better than I thought, so that's good.

4 And in terms of notice, since, as

5 I've indicated, the Assistant State's Attorney

6 does not represent Ms. Cramer in the case, you

7 need not send a copy to the State because it's

8 not their motion. You should, however, send a

9 copy to Ms. Cramer, obviously, since she's the

10 party in interest pursuant to, obviously, all

11 applicable rules of notice. And then we'll see

12 you back on the 12th at 1:30 for hearing on the

13 matter and, if necessary, hearing on the Plenary

14 Order of Protection.

15 All right. Thanks, everybody.

16 Well done on all sides. Thank you.

17 So I'm going to draft the Order
18 extending the existing Order. I'll give you a
19 copy before you leave.

20 MR. EBIRINGAH: Thank you very much,
21 your Honor.

22 (Proceedings concluded at

23 3:42 p.m.)

24

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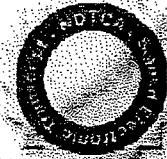
3/1/2019

Page 17

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF L A K E)
4

5 LISA M. BRINGLE, being first duly sworn,
6 on oath says that she is a court reporter doing
7 business in the City of Waukegan; and that she
8 reported in shorthand the proceedings of said
9 hearing, and that the foregoing is a true and
10 correct transcript of her shorthand notes so
11 taken as aforesaid and contains the proceedings
12 given at said hearing.

13
14 Lisa M. Bringle
15 Lisa M. Bringle, CSR
16 Lic. No. 084-003301
17
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24



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A	able 4:11 above-entitled 1:13 accommodate 8:22 accuser 8:10 address 12:24 advise 9:11 advocate 9:11 aforesaid 17:11 aggravated 11:6 ahead 6:16 8:4 allegations 4:12 alleging 6:24 ambit 11:9 amended 12:22 anybody 5:2 apologize 12:6 13:12 APPEARANCES 2:1 appearing 2:4 10:9 applicable 16:11 appreciate 4:23 argue 14:5 argument 10:23 arguments 10:3 Ashland 2:7 asking 11:23 aspect 10:13 assault 6:24 11:6 Assistant 2:17 5:14 6:9 10:8 12:2 16:5 attempt 7:20 attention 9:22 10:10 attorney 2:17 3:9 5:6,14 6:10,12 10:8 11:20 12:1 16:5 Attorney's 5:3 9:8 attorneys 9:22 Avenue 2:7 B	16:12 based 4:10 10:1 basis 9:6 battery 11:5,7 behalf 2:12 believe 4:6,10,16 12:21,23 better 15:9,19 16:3 big 14:22 blond 5:10 book 7:6 Books 7:7 break 6:2 12:14 briefly 11:19 12:9 Bringle 1:23 17:5 17:15 Britta 2:16 6:10 business 17:7 C	15:9 client 4:5 commit 7:21 committed 7:15 compelled 3:19 complaining 3:23 8:15 complaint 7:18 10:2 concerning 14:21 concerns 9:23 concluded 16:22 confront 4:18,22 8:10 considered 7:15 Constitution 4:18 constitutional 4:22 5:19 10:21 constitutionality 9:24 contains 17:11 continued 10:16 conversation 5:2 copy 7:3 16:7,9,19 correct 6:13,14,21 17:10 counsel 3:7,16 7:23 12:17,20 counselors 5:3 counts 11:7 County 1:4 2:17 17:3 couple 8:3 court 1:2,14 3:1,11 3:13,14,19 4:9,14 4:23 5:8,12,17,23 6:3,9,12,15,21 7:3 7:7,10,12 8:4,14 8:23 9:16 10:10 10:24 11:12 12:1 12:6,12,15 13:1,9 13:13,16,22,23 14:2,9 15:6,13,21 16:2 17:6 Court's 10:10 15:18	duly 17:5 E
				E 17:3 E-b-i-r-i-n-g-a-h 3:10 earlier 10:12 14:13 Ebiringah 2:6 3:8,9 3:12,17 4:4,10,16 5:22,24 8:1,5 11:18 12:4,9,13 12:19 13:8,11,14 13:18 14:5 15:4 15:11,20,24 16:20 effective 9:21 eight 11:7 either 4:1 emergency 6:18 enacted 9:20 encourage 15:1 ends 8:11 enter 7:11 entered 4:20 entering 8:11 essentially 9:24 everybody 5:18 16:15 everybody's 5:18 evidence 7:1,12,16 10:1 11:16,21 existence 10:1 11:1 11:11,14 existing 13:6 16:18 express 4:21 extend 13:6 extending 16:18 F
				facie 7:1,12,16 10:1 11:10,13 15:19 facing 3:20 fact 11:13 13:2 fairly 14:15 fall 11:8 far 13:19 feel 3:19
	back 6:3 12:15 14:1			

<p>felony 3:2 4:3 figure 15:16 file 15:23 16:1 find 10:22 11:13 13:12 15:1 finding 9:24 15:18 finds 7:12 first 7:4 8:5 9:18,20 17:5 five 12:11 focusing 10:13 folks 6:5 follow 14:16 following 7:15 foregoing 17:9 frankly 10:11 friend 10:9 front 7:5 9:12</p> <p>G</p> <p>Girmscheid 2:16 6:6,10,11,14,17 6:22 7:6 10:6 13:24 give 13:7 16:18 given 17:12 go 3:18 4:2 6:16 8:4 9:4 13:19 going 4:2 5:19 9:2 10:21 14:2,14,16 14:16,23 15:17 16:17 good 3:24 7:7 13:2 16:3 gotten 10:11 grant 7:10 great 16:2 guess 15:17</p> <p>H</p> <p>handling 6:13 happen 14:4 heard 10:3 hearing 1:12 3:14 3:18 8:18,21,24 9:1,4,14 14:15,20</p>	<p>15:14 16:12,13 17:9,12 hearings 14:22 15:8 hesitating 14:12 hold 14:10 home 3:21 11:3,4 Honor 3:12,17 4:4 4:16 6:6 8:2,6,17 8:19 9:13,15 11:18 12:11,19 13:11 14:5 15:12 15:20,24 16:21 Honorable 1:13 hour 1:15 14:17 huge 15:8</p> <p>I</p> <p>I-s-i-o-m-a 3:10 idea 3:24 13:2 ILCS 6:23 7:9 Illinois 1:4 2:8,18 17:1 important 13:4 indicated 8:16 16:5 indictment 6:23 7:18 10:2 11:2,11 individual 8:10 information 7:17 10:2 informed 8:19 initially 9:7 inquire 14:3 intend 4:5 interest 16:10 interested 13:2 invasion 3:21 11:3 11:5 involving 7:13,14 Isioma 2:6 3:8 issue 6:20 12:21 13:3 issued 3:15 6:19 issues 14:24</p> <p>J</p>	<p>Jacob 1:9 2:15 3:2 3:10 January 8:14 9:21 Johnson 1:14 judge 1:14 14:19 judicial 1:3 10:24</p> <p>K</p> <p>K 17:3 Kathleen 1:6 2:3 3:2 8:18 kind 9:18 13:9 kinds 14:18 know 8:13 9:5,5,7 knows 5:15</p> <p>L</p> <p>L 17:3 lack 15:19 Lake 1:4 2:17 leave 16:19 lengthy 14:15 let's 15:17 Lie 17:16 LICENSE 1:24 Lisa 1:23 17:5,15 look 7:24 looking 13:19</p> <p>M</p> <p>M 1:23 17:5,15 Ma'am 3:4 5:1 March 1:15 13:15 13:17,21 15:13 matter 3:13 4:7,19 8:15 9:6,9,19 10:16 16:13 mean 5:7 12:8 meaning 4:14 metal 3:5 minutes 12:11 14:17 mistaken 11:3 misunderstood 12:7 motion 11:23 12:24</p>	<p>14:6 15:17 16:8 N name 5:9 nature 15:16 necessarily 10:6 necessary 9:3 16:13 need 8:20 13:6 16:7 neighborhood 15:3 new 14:19 North 2:7 note 8:13 9:14 14:13 notes 17:10 notice 10:24 16:4 16:11</p> <p>O</p> <p>o'clock 1:16 oath 17:6 objection 8:5 9:15 10:16 15:18 objections 8:3 10:15 obtain 8:23 obviously 13:3 16:9 16:10 offense 7:13,20 11:3 offenses 3:22 7:21 Office 5:4 9:8 Oh 5:12 12:4,6 Okay 5:22 12:1,7 12:12 OP 1:8 3:1 opinion 9:19 opportunity 10:17 10:19 12:18,22 13:7 opposition 11:17 11:22,24 oral 10:23 Order 3:15 4:8,12 4:20 6:7,19 7:2,11 8:11 11:10,14</p>	<p>13:6 14:7 16:14 16:17,18</p> <p>P</p> <p>p.m 1:16 16:23 page 5:21 paraphrasing 7:21 part 7:10,22 particular 14:13 particularly 10:23 party 16:10 pass 5:19 11:19 12:8,12 passed 9:7 pending 5:5 perceive 15:15 perspective 10:21 petition 7:11,18 petitioner 1:7 2:3 3:3 4:1,6 piece 3:5 pleading 15:23 please 3:5 11:4 13:16 15:6 plenary 3:14 6:20 16:13 point 3:20 8:11 points 9:16 possible 12:24 potentially 11:20 11:22 prepare 8:21,24 prepared 8:17 9:3 preponderance 4:8 present 2:14 3:4,6 10:6,19 11:16,23 presenting 11:21 prima 7:1,12,16 9:24 11:10,13 15:18 prior 9:11 pro 2:4 9:9 proceed 14:7,7 proceedings 1:12 8:24 16:22 17:8 17:11</p>
---	--	--	---	---

process 8:9	respond 12:23	Smith 3:9	things 13:7	way 4:24 9:20 10:3
proper 10:8	respondent 2:12,15	solely 10:1	think 10:20 15:22	we'll 16:11
propose 6:16	3:6 4:1	soon 15:21,22	thinking 12:4	we've 12:20
Protection 3:15 4:8	response 13:3	sorry 5:13,14	thinks 3:24	week 13:17 15:10
4:13,20 6:8,19 7:2	15:15	sort 4:21	thought 5:13 16:3	weird 5:9
8:12 13:6 14:8	restraint 11:6	sound 4:14	three 12:10	Welcome 3:11
16:14	right 3:4,19 4:17	sounds 13:1	time 8:20 10:17,17	wish 11:16
Protective 7:11	4:22 5:23,24 6:10	speak 11:19 12:5,9	10:22 14:20	witness 3:23 4:19
11:10,14	7:5,8 8:9,9,12	speaking 9:1 12:20	title 15:19	4:22 5:3 8:16
prove 4:7	13:9 14:11 15:13	spoke 4:4	today 3:18 4:6 5:15	witnesses 4:18
provide 10:17,18	16:15	SS 17:2	6:20 9:3 14:13	work 8:22 13:21
Public 12:3	rights 5:19	stalking 7:14,20	told 3:23	15:11
pull 11:4	robs 8:8,9	stand 3:4	transcript 17:10	worry 13:13
pursuant 16:10	Rubini 1:9 2:15 3:2	standard 4:8	true 4:9 17:9	Wow 16:2
put 10:2	3:10,20 4:5,17,21	State 16:7 17:1	trying 13:12,18	X
Q	6:4 8:8,12 9:1	State's 2:17 5:3,6	15:16	
question 7:9,24	11:2 12:3,16	5:14 6:9 9:7 10:8	two 14:22 15:8	X 3:21 4:3
R	rude 4:15	16:5	two-year 3:15	Y
read 7:4	rules 16:11	statute 7:4,8,24 8:1	U	Yeah 5:8
reading 11:8	run 14:23 15:7	8:6 9:19 10:11,19	unconstitutional	year 9:21
ready 3:17 8:17 9:4	S	11:9 12:21	8:8 10:22	Z
9:14 10:18	S 1:6 2:3	step 8:15	understand 8:7	
Really 12:9	says 7:9 10:19,20	stepping 6:7 8:20	9:10 13:5	0
reason 14:11	17:6	Subparagraph	understanding	084-003301 1:24
rebut 4:12	schedule 8:22	7:17	6:17	17:16
recognize 5:8 10:4	se 2:4 9:9	subsequently 8:21	Understood 13:8	1
recognizing 10:15	seat 5:23	support 11:10	unlawful 11:6	17:17
record 3:7,8 4:2	second 5:20 14:10	sure 5:20 9:16 13:1	V	1:30 15:14 16:12
5:11 6:3 8:3,23	Secondly 10:5	sworn 17:5	Vanderwall 5:7	11 15:22
9:15 11:20 12:2	see 16:11	T	venue 8:7	1231 2:7
12:15	seeing 13:2	take 7:24 12:10	versus 3:2 6:4	12th 15:2,8,9,11,13
regarding 5:4	seeking 4:19 14:6	taken 6:2 9:17	12:16	16:12
relevant 7:10	seen 8:1	12:14 17:11	victim 5:2 9:10	13th 13:21 15:3
relying 6:22	send 16:7,8	takes 10:24	view 10:5	14th 15:2
remembering	sense 12:7	11:2	violence 7:13,19	17:8,14
14:21	sexual 6:24 7:13,19	talking 5:13 10:12	voiced 9:23	18 3:1 6:14,24 11:1
REPORT 1:12	11:5	12:2	vs 1:8	19TH 1:3
reported 1:23 17:8	short 6:2 12:14	tell 5:17	W	1st 1:15 9:21
reporter 8:23 17:6	shorter 13:19	tells 15:9	want 3:16 14:1,14	2
represent 9:8 10:7	shorthand 17:8,10	terms 16:4	15:7	2:34 1:15
16:6	sides 16:16	testify 4:3,6	wanted 12:18	20 14:17
representing 3:9	similar 9:23 12:20	testimony 4:11 5:4	wasn't 10:12	2018 1:8 9:21
represents 12:3	sir 13:10	Thank 3:12 5:24	Waukegan 17:7	2019 1:15 8:14
respect 5:18	situation 15:7	6:15 7:7 12:13		
	six 11:8	15:20 16:16,20		
		Thanks 16:15		

1 STATE OF ILLINOIS)
2 COUNTY OF LAKE) SS.
3

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL
LAKE COUNTY, ILLINOIS

5 PEOPLE OF THE STATE OF)
6 ILLINOIS,)
7 Plaintiff,)
8

vs.)
9

FILED
D

AUG 13 2019

Eric Gershoff, Clerk
CIRCUIT CLERK

No. 18 CF 2693

10 JACOB RUBINI,)
11 Defendant.)
12

REPORT OF PROCEEDINGS had in the
above-entitled cause before the Honorable
PATRICIA S. SIX, Judge of said Court, on March 5,
2019.

14 APPEARANCES:

15 MS. BRITTANY Girmscheid,
16 Assistant State's Attorney,

17 appeared on behalf of the People of
18 the State of Illinois;

19 MR. JEFFERY D. EACKLAM,
Assistant Public Defender,

20 appeared on behalf of the defendant.

21 Reported by
22 Jan M. Mosley, C.S.R.
Official Court Reporter
23 License Number 084.001371
18 N. County Street
24 Waukegan, Illinois 60085

*See page 6 or R39

line 9-18. *

ORIGINAL

1 on March 12th in front of --

2 MS. GIRMSCHEID: It was Judge Johnson, but
3 I don't know with the move how that has affected
4 it.

5 THE COURT: It is going to be set in front
6 of the judge sitting in Courtroom 511, and that
7 case is set for hearing on that date.

8 THE DEFENDANT: Correct.

9 MS. GIRMSCHEID: My only concern is that
10 the petitioner in that order of protection is the
11 same victim in our criminal case, and my
12 understanding is if the order of protection runs
13 in the same courtroom and concurrent with the
14 criminal case, there is an ability of her to rely
15 solely on the indictment and not have to testify
16 in the order of protection case, and I would like
17 to take advantage of that as opposed to having
18 her have to testify in her order of protection.

19 THE DEFENDANT: If I may, Your Honor.

20 THE COURT: No, because you have an
21 attorney, sir, and this is being addressed
22 without your attorney present, and the Court is
23 not going to allow this to be further addressed
24 without the attorney present. Tomorrow. Put it

To: Clerk of The Court of Appeals
7th circuit

August 14, 2025

Nos. 24-2934

24-3205

I received your letter: which contained an "order" denying my certificate of Appealability. Decided August 7, 2025. received August 13, 2025.

I'm requesting a Petition for rehearing Enbank. Because of time constraints I could not type petition or even send a copy to opposing Party. Could you please file stamp and return me a copy, as well as send Attorney General a copy.

Thank you.



J. S. Hubini #H00266
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