

ORIGINAL

26-5544

No. _____

FILED

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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

De'Angelo Marquette Higgs -- PETITIONER

VS:

The State of Illinois -- RESPONDENT(S)
ON PETITION FOR WRIT OF CERTIORARI TO

Appellate Court of Illinois, Fifth District

PETITION FOR WRIT OF CERTIORARI

De'Angelo Marquette Higgs
Hill Correctional Center, 600 S. Linwood Rd.
Galesburg, IL, 61401

QUESTIONS PRESENTED

1) To both obtain a valid waiver of counsel and comply with Illinois Supreme Court Rule 401(a), must a Court ensure the defendant understands and comprehends his minimum sentence if the State obtains every finding it seeks, including findings triggering firearm enhancements and mandatory consecutive sentencing?

Must the defendant be notified that the State intends to seek a gun enhancement and mandatory sentencing applies, prior to the Court accepting a waiver of Counsel?

Did Higgs "Knowingly and Intelligently" waive his right to counsel when his minimum sentence was 182 years if the State obtained every finding it sought, in which is 154 years more than the 26 year the Court admonished him of without also informing him that consecutive sentencing would be mandatory?

2) When jurors believe the Court instructions require them to violate the Constitution, and find a defendant guilty on counts they have "Reasonable Doubt" on, Must a Court correct this misunderstanding of Law, and answer the jury's question with "Specificity & Accuracy", whether than ordering them to continue to deliberate without any correction or guidance from the Court?

3) When the State fails to give notice of an alternative theory of guilt prior to closing arguments, may the Court then instruct the jury on the NEW theory of guilt in the middle of jury deliberations?

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below.

- 1) The State of Illinois (Respondent)
- 2) De'Angelo Higgs (Petitioner)

RELATED CASES

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respondent petitioner
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DENIED, January 28,2026

APPENDIX C: Supreme Court of Illinois
People of The State of Illinois v. De'Angelo Higgs
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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The opinion of the highest state Court to review
the merits appears at
Appendix B to the petition and is Unpublished

The opinion of the Fifth District Appellate Court of Illinois
appears at Appendix A to the petition and is reported at
People v. Higgs, 2025 IL App (5th) 220788-U

JURISDICTION

The date on which the highest state court decided my case was January 28, 2026.

A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: April 9, 2026, and a copy of the order denying rehearing appears at Appendix C.

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STATEMENT OF THE CASE

The charges include seven counts of attempted murder, each alleging Higgs "or one for whom he was accountable," Bruce or Beard, shot a NAMED individual, without justification, with intent to kill THAT named individual: Chairs, Holman, Lacroix, Whitfield, Williams, Nicholson, and M.M. (C131-47) Higgs, whom was shot five times, by three different calibers, raised the affirmative defense of Self-Defense (exculpatory Medical Records of Higgs injuries were withheld from evidence)

When Higgs said he wanted to represent himself before trial, the Judge listed the "class X" charges, then told Higgs each was "punishable by six to thirty years," adding, "I don't know if they run consecutively," but "you are looking at a 'potential' of a long time in prison." The prosecutor said the sentences arguably ... could be run consecutively. The Court accepted Higgs's waiver of counsel on May 17, 2022, (C221; R22-37)

Weeks later, the State announced it would seek a 20-year enhancement on each attempted-murder charge based on "personal offense of a firearm" (this being after the Court accepting waiver of counsel), saying this "could" make sentencing range "between 26 and 50 years" on each count (never clarifying if it would be consecutive or concurrent). The Judge told Higgs, "You're on notice ... I think we talked about this. I may have alluded to it ... last time correct?" Higgs replied, "Yes." (R72-74)

At the last pre-trial hearing, the Judge said, "I know probably at least twice ... we've gone over the possible sentences. Do you understand the possible sentences?" Higgs replied, "I understand the possible sentences. I'm not worried about it ... I'm innocent." (R215-16)

At trial, the State was permitted by the Court to use hearsay statements of Higgs co-defendant Beard, as "Other Crimes Evidence" as to establish "Motive"; this was done prior to Beard's actual trial testimony. Beard's statements went uncorroborated and rebutted by the State's very own "witnesses/victims" Margotse Chairs, and Treguion Holman, as well as the pre-trial objections and trial testimony of Higgs. Beard alleged that Higgs and Bruce were "robbed" by Chairs and Holman, and Higgs said Bruce wanted "revenge." Higgs repeatedly objected in several pre-trial motions, asserting that Beard was lying for his own personal gain and that Chairs and Holman, did not know him, had never seen him, nor did he know them or ever seen them, and that they did not rob him.

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of anything, and he had no "Motive" or "Intent" to harm anyone, other than the fact a person in a Blue (Toyota RAV4) SUV, parked on the passenger side of Maryvisha Collins (mother M.M.) was aiming a gun at the vehicle driven by Beard and Holman to his immediate right drawing a gun from his pocket or waist (was the prime danger), in which cause him to yell out "these niggers pulling guns, I'm not sitting in this car"... dropping his cell phone and text (texting his fiancée, asking what she wanted to eat) and reaching for a gun Beard had laying across the back seat while stumbling and gun fire erupts, and Higgs being shot in the chest by a bullet entering through the front windshield, before he even got out of the SUV to return gun fire (only firing two rounds). The initial shots coming from the person in the Blue (Toyota RAV4) SUV parked on Collins's passenger side (later identified as Demetrius Reid), while parallel to Mrs. Collins's vehicle facing opposite directions, (Reid) was shooting from the front passenger seat of the Blue (Toyota RAV4) SUV.

Prior to the Judge allowing such false "Other Crimes Evidence" to be used by the State, Higgs objected several times, moving the Court to perform a simple three prong analysis, such as: 1) Did this actually occur; 2) Did it involve Higgs in anyway; 3) Can the allegations be substantiated or corroborated by anything or anyone other than Beard simply saying it. This was not done by the Court, and at trial and prejudicial Higgs, and after the trial testimony of both Chairs, and Holman, whom both testified, they did not know Higgs, had never seen Higgs before, and surely never robbed him... The State still placed Beard on the stand to knowingly commit perjury, as the State had learned prior to his testimony, through the testimony of his very own witnesses/victims that Beard's testimony was not only unsubstantiated but complete perjury, and the State failed to correct such before the jury.

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Beard testified that in 2021, Bruce and Higgs said they wanted to kill Chairs (Higgs asserts he did not even know Chairs, a fact corroborated by Chairs himself). On September 9, 2021, Beard drove Bruce and Higgs to a grocery store with Bruce in the front seat with an "ARPISTOL" and "AK" rifle, and Higgs in the back seat with "an assault rifle". (R1318-26) Higgs asserted and testified at trial the weapons belonged to Beard and were already in Beard's vehicle because Beard was moving his belongings to his new home, in which he was purchasing from Higgs uncle Jack Curry Jr. Beard denied this, and testified in direct and cross-examination that he had never touched the guns and in particular the weapon Higgs grabbed and fired in Self Defense. This was rebutted by another State's (expert) witness I.S.P. aka Hypack, where on cross-examination after having testified that the "Stag Arms Rifle" in which was fired by Higgs and had Higgs blood all over it (from being shot), only possessed the fingerprints and DNA of Higgs (Beard testifying he had never possessed the gun and it was the property of Higgs). During cross-examination Higgs asked the Court for permission of the proffers to review his lab reports, notes and findings, at which point the Court allowed the witness to review his reports. The officer then was directed to page 20 of his report by Higgs and asked to look at his results on that page, in quick response the expert witness looks to the jury stating, "I stand corrected there were two sets of fingerprints and DNA on that weapon, the second belonging to Carter Beard".

Both the State and Higgs played surveillance-camera videos from the grocery store and another business, pausing them at Hester the jury. (PE56; eg. R758-59, 797-98) The videos contained no sound and only depicted Higgs, Beard, and Bruce, firing guns, as the angles captured allowed limited view of the others whom

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were shooting at Beard's vehicle. The State in closing, argued that the person originally identified by Beard and the State's key witness Margurita Collins as the initial shooter, never fired the weapon. This was argued despite the physical material evidence collected by Illinois State Police, Crime Scene Investigator Skylar Marlow, such as: The mini drone possessed by the person in the Blue (Toyota RAV4) SUV and fired by him at least eleven times, was the ONLY weapon with conclusive shell casings attached to it as the States exhibit. Yet the State argued to the Jury he never fired the weapon, because if he did there would have been shell casings inside of the Blue (Toyota RAV4) SUV, not outside on the ground (Between Ms. Collins's vehicle and the Blue (Toyota RAV4) SUV), completely ignoring the FACT Higgs was shot five times (even withholding Higgs medical records) in which in effect shifted the burden to Higgs forcing him to attempt to prove he acted in Self-Defense and could not be held accountable for anyone's actions, completely exonerating himself, as apposed to the burden of the State to prove Higgs did not act in Self-Defense and was unjustified in the force in which Higgs used (two shots in which I.S.P Skylar Marlow testified hit no one), no matter the States theory of accountability.

Beard testified that when he pulled into the lot, Bruce and Higgs said they saw Chairs, told Beard to stop, then got out and fired shots at Chairs (Beard's original statements matched that of Margurita Collins's original statements and corroborated Higgs trial testimony that "Demarcus Reid" (person in the Blue Toyota RAV4 SUV) started shooting). At least three other people (other than Higgs, Beard, or Bruce) fired shots, some seen on camera, and some not at all but eyewitness

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Testimony along with physical evidence collected from the parking lot confirms multiple shooters. Holman, standing next to Chairs, fired at Bruce and Higgs (hitting Higgs three times in the right forearm, as he exited the vehicle, prior to even returning two shots). From the front passenger seat of the Blue (Toyota RAV4) SUV, Demarkus Reid fired the initial shots at Beard's SUV, striking Higgs in the chest through the front windshield, and continued to fire several more rounds at Beard after firing the initial two through the windshield, as Beard exited the SUV, returning gun fire at Reid, in Self-Defense. Beard testified that someone near Nicholson's SUV to his left also fired (this could not be clearly seen on the video, but the FACT Beard's SUV was shot up on ALL four sides, the front, passenger, rear, and driver's sides, tends to "circumstantially" corroborate this).

Eight people were shot (not only seven as the State argues in Bad Faith): Higgs (shot 5 times by 3 different calibers), Chairs (shot once), Holman (graized), and Lacroix (shot once), hit by gun fire in the direction of Holman and/or Chairs, coming from a weapon fired by Bruce and/or fired by someone by Nicholson's vehicle whom would have been shooting in the same direction, but from further back, M.M. hit by a shot fire at Beard, Bruce, and Higgs by Reid not by a shot fired by Beard at Reid, as the ONLY evidence produced at trial supports the former, where Margutsha Collin's testified during cross-examination the the same bullet in which struck her vehicle and injured M.M., hit her vehicle just as she was shifting to drive. This testimony, evidence taken as true, renders it impossible for Beard, Bruce, or Higgs to have shot M.M. as Higgs only fired two shots in the direction of the primary threat (Holman), and Bruce never fired any shots nor ever even firing that direction, and Beard though firing in Self-Defense toward Reid, was on Mrs. Collin's driver's side, not her passenger side, the bullet in which caused

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the injury to M.M. Lantry entered through the rear passenger side door of Mrs. Collins's vehicle just below the door handle. Mrs. Collins testified that her vehicle "was shot way before that" (before she made a U-turn around Reid's Blue (Toyota RAV4) SUV) at which point would have then placed the point of entry in the line of fire from Beard, and that "my car was shot as I placed it into drive", the total testimony of Mrs. Collins along with the fact she originally identified the "Blue SUV, hit by the Metro-Links, and was on the News" as the initial shooter, Beard originally identifying the same, Higgs total testimony identifying the same, coupled with the FACT "Reid" beyond a reasonable doubt fired that weapon at least eleven times, from the SUV while in the front passenger seat fired DIRECTLY up with the rear passenger door of Mrs. Collins vehicle, because Reid's SUV was parked parallel to, but facing opposite direction of Collins's vehicle, shows M.M. was shot by Reid and further infers witness tampering on behalf of the State, and mischaracterization of evidence along with the withholding of camera footage containing the back half of the parking lot in which would have captured Reid not only aiming the shot through the slightly ajar door, but actually firing the weapon as Beard's vehicle approached a parking spot in the parking lot. It remained unclear whom possibly shot Williams, Whitfield, and Holman.

Higgs testified the Blue (Toyota RAV4) SUV (later identified as Demarkus Reid) fired first, hitting Higgs in the chest prior to Higgs even exiting the vehicle, simultaneously with a split second reacting to the gun fire, and seeing Holman also drawing a gun

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From his waistline or pocket as the initial gun fire erupted. Higgs fired two shots in the direction of Holman (his most immediate threat) being hit three times as he exited the vehicle, prior to even squeezing of the two shots in Self-Defense, then being shot again in the back as he attempts to drive back into the vehicle, now on the driver's side, the shooter finally at the rear of Beard's SUV, was unseen by any available camera footage / angles. (R 4133-40)

At the State's request, the Court gave a single elements instruction for attempted murder, defining it as taking "a substantial step toward... killing... an individual... with... intent to kill an individual," this was given over Higgs objection and request that the jury be given additional non-pattern instruction comprised of the required elements the State must prove in order to sustain a verdict of guilty under a theory of accountability, where he (Higgs) in particular was acting in Self-Defense, such as: "Intent, mind state, etc." The Court overruled Higgs objection, and further granted the State's request to modify the IPI 6.07X issue's in instructions to jury on Attempt First Degree Murder (with self-defense proposition) (states #21) to include the phrase "or one for whose conduct he is legally responsible" ~~thereafter~~ to reflect the State's theory of "Accountability" in ALL three propositions even the third proposition in which should have solely reflected the defendant's affirmative defense of Self-Defense, such as "Third Proposition: That the defendant, was not justified in using the force which HB used." Then the Court gave the jury seven sets of verdict forms for attempted murder, one for each NAMED victim. The Court also granted the State's request for one instruction

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and one set of verdict forms on whether Higgs personally discharged a firearm "during... the offenses of attempt murder AC 9A 36-37

In H's closing arguments, the State argued Higgs, Bruce, and Beard had "the same intent: shooting up that parking lot trying to kill... Chairs." (but also arguing Beard was justified while shooting at Reid), and that Higgs was guilty on "all seven counts" of attempted murder (without an instruction on self-defense as it also applies to the doctrine of "Transferred Intent"); because "when... they're shooting at... Chairs with the intent to kill him, that intent transfers to everybody else." (R1557-71) "Transferred Intent", being merely alluded to by the State in closing argument, and not part of the charging instrument, not at the very least being addressed in the instruction conference, did not render the slightest mention, argument, or request for such instruction by Higgs, to be given.

The jurors sent six notes to the Judge during deliberations, which began at 12:37 pm. At 1:35 pm, the first note asked the Court "For the propositions (#1 & #2), when they state 'an individual,' does this mean ANY individual or just the individual mentioned in each individual charge? This is related to any of the first degree murder charges." (C464; R1647) Higgs objected, arguing the jury was asking whether the propositions applied to "each individual NAMED" in the seven counts of attempted murder, as charged. (R1649) The prosecutor noted the Issues instruction stated "an individual", then argued "those instructions do not have to apply specifically to set that specific intent against a person that was harmed by this action." (R1649-50)

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Over Higgs objection, the Court replied to the jury in writing, vaguely instructing the jury on the "concept" of "transferred Intent" replying "An individual may be any individual" omitting the evidence required and the burden of the State to present evidence as to whom was shot by whom, because if for instance Williams, Whitfield, or Nicholson was struck by bullets fired from Reed or Holman, Higgs could not then be held "Accountable" nor would the "Intent" to harm or kill, be it in Self-Defense or without Legal justification coming from Higgs co-defendants Beard or Bruce then be applied by the doctrine of "transferred Intent".

The second note, also containing the elements of attempted murder came at 3:16 pm, the jury asked "If a person intended to harm person A... does that Intent... apply to the other persons, harmed unintentionally?" Higgs initially objected to further instruction on "transferred Intent" arguing it would confuse the jury, diminish his argument of Self-Defense and had not been part of the case prior to the Court's response to the jury's first note sent at 1:35 pm. Higgs later acquiesced to this instruction given by the Court, reasoning that the Court had already instructed the jury on or introduced the concept of "transferred Intent", and any further dispute from him on the matter was futile. The Court then instructed the jury simply on the "Definition" of "transferred Intent" (mid-deliberation) without including the affirmative Defense of Self-Defense as it applies to the Doctrine of Transferred Intent. This confused the jury and became not only evident, but expressed by the jury in it's sixth and final note to the Court.

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At 7:45 pm, the jurors sent their final note, stating they had "reasonable doubts" on some charges and the Court's answer to a previous question (mid-deliberation) suggested a verdict to them: "If we find Higgs guilty on several of the same charges, do we also have to find him guilty on the rest of the same charges? If we believe beyond a reasonable doubt that Higgs is guilty on some of the same charges, but we have reasonable doubts about the remaining same charges with other victims, can we have a different verdict on those charges?"

Also, your answer to a previous question states that "Intent applies to all other individuals unintentionally harmed." This seems to suggest that if we find Higgs guilty of one charge (like attempt first degree murder toward one individual), we MUST find him guilty of all the like charges against other victims (for example, attempt first degree murder) even though we may have reasonable doubt. Please Clarify."

The Court refused to give Higgs' offered... response," saying the jurors should find him NOT GUILTY "if they have reasonable doubt" already, and instead replied, "You've received the jury instructions you are to follow the instructions and continue to deliberate," (C466; R169-1702).

At 9:25 pm, the jury found Higgs guilty on ALL counts, and returned a single finding that Higgs "personally discharged a firearm in (attempt first degree murder." (C589-43; R1704-06) (such finding further infers the confusion caused by the Court's instructional errors, on "Transferred Intent" (mid-deliberation), abuse of discretion and failure to properly instruct of Self Defense as it applied to "Accountability" and "Transferred Intent")

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The Court denied Higgs post-trial motions, including a claim that the Judge "failed to properly instruct the jury on... 'Transferred Intent'". Also the Court's violation of 401(a), arguing that he did "Knowingly and Intelligently" elected to proceed Pro Se, but the Court violation of 401(a) occurred when the Court failed to properly admonish at every stage such as: Pre-Trial, at Trial, Post-Trial, and Sentencing, in which are all separate stages in which Rule 401(a) requires the Court to admonish again at each stage. Higgs was not informed of his right to appointed Counsel for Post-Trial proceedings whom could have more effectively and successfully raised and argued various errors and motions such as, speedy trial violation, abuse of discretion (Other-Crimes Evidence), Insufficient Evidence, Brady Violation etc... Higgs was not re-admonished by the Court in compliance with Ill. Sup. Ct. Rule 401(a) until the sentencing stage, leaving Higgs to believe since he had proceeded Pro-Se throughout trial, that he was then "stuck" to argue his Post-Trial issues also Pro Se.

Upon the Court's compliance of Rule 401(a) at Sentencing stage Higgs requested, the Court appoint sentencing counsel, whom objected to the imposition of multiple 20-year firearm enhancements because Higgs "was convicted of only one act" of firing his gun. (6/14-18) R179V-98) The Court sentenced Higgs to what it found to be the minimum sentence of 182 years (prior to accepting Higgs waiver of Counsel only admonished Higgs the minimum was 26 years to a max of 50 years, possibly to run consecutively as Higgs understood.)

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The Court's sentence to Higgs was 6 years plus 20 years enhancement on each attempted murder sentence, with mandatory consecutive sentencing because six victims suffered severe bodily injury. (C630; R1891) Though zero evidence was presented at trial as to whom caused those injuries, whether it was a projectile fired by Higgs co-defendants Beard or Bruce whom the State's theory of guilt sought to hold Higgs "Accountable" for, or caused by projectiles fired by Holman, Reid or any other shooter, as Higgs shot no one personally as testimony from Crime Scene Investigator Skylar Marlow corroborated at trial, and the finding of the jury that Higgs "fired the gun", but didn't personally cause injury to any one (20 year gun enhancement).

The appellate Court reduced Higgs's sentence from 182 to 120 years, reasoning the "statutory minimum" was an extended term of 60 years for the two victims, with the most severe injury, without any such analysis to determine whom those two victims were, nor identifying to Higgs whom the two victims are he's been given 120 years under Accountability on, as to appeal such particular issue had that been his goal. The Appellate Court also, deemed it One-Act, One-Crime, and declined to apply the 20 year gun enhancement at all in which alone amounted to 140 years, but somehow still arrived at 120 years, in essence altering the original trial Court sentence of

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6 years (for attempt first degree) on each count in which undisturbed, minus the 20-year gun enhancements would have left 6 years for 7 counts, totaling 42 years at 85% to be served.

On August 17, 2022, following a jury trial, Plaintiff was found guilty of seven counts of attempted first degree murder and one count of unlawful possession of a weapon by a felon. On November 7, 2022, Plaintiff was sentenced to 182 years in the I.D.O.C and 3 years of mandatory supervised release. Appellant's / Plaintiff's motion to reconsider was denied December 2, 2022, by the Honorable L. Dominic Kujawa Jr.

Notice of Appeal was filed on December 5, 2022. An Amended Notice of Appeal was filed on December 16, 2022. On August 12, 2025, the appellate court affirmed Appellant's convictions and the firearm enhancements imposed by the Court at sentencing, but reduced his sentence from 182 years to 120 years. On September 3, 2025, the appellate court denied Appellant's petition for rehearing and issued a modified decision upon denial of rehearing.

The Appellant filed a Petition for leave to Appeal (PLA) in the Illinois Supreme Court, on November 13, 2025. The Petition for leave to Appeal was denied by the Illinois Supreme Court on January 28, 2026. The Appellant then filed a motion to reconsider the Petition for Leave to Appeal (PLA reconsideration) in the Illinois Supreme Court on February 19, 2026. The Motion for Leave to File Motion to Reconsider Denial of Petition For Leave to Appeal, in which was filed in the Illinois Supreme Court on February 19, 2026, is currently still pending.

REASONS FOR GRANTING THE PETITION

Petitioner moves this Court to Grant such writ of Certiorari pursuant to U.S. Supreme Court Rule 10(b) for compelling reasons such as follows:

That on August 17, 2022 the Petitioner was convicted of seven counts of attempt first degree murder (720 ILCS 5/8-4(a)), solely on a "theory of Accountability" (720 ILCS 5/5-2), by a jury trial conducted in the Circuit Court of St. Clair County, IL, and sentenced to 182 years by his Honor L. Dominick Kujawa Sr. on November 7, 2022. The sentence was altered by the Fifth District Illinois Court of Appeals, whom otherwise confirmed the conviction. Appellate Counsel for the Petitioner filed a motion for Leave to Appeal that decision, in the Illinois Supreme Court on November 13, 2025. The petition for leave to appeal was denied on January 28, 2026, and the motion to reconsider that denial was filed on February 19, 2026, in which was also denied on April 9, 2026.

The Petitioner seeks that this Court exercise its supervisory authority and review the error of the Illinois Supreme Court's declining to review, address, and correct the decision/opinion of the Illinois Fifth District Court of Appeals, in which failed to address and correct several errors of Illinois statutory, federal, and Constitutional Magnitude in such a way that ignores and conflicts with Illinois Statutory Law, decisions made in other state courts of last resort, and that of United States Courts of appeal.

1. Conflicting Decision made on trial Court's violation of Ill. Sup. Ct. Rule 401(a)

The Illinois Supreme Court has failed in its duty to review, address, and correct the decision made by the Illinois Fifth District Appellate Court, where it decided the trial Court did not err or violate Ill. Sup. Ct. Rule 401(a) failing to properly admonish the petitioner prior to accepting his waiver of counsel, finding the waiver was done knowingly and intelligently and that the trial Court had substantially complied with Rule 401(a). This not only further violated the petitioner's Constitutional Rights to Due Process, but also directly conflicts with decisions made by various Illinois Appellate

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Court decisions, and both U.S. appeal Courts and The United States Supreme Court alike.

The Fifth District's determination that the trial Court substantially complied with Rule 401(a) is in apostate, where the trial Court only notified the PETITIONER his minimum sentence was 26 years and could possibly run consecutive to the 14 year sentence of possession of a firearm by a felon, shall he be convicted, or stating "a potential long time", and otherwise accepting his waiver of counsel prior to the State notifying the petitioner it would "later" seek a 20 years add on firearm consecutive sentencing in which it found guilty the Court would have no discretion in reducing due to circumstances, and his chances of mitigating factors having any effect statutory law, because of the MANDATORY

The trial Court's violation of Ill. Sup. Ct. Rule 401(a) occurred on two separate occasions, the first being failing to properly admonish the petitioner of the "nature of the charges" he faced and the "minimum sentence" in which was mandatory due to consecutive sentencing triggers and well beyond the 26 years the Court did inform him of, the second violation of Rule 401(a) was when the Court failed to admonish the plaintiff of his right to Counsel in Post-Trial proceedings. Rule 401(a) requires the Court to admonish the defendant at EVERY stage, during pre-trial proceedings, in Trial, Post-Trial, and Sentencing, in which are four very distinct and separate stages in which under Rule 401(a) require separate admonishment. The trial Court's failure to admonish at EVERY stage left the defendant unaware of his right to Counsel at the Post-Trial proceedings to argue various motions or errors, such as Motion for New Trial etc. The United States and Illinois Constitutions guarantee a criminal defendant the right to Counsel at every critical stage of proceedings against him. People v. Thomas, 2015 IL App (4th) 130806 - U (Ill. App. 2015).

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"There is no right more essential than the right to -- counsel." Lakeside v. Oregon, 435 U.S. 333, 341 (1978); U.S. Const., amends. VI, XIV. That is why Courts "indulge in every reasonable presumption against" finding a waiver of counsel to be done "knowingly and intelligently" and place "the most rigorous restrictions on [what] MUST be conveyed" to a defendant ... before permitting him to waive -- counsel." Patterson v. Illinois, 487 U.S. 285, 298 (1988); People v. Baez, 241 Ill. 2d 44, 116 (2011). In light of this "strong presumption against waiver," a waiver of counsel is not constitutionally valid until the Court has "investigated as long and as thoroughly as the circumstances of the case ... demand," to ensure the defendant understands "the range of allowable punishments" and "all other facts essential" to the case. Von Moltke v. Gillies, 332 U.S. 708, 723-24 (1948). The more complex the case, the more the Constitution requires of a judge before accepting a waiver of counsel. Iowa v. Tovar, 541 U.S. 77, 88 (2004). That may include questioning the State to determine the findings it will seek that increase the minimum sentence. People v. Seal, 2015 IL App (4th) 130775 (Steigmann, J., concurring).

In line with these Constitutional requirements, Illinois judges must ensure the defendant understands certain facts before waiving counsel, like the "nature of the charges" and the "minimum" sentence, including that resulting from "consecutive sentencing." S.Ct. Rule 401(a). Here, the State charged Higgs with seven counts of attempted murder as to seven different victims, each alleging the petitioner or "one for whose conduct he is legally responsible" shot a named individual with intent to kill that named individual. While the charges did not mention firearm enhancements or mandatory consecutive sentencing, the State ultimately sought a 20-year enhancement (indicating Higgs harmed no one) to each attempted-murder sentence of 6-30 years, based upon personal discharge of a firearm, and mandatory consecutive sentencing (Both of which the Court or State failed to inform the petitioner of prior to the Court's acceptance of his waiver of counsel). Thus if the State obtained every finding it sought, Higgs's minimum sentence was 182 years, substantially way more than 26 years.

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When Higgs said he wanted to represent himself, the judge listed the charges, said each had a sentencing range of 6-30 years, then said, "I don't know if they run consecutively," but that the petitioner was "looking at a potential of a long time" in prison. A "long time" for someone asserting innocence and/or Self-Defense can range from seconds, to hours, to days, respectfully. After other admonishments unrelated to the charges or sentences, the Court accepted the petitioner's waiver of counsel.

Despite the indictment alleging Higgs "or one for whose conduct he is legally responsible" "shot" each victim, the Court did not ask the State, nor did the State volunteer, whether it was seeking firearm enhancements. The Court did not even admonish Higgs of the possibility of firearm enhancements. Higgs knew he fired a gun during the incident (as he testified to firing two shots in Self-Defense), but was not admonished prior to waiving counsel that this fact would add 20 years to each sentence, if found guilty.

Similarly, while the State later volunteered that Higgs sentences "arguably... could be run consecutively," at no point prior to accepting the petitioner's waiver of counsel did the Court inform Higgs he faced mandatory consecutive sentencing. Higgs knew six victims had severe bodily injury, but was not told prior to waiving counsel that this would trigger mandatory consecutive sentencing (possible sentences), which, with the firearm enhancements (no matter if Higgs, his co-defendants, or the other shooters, he asserts were the initial aggressors and shot Higgs five times, once before Higgs exited the vehicle, possibly being the cause of at least 5 of the named victims injuries), would make his minimum sentence 182 years.

Instead, when the Court allowed Higgs to waive counsel, it had only informed the petitioner he faced a sentence of SIX years to "potentially... a long time," possibly involving consecutive sentencing. Compare Wright, 2017 IL 119561, ¶¶ 50-51 (at Court's request, State clarified defendant was not subject to consecutive sentencing, but was subject to firearm enhancements and extended terms).

Because compliance with Rule 401(a) must be measured by the admonishments "at the time of the waiver," as decided in People v. Stewart, 2023 IL App (1st) 210912, ¶¶ 45, the appellate Court was in error

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to find "substantial compliance" with Rule 401(a) where the Court told Higgs his minimum sentence was Six years to 26 years, but it was actually 182 years mandatory. When a Court fails to even substantially comply with Rule 401(a) before accepting the waiver, that is error. And that error, even if ~~not~~ preserved, requires a New Trial when the evidence was closely balanced. People v. Sebbey, 2017 IL 119445, 9151; see People v. Ratliff, 2024 IL 129356, 91943-46 (Rule 401(a) violation may constitute first-prong plain error). Here we know the evidence was closely balanced because after seven hours of deliberations and several questions to the Court, the jurors reported they had "reasonable doubts" on multiple counts of attempted murder. This "doubt" as to Higgs' guilt remained in the minds of the jurors, despite the State withholding exculpatory evidence of Higgs being shot more times than any named victim, and in essence the Court allowing the burden of proof to shift from the State's burden to prove Higgs did not act in self-defense to the petitioner attempting to prove he did act in self-defense. The appellate Court never found otherwise that any error occurred.

Weeks after the Court allowed Higgs to waive counsel, the State said it would seek a 20-year enhancement to each attempted murder sentence, based on personal discharge of a firearm, making the sentencing range for each count rise from 6-30 years to 26-50 years. But at no point prior to the Court accepting the petitioner's waiver of counsel or in between its acceptance of the waiver of counsel did the Court mention consecutive sentencing, much less mandatory consecutive sentencing. Nor did the Court tell Higgs before trial he could be convicted on each count of attempted murder even if the State did not prove intent to kill the named individual, as charged. The State was free to pursue a theory of "transferred Intent", with timely notice. But prior to trial, the indictment was the only information Higgs received about "the nature of charges" s. it. Rule (a)(1), and it said the State had to prove he intended to kill each named individual. The State knew it would argue transferred intent on several counts, but neither the State or the Court mentioned such alternative theory to Higgs. This Court should clarify that, the Illinois Supreme Court is in error for failing to review, address, and correct the error made by the Illinois Fifth District Appellate

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Court finding the trial Court had not violated Rule 401(a) and that a waiver of Counsel is valid only if the Court ensures the defendant understands the State is not required to prove the intent it charged in the indictment, and properly admonishes the defendant of the "nature of charges" against him, also of the possible minimum sentence and sentence enhancements, especially Mandatory triggers.

Nothing shows Higgs was aware the Court would have no choice but to sentence him to 182 years if the State obtained every finding it sought. Contrary to the appellate Court, there is no precedent for finding a knowing waiver of counsel where the Court so grossly understated the minimum sentence, and the record does not elsewhere show the defendant was aware of his actual minimum sentence. (citing People v. Johnson, 119 Ill. 2d 119, 132 (1987); People v. Coleman, 129 Ill. 2d 321, 336 (1989)). In Johnson and Coleman, both capital cases, each judge said the minimum sentence was a term of years, when it was actually life. The Court found valid waivers, however, because despite the error, the records established each defendant knew his minimum sentence was life. Here, in the matter of Higgs, nothing showed that he knew his mandatory minimum sentence was 182 years, rather than 26 years, and the appellate Court never found otherwise.

The appellate Court not only cited no precedent, it ignored authorities finding no substantial compliance with Rule 401(a), and no valid waiver, where the judge's understatement of the minimum sentence was far less severe. see People v. LeFlore, 2013 IL App (2d) 100659, ¶¶ 53-54 (aff'd in pertinent part, 2015 IL App (2d) 116729 ¶¶ 12); People v. Jiles, 364 Ill. App. 3d 320, 330 (2d Dist. 2006) (failure to inform defendant of mandatory Class X sentencing); People v. Bahrs, 2013 IL App (4th) 110903, ¶¶ 15-16 (failure to inform defendant Class 4 sentence mandatory consecutive to Class X sentence). Instead, the appellate Court acknowledged the judge failed to inform Higgs of his 182-year mandatory minimum sentence, but found the waiver was valid due to the judge's other admonishments. But admonishments concerning the right to counsel and the risks of proceeding pro se cannot make up for a failure to ensure the defendant understands

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his mandatory minimum sentence, with enhancements and consecutive sentencing. see LeFlore, 2013 IL App (2d) 100659, ¶¶ 9, 53-54 (no valid waiver even where other admonishments were thorough), reversing conviction.

Finally, the appellate Court found no prejudice in the judge's faulty admonishments because Higgs was "unequivocal" in wanting to represent himself, was focused on a "speedy trial", and said he was "not worried" about the possible sentence because he was "innocent". Mirroring Wright, 2017 IL 112561, ¶¶ 56, the appellate Court added that Higgs "does not even allege... he would not have proceeded [pro se] if he had known" the actual minimum sentence. This seems to place a burden on Higgs to introduce New Pleadings in the appellate Court. But a defendant may not offer "new evidence" in a reviewing court. S.Ct. Rule 341(h) (6)-(7); Bahr, 2013 IL App (4th) 116903, ¶ 55. This Court should clarify that a defendant is not required to violate the rules of appellate procedure to prevail on such a claim. Furthermore, this Court should Grant Petitioner writ of Certiorari to correct the error made by Illinois Supreme Court for failing to review, address, and correct the decision of the Illinois Fifth District Court of Appeals failing to find error and reverse petitioner's conviction and vacate sentence, a decision in which is in Direct conflict with the other State Courts of last resort decisions and the decisions of Federal appeal courts as cited above.

- II. Trial Court's refusal to answer Jury's question/Directing verdict and;
- III. The Instructional Errors of the Trial Court

The Illinois Supreme Court has failed in it's duty to review, address, and correct the decision made by the Illinois Fifth District Appellate Court, where it found the trial Court did not abuse it's discretion and commit prejudicial, reversible error of serious Constitutional magnitude, when it introduced a New Theory of guilt in mid-deliberation, over the petitioner's objections, refused to answer the jury's question of Law as it pertained to the mid-deliberation instruction, and deprived the petitioner of his right to a fair trial, and to form argument against any theory of

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guilt sought by the State. Deliberating "jurors are entitled to have their inquiries answered," a court has a duty to respond when jurors seek "clarification on a point of law." This is true even if the previous instructions "were proper and/or agreed to," because "the issue is whether the instructions" were clearly understandable to the jury. And in deciding how to respond, the Court must ensure its instructions do not direct a verdict, or even raise that possibility. People v. Childs, 159 Ill.2d 217, 228-31 (1994).

Here, during their first three hours of deliberations, the jurors sent the Court two notes requesting clarification on what the State must prove for each count of attempted murder, and the judge replied with instruction of a New theory of guilt, by giving the definition of "Transferred Intent" without attempting to instruct the jury on element required or issues within, and failed to instruct the jury on Self-Defense as it also applies to "transferred intent." see People v. Conley, 306 Ill. App.3d 17, 238 Ill. Dec. 885, 713 N.E.2d 131 (1999); People v. Burrage, 269 Ill. App.3d 67, 76, 206 Ill. Dec. 450, 685 N.E.2d 455 (1994). (In the context of Self-Defense, the Conley Court explains that the doctrine of "Transferred Intent" also applies. Conley, 306 Ill. App.3d at 7, 238 Ill. Dec. 885, 713 N.E.2d 131, citing People v. Smith, 94 Ill. App.3d 969, 973-74, 50 Ill. Dec. 296, 419 N.E.2d 404 (1981). The generally accepted view as Self-Defense applies to the doctrine of "Transferred Intent" is that if a person without legal excuse or justification, shoots at one individual and inadvertently kills another, he is guilty of the same degree of an unlawful homicide as if he had killed the object of his aim, but if he was acting in Self-Defense and accidentally killed another, he is guilty of no crime. In Spannall v. State, 83 Tex. Crim. 418, 203 S.W. 387, an accused was charged with killing his wife and a third person while defending himself from unlawful attack by the third person, the Court reversed conviction.

The plaintiff/petitioner points the aforementioned out to demonstrate had the jury been instructed on "Transferred Intent" as it applied to his affirmative defense of Self-Defense as well, it would have dispelled the confusion caused to the jury by the trial Court's mid-deliberation instruction, and rendered an entirely different outcome at trial in which tends to be full exoneration of guilt and acquittal despite the complexity of "Accountability" and the State's withholding

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exculpatory evidence of the petitioner having been shot 5 times hit by 3 different calibers, coupled with the trial Court's mid-deliberation instruction in violation of Millsap and its refusal to clarify the jury's confusion of a critical point of law was reversible error of grand magnitude.

Self-defense is a proper affirmative defense to the crime of attempted first degree murder. If the jury had concluded that the defendant acted in Self-Defense, that would completely exonerate the defendant of the offense of attempted first degree murder, and aggravated battery/dischage of a firearm. See People v. Evans, 277 Ill. App. 3d 36, 47, 214 Ill. Dec. 47, 660 N.E. 2d 240 (1996) ("Self-Defense is a justifying or exonerating circumstance.") Minus the trial Court's mid-deliberation instruction on "Transferred Intent" in which left the jury confused and under the impression that the trial Court was instructing them, that no matter if they concluded Higgs acted in Self-Defense and was justified in HIS actions, they must find him guilty of attempted first degree murder, because of the States theory of "Accountability" arguing Higgs was responsible for the actions of his co-defendants with no material evidence being presented at trial to say Beard or Bruce was the cause of any spectable victims injuries, and the Court's vague instruction on "Transferred Intent" in which did not include Higgs requested Self-Defense in the instruction as it applies to the doctrine of "Transferred Intent", was a directed verdict.

The State must prove every element of a charged crime "Beyond a reasonable doubt", U.S. Const. amends. V, XIV; Ill. Const. 1970, art. I §2; People v. Weinstein, 35 Ill. 2d 467, 469-70 (1966). This burden of proof is axiomatic. People v. Diaz, 377 Ill. App. 3d 339, 345 (2007). A defendant may not be convicted of an offense he has not been charged with committing. People v. Clark, 2016 IL 118845. Though the State was free to charge Higgs as it did because each shot was a separate act "capable of independently sustaining a complete criminal conviction," also the State was entitled to prosecute Higgs for attempted murder under a theory of "Transferred Intent". Illinois law even allowed the State to charge Higgs as it did, omitting any reference to transferred intent from the indictment. People v. Hill, 276 Ill. App. 3d 683, 691 (1st Dist. 1995). But under the petitioner's indictment, "Transferred Intent" was an

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alternative theory of guilt, introduced by the Court in the middle of jury deliberations. A theory of guilt in which Higgs did not have the opportunity to address throughout trial, before the jury retired for deliberations. For example, the State charged Higgs "or one for whose conduct he is legally responsible" ("Accountability") with acting with the intent to kill M.M. Lacroix, Nicholson, Whitfield, and Williams, but presented no evidence of any such intent, in fact at trial conceded there was no intent to kill those five individuals, yet alleges that specific intent to kill the particular individual named in the indictments. The State was free to seek convictions for attempted murder on these counts under a theory that each of those shots were fired by Higgs "or one for whose conduct he is legally responsible" with the intent to kill someone else. Though to do so, the State had to give notice to Higgs and the Court of this alternative theory no later than the instruction conference. Millsap, 189 Ill.2d at 165.

The State in Hill, gave such notice when it requested separate Issues instructions on each count, then requested "Transferred Intent" language in the pertinent instruction, telling the jurors the intent element was proven for that count if they found intent to kill the named victim "or another". Hill, 276 Ill. App. 3d at 687-91. The State gave no such notice here, to the petitioner. While the State properly informed Higgs and the jury of its alternative theory of guilt, "Accountability" (720 ILCS 5/5-2) on the *actus reus* element in the indictment and opening statements, the State made no similar reference to "Transferred Intent". Most importantly, the State requested no instruction on transferred intent, such as separate Issues instructions on each count that would have informed the jury Higgs was guilty if they found that shot was fired with intent to kill the individual named in that count "or another" individual, see IPI 7.02B, Committee Note (where State seeks conviction under transferred intent, Issues instruction for murder must be modified to reflect this), the same is true where the defendant asserts Self Defense, the jury must be instructed on Self-Defense as it applies in the context of "Transferred Intent", see People v. Conkey, 306 Ill. App. 3d, 1, 238.

Instead, the State requested a single Issues Instruction describing the elements of attempted murder in generic terms, in which merged the States theory of Accountability with the petitioner's theory of Self-Defense, in the Third Proposition of IPI 6.07X Issues in Attempt

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First Degree Murder (with self-defense proposition) (People's Instruction # 21) in which confused the jury and deprived the petitioner of his assertion of Self-Defense, free from the jury considering "or one for whose conduct he is legally responsible", where the jury was not instructed on how Self-Defense also applies to "Transferred Intent". This was done over the objection of the petitioner, stating such instruction would confuse the jury. The modified IPI 6.07X instruction's third proposition was as such: Third Proposition: That the defendant "or one for whose conduct he is legally responsible" was not justified in the force in which he used.

There is no doubt that the jury was confused by the instructions it received, not only the combining of Accountability language with Self-Defense language in the Third Proposition of IPI 6.07X Issues in Attempt First Degree Murder (with Self-Defense) a novel situation in which has never been done in any case in Illinois, but as a whole, an error compounded by the Court's mid-deliberation instruction on "Transferred Intent", which is serious reversible error in and of itself. A Court's instructions to the jury may not direct a verdict on any count, or even make such a result likely. People v. Childs, 159 Ill. 2d 217, 228 (1994). The Court's responses to the jurors' questions not only allowed them to find Higgs guilty on seven counts of attempted murder for fewer than seven acts, and discarded the petitioner's assertion of Self-Defense, but also directed the jury to do so.

In their last note to the Court, the jurors asked whether they were allowed to find Higgs guilty on one or some of the attempt murder charges, and not guilty on others. The answer to that portion of the question should have been "yes", but the Court provided no answer at all. The State had to prove each element of attempted murder for all seven counts, and the facts were relevantly different in each count. For example, the law allowed the jurors to find that Bruce was not justified in firing at Chairs (whom was later found to be unarmed) and the State argued that even if Reid, Chairs, and Holman were the initial aggressors, Higgs, Bruce, and Beard would have lost the right to assert Self-Defense because of the amount of projectiles Bruce fired at Chairs whom was unarmed and fleeing, thus Bruce was unjustified firing at Chairs, but that Beard was justified in returning fire at Reid. The law allowed them to find Bruce intended to kill Chairs, but failed to prove any shots fired were with intent to kill M.M., Lacroix, Nicholson, Whitfield, or Williams.

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There was no question the jury was allowed to reach different verdicts on the different counts of attempted murder in this case. This was a straightforward request for clarification on a point of law, demonstrating the jurors' confusion. That demanded an answer - and not just any answer, the correct answer. People v. Hartford, 2022 IL 126729, ¶147; see also Childs, 159 Ill.2d at 228-29 (upon jurors' request, court must clarify law "with specificity and accuracy").

The Court's refusal to answer this question was already error alone, but that error rose to the level of improperly directing the juror's verdicts when the Court likewise failed to respond to the second part of the jurors' note. The jurors did not just ask whether they could reach different verdicts on different counts, they explained why they were asking that question: because the Court's previous answer to an earlier jury note (mid-deliberation) "seemed to suggest that if we find [Higgs] guilty of one 'count of attempted murder,' we must find [him] guilty of all 'counts of attempted murder,' even though we may have reasonable doubt. Please clarify." The one count the jury was referring to was not clear, but Higgs fired his weapon, but personally harmed no one. This was further showing the Court's several instructional errors, such as not fully instructing the jury on "Accountability" and "Transferred Intent" in the context of Self-Defense as it applies to both, fully exonerating a defendant of any guilt. However, the jury will not know that it can acquit the defendant on such basis unless the trial Court instructs the jury on the law governing Self-Defense (as it pertains to "Accountability" and "Transferred Intent". People v. Jones 175 Ill.2d 126, 134, 221 Ill. Dec. 843, 676 N.E. 2d 646 (1997)).

Had such specific instruction and language been given to the jury, this would have cured the effect of the trial Court's violation of Millisap, introducing a new theory of guilt during deliberations, and prevented any such possibility of the jury assuming the burden lies with the defendant to prove he acted in Self-Defense or that they must convict him based on the action(s) of a co-defendant whom may not shared the mind state in which the defendant possessed, because the trial Court failed to properly instruct, and introduced a New Theory of guilt mid-deliberation, especially where the defendant lacked such advantage and his (medical records)

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exculpatory evidence of him being shot 5 times by 3 different calibers was withheld in Bad Faith by the State (constituting a Brady violation). Due to such circumstances, the Court's failure to properly instruct the jury on Self-Defense, prejudiced the defendant, denied him Due Process, and required reversal and a New Trial to ensure the integrity of the judicial process. People v. Adams, 2017 IL App (1st) 142883.

The jurors were telling the judge they had reasonable doubt on multiple counts of attempted murder, but they interpreted the judge's instructions as requiring them to find guilt on ~~all~~ counts if they found the State had met its burden on any single count. When the judge responded by referring the jurors to his previous instructions, that was not a non-response. Rather, it was telling the jurors their interpretation of his prior instructions were correct. The judge's response to the jurors' final note instructed them to convict Higgs on all counts so long as they found one count proven, even if they had reasonable doubt on the other counts. The Court's instructions thus not only likely led to Directed verdicts, already serious error, but actually Directed the jurors guilty verdicts on multiple counts.

This was more egregious than the instructional error that required a New Trial in Childs. In that case, the State charged the defendant with first degree murder and armed robbery. The jury received instructions and verdict forms on murder, manslaughter, and armed robbery. But while the jury was also instructed on felony murder based on armed robbery, it received no felony-murder verdict forms. During deliberations, the jurors asked whether they could find the defendant guilty of armed robbery and manslaughter, or whether finding the defendant guilty of armed robbery required them to find him guilty of murder instead of manslaughter. The judge merely referred them to their prior instructions. The Childs Court found this response denied the defendant a fair trial, primarily because the jurors made it clear they incorrectly believed their prior instructions required them to find the defendant guilty of murder if they found him guilty of armed robbery, and the Court's response not only failed to clarify the law, but allowed the jurors' existing misapprehension of the law to stand. (citing People v. Gathony, 99 Ill. App. 3d 1135, 1138-39 (1st Dist. 1981)) (remanding for a New Trial where judge failed to respond to jury question indicating they believed their instructions required them to convict ~~on~~

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count)). defendant on all counts if they found guilt on any single

Here, as in Childs and Gathings, the jurors made it clear they incorrectly believed their existing instructions required them to find Higgs guilty on all counts of attempted murder if they found him guilty on at least one count. As in those cases, the judge's response, referring the jurors to their prior instructions, not only failed to clarify the law, it also told them their stated misapprehension of the law was no misapprehension at all. But unlike those cases, where the instructional error may have directed guilty verdicts, here we know the judge's response directed multiple guilty verdicts, because the jurors had reasonable doubt on multiple counts of attempted murder, and that reasonable doubt was only overcome by the jurors' perception that the law required them to convict Higgs on all counts if they found the State met its burden on any single count. The trial Court violated the petitioner's right to Due Process by allowing that misperception to stand, and the prejudicial impact of that error could not be more clear. Thus this Court should Grant Petition for writ of Certiorari and exercise its Supervisory Authority to correct the error made by The Illinois Supreme Court refusing to review, Appellate Court, in which confirmed the conviction of the petitioner and failed to correct various errors of such Constitutional magnitude made by the trial Court. A decision in which directly conflicts with the decisions made and opinions thereof in People v. Childs, 159 Ill. 2d 217, 636 N.E. 2d 534, (1994); People v. Gathings, (1981), 99 Ill. App. 3d 1135, 55 Ill. Dec. 140, 425 N.E. 2d 1313; People v. Sanders (1984), 127 Ill. App. 3d 471, 82 Ill. Dec. 753, 469 N.E. 2d 287.

When a jury makes explicit its difficulties, the Court should resolve them with specificity and accuracy, (Bollenbach v. United States (1945), 326 U.S. 607, 612-13, 90 L. Ed. 350, 354, 66 S.Ct. 402, 405; People v. Cabellero (1984), 102 Ill. 2d 23, 42, 79 Ill. Dec. 625, 464 N.E. 2d. 223; see People v. Harmon (1968), 104 Ill. App. 2d 294, 301, 244 N.E. 2d 358, relying on 23A C. J. S Criminal Law §1376, at 305 (1989)). If the question asked by the jury is unclear, it is the Court's duty to seek clarification of it. (see People v. Land (1975), 34 Ill. App. 3d 548, 550-51, 340 N.E. 2d 44; Harmon, 104 Ill. App. 2d

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2d at 301.) The failure to answer or the giving of a response which provides no answer to the particular question of law posed has been held to be prejudicial error. People v. Shannon, (1990), 206 Ill. App. 3d 310, 151 Ill. Dec. 221, 564 N.E. 2d 198; People v. Bryant (1988), 176 Ill. App. 3d 809, 126 Ill. Dec. 222, 531 N.E. 2d 849; People v. Flynn (1988), 172 Ill. App. 3d 318, 122 Ill. Dec. 320, 526 N.E. 2d 579; People v. Boulder (1988), 168 Ill. App. 3d 938, 119 Ill. Dec. 632, 523 N.E. 2d 100; People v. Tansil (1985), 137 Ill. App. 3d 498, 92 Ill. Dec. 314, 484 N.E. 2d 1169; People v. Morris (1980), 81 Ill. App. 3d 288, 36 Ill. Dec. 603, 401 N.E. 2d 284; People v. Jackson (1975), 26 Ill. App. 3d 618, 325 N.E. 2d 450; Briggman, 21 Ill. App. 3d 747, 316 N.E. 2d 121; People v. Kucala (1972), 7 Ill. App. 3d 1029, 288 N.E. 2d 622; Harman, 104 Ill. App. 2d 294, 244 N.E. 2d 358.

The Court's instructions were erroneous in a third way: the mid-deliberation instructions introduced a New Theory of guilt into the jury's deliberations "Transferred Intent" in which also did not include instruction on how Self-Defense also applies to the doctrine of transferred intent, this was done after closing arguments and after deliberations had commenced. People v. Millsap, 189 Ill. 2d 155, 160-66 (2000). Millsap concerned circumstances nearly identical to those in Higgs case. The State charged the Millsap defendant with home invasion as a principal offender, with no reference to an accomplice. 189 Ill. 2d at 159. While the State presented evidence another person participated in the offense, the State did not request an instruction on accountability. After the jury was instructed solely on principal liability and began their deliberations, they asked the Court whether an accomplice is "just as guilty" as the principal offender. Over the defendant's objection, the Court instructed the jury on accountability, telling them the defendant was "legally responsible for the conduct of another person" if certain facts were present, after which the jury convicted the defendant.

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Millsap found the jurors question indicated they had "some doubt" as to the defendant's culpability, as opposed to the accomplices. 189 Ill.2d at 164-65. But where the indictment and initial instructions said nothing about accountability, the defendant had no reason to defend himself against that theory in his closing argument. The Court's introduction of that alternative theory of guilt after closing arguments deprived the defendant of his right to respond:

The State elected to charge defendant as a principal and to argue that defendant was guilty as a principal. If... an accountability instruction was appropriate in this case, the State should have asked for such an instruction at the proper time. It was too late for the State to change its theory of the case after the case had been sent to the jury. The Court should not submit new charges or new theories to the jury after the jury commences its deliberations.

See also People v. Alexander, 2014 IL App (3d) 160709, 9/9/18-19 (where State charged defendant with unlawful possession of a gun and limited its argument to "actual" possession, Court denied defendant a fair trial when it introduced alternative theory of "constructive" possession in response to jury question during deliberations). Like the Millsap defendant, Higgs was denied a fair trial when the State failed to request a jury instruction on transferred intent, and the Court introduced that alternative theory of guilt only after deliberations had begun.

The Court's mid-deliberation instruction was error, reversible under precedent case law such as Millsap and the authorities within such as The Ninth Circuit Court of Appeals, who reached the same conclusion in United States v. Gaskins, 849 F.2d 454 (9th Cir. 1988). In Gaskins, the defendant was charged with possessing and manufacturing methamphetamine. The prosecution tried the defendant as a principal. At the close of the evidence, the trial Court denied the prosecution's request that the jury be instructed on aiding and abetting. In response to a jury question, the prosecution again asked that the jury be instructed on aiding and abetting. The Court gave the instruction over the defendant's objection, and the jury convicted the defendant. Gaskins, 849 F.2d at 456-57.

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On appeal, the defendant argued that his attorney's argument to the jury had been on the prosecution's theory that he was guilty as a principal. His attorney did not have a chance to respond to the aiding and abetting theory. The government argued that the instruction was not prejudicial because the Court merely clarified the instructions at the jury's request. The Ninth Circuit agreed with the defendant and reversed his conviction. The Court relied on Rule 30 of the Federal Rules of Criminal Procedure, which requires the trial Court to inform the parties how the jury will be instructed before the attorneys give their closing arguments. The Court held that the defendant had been prejudiced by the Rule 30 violation because the elements necessary to convict a defendant as a principal are different from those necessary to convict him as an aider and abettor, and the defendant had not been given a chance to address the aiding and abetting theory. Because the Court could not conclude that the effectiveness of the defendant's defense was not hampered by the defendant's inaccurate information regarding the Court's instructions, the Court held that the defendant must be given a New Trial. Gaskins, 849 F.2d at 458-60.

The same is true in the petitioner's case. The Court's introduction of a New Theory of guilt, "Transferred Intent" in and of its self was reversible error under Millip and Gaskins, but furthermore it caused the jury to not consider Higgs affirmative defense of Self-Defense, by the Court's vague instruction on "Transferred Intent" in which neglected the defendant's defense by not instructing the jury on how Self-Defense also applies to "Transferred Intent", as a defendant who acts in Self-Defense but injures an unintended person, the intent to "Defend ones Self" also transfers. People v. Blue, 189 Ill. 2d 99, 244 Ill. Dec. 32, 724 N.E.2d 920 (2000). The Court's instructions to the jury on "Transferred Intent" only defining that "if someone acts with the requisite intent to harm an individual, that intent transfers to every individual unintentionally harmed, this is suggested" to the jury that no matter if Bruce, Beanel, Holman, Reed, or any other unseen shooter actually were the cause of the unintended injury, that Higgs was "Accountable" for it, no matter if he himself acted in Self-Defense he could not be exonerated by Self-Defense, because the State argues "Accountability" and the Court misguiding mid-deliberation, instructions told the jury they MUST convict Higgs of

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All counts, even counts they expressed "reasonable doubt" on. This demonstrated that the middle deliberation instruction, from the Court not only confused the jury but deprived Higgs of his right to argue against the New Theory and hampered/weakened the effectiveness of his defense. Proof that this caused prejudice to Higgs in an uncurable way is the final note sent by the jury at 7:45pm, clearly stating the confusion and what added to it. In the note the jury asked:

"If we find the defendant guilty on several of the same charges, do we also have to find the defendant guilty on the rest of the same charges? If we believe beyond a reasonable doubt that the defendant is guilty on some of the same charges, but we have reasonable doubt about the remaining same charges with other victims, can we have a different verdict on those charges?"

Also, your answer to a previous question states that intent applies to all other individuals unintentionally harms. This seems to suggest that if we find the defendant guilty of one charge (like attempt first degree murder toward one individual), we must find the defendant guilty of all the like charges against other victims (for example, attempt first degree murder) even though we may have reasonable doubt. Please Clarify."

This showed that had the Court answered the question or did not violate Rule 30 in the first place, the jury's verdict would have been drastically different, because they sought to return guilt on one count in which was obviously based on the State's theory of "Accountability" in light of the jury's finding of the 20-year gun injury. Given that the jurors had reasonable doubt on multiple counts and told the Court it's previous answer "suggested" they must convict on all counts even counts they had reasonable doubt on, demonstrates the prejudicial impact of the Millsap error and could not have been more clear. The jurors plainly intended to acquit Higgs on multiple counts of attempted murder, it was only after the judge simply referred them to their prior instructions, erroneously confirming their stated misapprehension of the law, that the jurors found Higgs guilty on all counts.

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Because the trial Courts instructional errors were not harmless, by contributing to the verdicts, this requires a New Trial. See People v. Childs, 189 Ill. 2d 217, 234-35 (1994) (where judge "failed to provide the jury with any guidance for resolving the problem that prompted the question in the first instance," State cannot show judge's error "was not a factor in the verdict"). The Fifth District Appellate Court's Decision not only conflicts with the various authorities such as The Ninth Circuit Federal Court of Appeals, Rule 30 of the Federal Procedures, Millsap and Gaskins, it completely ignores the errors made by the trial Court, and failed to even address the petitioner's arguments citing Millsap in which were more or less on ALL FOURS.

The Fifth District Appellate Court in its decision, misinterprets the petitioner's argument and rely heavily on the perjured testimony of Carter Beard and the fact M.M. was injured. Note, though Beard accepted a plea in which provided as part of a Cooperation agreement, that he plea guilty to Aggravated Battery of a Child, and all other counts be dismissed, and the State gets the Federal System to give the same 2.2 year sentence as the State and run it concurrent, as opposed to the Life sentence he faced in the Federal Justice system. The Appellate Court relies upon People v. Hill, 276 Ill. App. 3d 683, 691 (1995) "a person may be properly convicted under a theory of transferred intent even if the State does not specifically allege that theory in the charging instrument." Such reasoning completely conflicts with Millsap in which set forth precedent, that the New Theory cannot be introduced during deliberations, and the language in IPI 6.07X did not allow for nor place, Hays on notice of the State's theory of "Transferred Intent" by stating "an individual"; The petitioner agrees with the Appellate Court on the fact "Jury instructions for attempted murder generally do not specify a victim's name, nor is there a place for the victim's name in the Illinois Pattern Jury Instructions." People v. Williford, 2020 IL App (1st) 162280, ¶63 (quoting People v. Malone, 37 Ill. App. 3d 185, 191 (1976)) on the contrary the petitioner disagrees that such language allows for or places the petitioner on notice of the State's later sought after New Theory of guilt "Transferred Intent" without being properly worded as such, "an individual" "or another" in which IS "Transferred Intent".

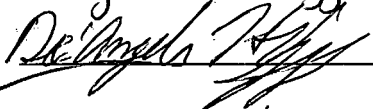
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Language. Here in the Case of Higgs several Instructional errors were made by the trial Court and overlooked by the Appellate Court, in which has deprived Higgs of a fair trial, and constituted uncountable violations of his Constitutional rights, where clear and obvious errors occurred and the evidence was closely balanced, despite the State's withholding of Exculpatory evidence, that the errors tipped the scales of justice against Higgs, and in this case the errors are egregious, affecting the fairness of the petitioner's trial and challenges the integrity of the judicial process. A process in which the Fifth District, Illinois Appellate Court neglected to uphold. As the decision in which was made by the Appellate Court overlooks the many authorities cited by the Petitioner on direct appeal and should have been reviewed, addressed, and corrected by The Illinois Supreme Court. Thus the Petitioner prays that this Court exercise its Supervisory authority to review, address, and correct the error made by the trial Court and Appellate Court, finding no error made by the trial Court, whom errors deprived Higgs of his Constitutional Rights to Due Process as protected by the V, VI, and XIV amendments. Findings in which are in direct conflict of the other State Authorities, and Federal Authorities cited by the Petitioner within this Petition. This Court is not bound by the factual or fanciful conclusion reached by the Fifth District Illinois Appellate Court, in which constituted pure DICTUM and lacked Authority to deny such egregious, reversible errors made by the St. Clair County, Illinois trial Court.

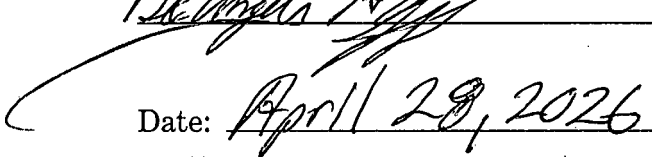
CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,
De'Angelo M. Higgs



Date:


April 28, 2026