THIS APPEAL IS CONSOLIDATED WITH AN APPEAL WHICH INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 604(h)

No. 131365 (cons. with case no. 131506)

IN THE

SUPREME COURT OF ILLINOIS

AIMEE STEWART, Petitioner/Defendant-Appellant v. HONORABLE STEVEN J. ROSENBLUM, Associate Judge of the Circuit Court of Cook County, Respondent, PEOPLE OF THE STATE OF ILLINOIS, Respondent/Plaintiff-Appellee.	)	Original Action for Writ of *Habeas Corpus*, or Writ of *Mandamus* or Prohibition or Supervisory Relief Pursuant to Rules 381 and 383 Consolidated with an Appeal from the Circuit Court of Cook County 24 CR 09706 Pursuant to Rules 365, 603 and 604(h)

BRIEF AND ARGUMENT FOR RESPONDENT, THE HONORABLE STEVEN J. ROSENBLUM (CASE NO. 131365)

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This Court Should Deny Petitioner's Request For Extraordinary Relief Where Respondent Properly Determined That The Statutory Scheme Contained In The "Pretrial Fairness Act" Was Unconstitutional As It Applied To The Particular Circumstances Of Petitioner's Case Because It Precluded the Exercise of His Inherent Judicial Authority To Deny Pretrial Release To Ensure Petitioner's Appearance At Trial And Thereby To Properly Manage His Docket And Ensure The Orderly Administration Of Justice. **30**

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Where petitioner's repeated failure to appear in court resulted in the issuance of five separate arrest warrants and two notices to appear during the approximately 10 months her case was pending in the Circuit Court of Cook County, whether Respondent properly found sections 110-6 and 110-6.1 of the Code of Criminal Procedure (725 ILCS 5/110-6, 110-6.1) to be unconstitutional as applied to the particular circumstances of petitioner's case because it unduly infringed upon his inherent judicial authority to deny pretrial release and to control the docket and manage the proceedings where the statutes prohibited him from ordering her detained any period longer than 30 days.

Where Respondent properly exercised his inherent authority to deny pretrial release in order to manage the docket and to ensure the orderly administration of justice, whether petitioner's request for extraordinary relief in the form of *habeas corpus*, *mandamus*, prohibition or supervisory relief must be denied.

STATEMENT OF FACTS

The Initial Arrest

Petitioner Aimee Stewart was arrested on December 29, 2023, by the Oak Lawn police for the offense of Possession of a Stolen Motor Vehicle (625 ILCS 5/4-103(a)(1)). (SR 8, Supp2 SR 1; C 16)[1] Following her arrest, a felony complaint was prepared alleging that petitioner had taken her aunt's 2017 Kia Forte from Tolono, Illinois (Champaign

[1] Citations to the Rule 328 Supporting Record in case no. 131365 will be identified as "SR" and the Supplemental Rule 328 Supporting Records as "Supp SR" and "Supp2 SR." Citations to the record prepared by the Clerk of the Circuit Court in case no. 131506 will be identified as "C" and "R."

County) without permission. (SR 10; C 18) Because the offense is not included in the list of detainable offenses contained in 725 ILCS 5/110-6.1(a), the police released petitioner and gave her a citation and a notice to appear in court four days later. (Supp2 SR 1) Specifically, the "CITATION AND NOTICE" stated that petitioner was being charged with Possession of a Stolen Motor Vehicle and that she was required to appear at 1:30 p.m. on January 2, 2024 at the Circuit Court of Cook County, Fifth Municipal District, Room 103. (Supp SR 1) The notice further provided the address of the courthouse as 10220 S 76th Ave in Bridgeview, and stated that the conditions of her release included the requirements that she appear in court as ordered and that she not violate any criminal statute of any jurisdiction. (Supp SR 1) Finally, the notice stated that "VIOLATION OF THE CONDITIONS OF PRETRIAL RELEASE MAY RESULT IN A FINE, ARREST OR JAIL." (Supp SR 1) (emphasis in original) Petitioner acknowledged receipt of the notice by signing it. (Supp SR 1)

The First Arrest Warrant

Petitioner did not appear in court on January 2, 2024. Accordingly, the Honorable Linzey Jones issued an arrest warrant. (SR 1, 6, 43; C 19-20) Petitioner was subsequently arrested by Chicago police on February 4, 2024, and was ordered by the Honorable David Kelly to be detained until she could appear before Judge Jones on February 7th. (SR 6; C 21-23) When the case was called on that date and Judge Jones pointed out that petitioner had failed to come to court, petitioner apologized and claimed that she "did not know that the court date was that day." (SR 43) After the judge noted that "when they release you, they told you to show up on January 2nd, 1:30 p.m. in this room," petitioner stated "[i]t will not happen again." (SR 43)

Because the court had not yet held a *Gerstein* hearing in the matter, the Assistant State's Attorney made the following proffer:

> "On December 27, 2023, the victim in this case reported her 2017 Kia Forte, silver in color, that her vehicle was stolen and reported that there was video of this defendant Stewart taking that vehicle. That was reported to the Champaign, Illinois police department.
>
> On the 29th of December 2023, officers of the Oak Lawn Police Department received a Flock license plate reader hit for that same vehicle on Southwest Highway. They located the vehicle, pulled it over. They found the [petitioner] and one other occupant in that vehicle. The defendant was - there is a co-defendant of the last name Mattie, M-A-T-T-I-E. There is another witness in the front passenger seat and the [petitioner] was in the rear passenger seat.
>
> Officers from Oak Lawn contacted the victim in this case. She related to them that she was taking the [petitioner] to the train station. The [petitioner] stated she needed some paperwork out of the car. The victim gave the [petitioner] the car keys, waited for the [petitioner] to come back with the car keys, but discovered that the [petitioner] and the car were gone."

(SR 43-44)

When Judge Jones sought to confirm that the car was taken from Champaign County and that the complainant is petitioner's aunt, petitioner volunteered that the complainant is actually her grandmother. (SR 44-45) Based on the proffer, Judge Jones found that probable cause existed. (SR 45)

The Assistant State's Attorney then summarized petitioner's criminal background as follows:

> "She has a conviction for escape of electronic monitoring from 2018. She was sentenced to two years in the Illinois Department of Corrections. Also from 2018 a Class 2 burglary, four years in the Illinois Department of Corrections. Class 3 retail theft from Kane County from 2017, 180 days in jail. A domestic battery from Kane County from 2017, 98 days in jail.
>
> Unauthorized use of a prescription form, a Class 4 felony from DeKalb County; she received probation. A Class 3 .retail theft from Kane County from 2012. A DUI misdemeanor from Boone County, probation. Disorderly conduct from McHenry County in 2011; and a DUI for which she received supervision from Kane County in 2006.
>
> She has a bond forfeiture warrant noted on September 29, 2017, and a bond forfeiture from 2012."

(SR 45)

After petitioner stated that she lives in an apartment at 6028 S. Sacramento in Chicago with a roommate and that her name is on the lease, Judge Jones ordered that she be released with standard conditions. (SR 46) When the judge then explained to petitioner that those conditions included "showing up for each and every court date you are assigned" and "[f]ollowing all orders of the court, including the conditions or release," petitioner responded "[y]es, your honor." (SR 46) Judge Jones further told petitioner "[d]on't get arrested while you are released on this case," and then instructed her to keep an "up to date address with the Clerk's Office," and to have no contact with the victim during the

pendency of the case except by telephone. (SR 46) After Judge Jones stated that Pretrial Services would explain what her obligations were, the court told petitioner "[t]hey will tell you what they want. What ever they want, that's what you have to do." (SR 47) Petitioner responded "[o]kay." (SR 47)

After the parties agreed upon a date for the preliminary hearing, Judge Jones admonished petitioner "February 28th, 9:30 a.m. in this courtroom sharp for the hearing. Understood?" (SR 47) Petitioner replied "[y]es, your Honor." (SR 47) Judge Jones then entered a written order detailing the conditions of petitioner's release and stating she was to appear in person in Courtroom 103 of the Bridgeview Courthouse at 9:30 a.m. on February 28, 2024. (SR 11; C 25)

The Second Arrest Warrant

Petitioner failed to appear in court on that date. (SR 6; C 27) As a result, the clerk sent a notice to petitioner at her stated address indicating that the next court date was scheduled for March 21, 2024 at 9:30 a.m. in Courtroom 103 of the Bridgeview Courthouse. (C 28) When petitioner failed to appear in court on that date, the Honorable Mohammed M. Ghouse issued the second warrant for her arrest. (SR 1, 5-6; C 29-30)

Petitioner was subsequently arrested and the warrant was returned to court as executed on May 4, 2024. (SR 5; C 31) On that date, the Honorable Susanna Ortiz ordered petitioner detained until she could appear in Courtroom 103 on May 7, 2024. (SR 5; C 33) On the date, the State sought a continuance for the preliminary hearing and the matter was continued until May 15, 2024. (SR 5; C 34) At that time, Judge Jones ordered that petitioner was to remain in custody, but was to be released after the preliminary hearing. (C 34-35)

On May 15th, after the State indicated that it was not ready for a preliminary hearing, Judge Ghouse continued the matter to May 22, 2024, and released petitioner from custody "from this case only." (SR 4-5; C 36-38) The court then entered a written order detailing the conditions of petitioner's release and stating she was to appear in person in Courtroom 103 of the Bridgeview Courthouse at 9:30 a.m. on May 22, 2024. (SR 4, 12; C 37) However, because petitioner was in custody of the Sheriff on another charge[2], she did not appear in court on that date. (C 39-40) As a result, the matter was continued to June 5, 2024 and a notice to appear was sent to petitioner's address. (SR 4; C 40-41) In addition, a transportation order was issued directing the Sheriff to bring petitioner to court on June 5th if she was still in custody. (SR 4; C 39)

The Third Arrest Warrant

When petitioner did not appear in court on June 5th, Judge Jones issued the third warrant for her arrest. (SR 1, 4; C 42-43) Petitioner was subsequently arrested by the Chicago Police on July 27, 2024 and the warrant was returned as executed the following day. (SR 4; C 43-50) The arrest report which was filed in court as part of the return, states that after she was arrested, the officers discovered that petitioner had two loose pills of

[2] A review of the Circuit Court of Cook County's Electronic Docketing system reveals that on May 22, 2024, petitioner was in the Sheriff's custody under Cook County case no. 24000001970, pursuant to an arrest warrant that had been issued on February 26, 2024 by the Honorable Matthew D. Lee of the Sixth Judicial Circuit in Champaign County case no. 2023 DV 000154. This Court may take judicial notice of those records. See *People v. Johnson*, 2021 IL 125738, ¶ 54 (stating that "Illinois courts often take judicial notice of facts that are readily verifiable by referring to sources of indisputable accuracy," and noting that "[f]requently, the source that is judicially noticed is a court record or a public document including the DOC's records on its website"); *In re Linda B.*, 2017 IL 119392, ¶ 31 n.7 ("Public documents, such as those included in the records of other courts and administrative tribunals, fall within the category of 'readily verifiable' facts capable of instant and unquestionable demonstration of which a court may take judicial notice.").

suspected Oxycodone Hydrochloride 30 mg in her possession and was unable to produce a prescription for the pills. (C 45) On July 28th, Judge Kelly ordered petitioner detained until she could appear in Courtroom 103 at the Bridgeview Courthouse on July 30, 2024. (SR 4; C 51-52)

On that date, the parties appeared before Judge Ghouse and agreed to continue the matter to September 4th for the expected return of an indictment. (C 53) Judge Ghouse then issued an order releasing petitioner and stating that she was to appear in person in Courtroom 103 of the Bridgeview Courthouse at 9:30 a.m. on September 4, 2024. (C 54)

The Fourth Arrest Warrant

When petitioner failed to appear in court on that date, the Honorable John Fairman issued the fourth arrest warrant in this matter. (SR 1-2, 3; C 56, 58) Petitioner was subsequently arrested and the warrant was returned as executed on September 9, 2024. (SR 2, 3; C 57-59) At that time, the Honorable Ankur Srivastava ordered petitioner detained until she appeared in Courtroom 103 of the Bridgeview Courthouse on September 11, 2024. (SR 3; C 60) On that date, the matter was continued on the State's motion to September 24, 2024 for the expected return of an indictment. (SR 3; C 61) Judge Fairman ordered petitioner to remain in custody at that time. (SR 3: C 62)

When the State sought an additional continuance on September 24th, Judge Fairman ordered petitioner released from custody with conditions. (SR 2; C 64) The order releasing petitioner stated that she was to appear in person in Courtroom 103 of the Bridgeview Courthouse at 9:30 a.m. on October 1, 2024. (C 65) However, petitioner did not appear in court on that date and the matter was continued to October 15, 2024 for arraignment. (SR 1; C 66)

The Fifth Arrest Warrant

On October 4, 2024, the Grand Jury returned an indictment, charging petitioner with one count of Possession of a Stolen Motor Vehicle. (SR 18-19; C 68-69) As a result, on October 15, 2024, the matter was transferred to Courtroom 107, the Honorable Steven J. Rosenblum's (Respondent) courtroom. (SR 22; C 71) When petitioner's case was called, petitioner's counsel informed Respondent that they have "no information about her whereabouts today." (SR 50) Respondent then issued the fifth arrest warrant in this matter (SR 23-24; C 72-73), stating:

> "All right. [Petitioner] is not in court. It's 11:20 a.m. Warrant to issue to detain. No one has any information where [petitioner] is at this particular time. This was the set date, October 15th, that it was set for."

(SR 50)

Petitioner is Arrested Pursuant to the Fifth Warrant

Petitioner was subsequently arrested by the Chicago Police on November 4, 2024. (SR 25; Supp2 SR 2; C 75) According to the arrest report which was filed with the Clerk of the Circuit Court on November 5, 2024 as part of the return of the executed warrant (SR 15; Supp2 SR 2; C 13), officers were on patrol in the area of 63rd Street and Whipple when they observed petitioner walking through the alley. (Supp2 SR 3) The officers had prior contact with petitioner and knew that there was an outstanding warrant for her arrest. (Supp2 SR 3) After the officers stopped her and then confirmed that the warrant was still active, they took petitioner into custody. (Supp2 SR 3) While they were waiting for transportation, petitioner removed a few items from her left rear pocket. At that time, the officers observed a "small pink plastic ziploc style baggie" fall from her pocket onto the

ground. (Supp2 SR 3) Upon inspection, the officers discovered that the baggie contained a "white powdery substance, suspect heroin." (Supp2 SR 3) When the officers asked petitioner if she had anything else, she stated "I just tried to get rid of the only thing I had." (Supp2 SR 3) Petitioner was transported to the Area 1, where a subsequent search at the female lockup revealed that petitioner had "1 small pink ziplock style bag containing suspect crack cocaine" in her right shoe. (Supp2 SR 6) Following her arrest, Judge Ortiz ordered petitioner detained until she could appear in Courtroom 107 at the Bridgeview Courthouse on November 7, 2024. (SR 27; C76)

Respondent Finds the Statutes Unconstitutional As Applied and Orders Petitioner Detained

When petitioner's matter was called on that date, Respondent first admonished her that she had to "appear at each and every court date in this case" and that if she willfully fails to appear she could be tried in *absentia*. (SR 54; R 9) Petitioner stated that she understood. (SR 54; R 9) Next, when Respondent asked the State if a Petition to Revoke Pretrial Release was being filed pursuant to 725 ILCS 5/110-6(a) based on petitioner's November 4th arrest, the Assistant State's Attorney stated that the Possession of a Controlled Substance charge was dismissed in First Appearance court and that therefore the State was filing a Petition for Sanctions rather than a petition to revoke. (SR 54-55; R 9-10) Respondent then granted the State leave to file a Petition for Sanctions pursuant to 725 ILCS 5/110-6(f). (SR 55; R 10)

That petition alleged that by failing to appear in court, petitioner violated the conditions of her release as set forth in the Januanry 2, 2024 order. (SR 30; C 79) Petitioner's counsel then informed the court that petitioner indicated that she had been in the ICU at Holy Cross Hospital from October 13th through the 28th, and that she learned

about the warrant when she turned herself in after she got out of the hospital. (SR 55; R 10) The Assistant State's Attorney then made a proffer of the facts underlying the charges in this case as well of petitioner's criminal history, including "multiple failures to appear." (SR 56-58; R 11-13) After the ASA noted that "there were four additional failures to appear on this case itself prior to it getting to our courtroom," Respondent pointed out that arrest warrants had been issued in this matter "four times." (SR 59; R14)

Then, when petitioner interjected that "[i]t will not happen again, Your Honor" (SR 59; R14), the following colloquy occurred:

> THE COURT: "Of course not, I totally agree with you. Miss Stewart, it will not happen again because I am not releasing you.
>
> I understand that the court o[n] a petition for sanctions is supposed to be limited to 30 days, but the legislature is not giving me an opportunity as a judge to administer justice. She has already missed court four separate times. Four separate times the courts have released her back out on the street and she hasn't come back to court. I don't know how you run a courtroom in the [S]tate of Illinois when the only punishment for that is a few days in jail and then released and then you don't show up again. How do you ever get the case to trial or any disposition with people like [petitioner], who is straight out lying to me right now when she says she will come back to court.
>
> [PETITIONER]: I will.
>
> THE COURT: Miss Stewart, it's really hard to talk when you missed court four separate times on a case that barely has gotten to arraignment today.

> Four times before we can even get to arraignment. How do you ever administer justice as a judge when . . . the statute doesn't consider people like [petitioner] who never come to court? The statute as applied to a person like [petitioner] is, quite frankly, unconstitutional. That's this Court's opinion."

(SR 59-60; R 14-15)

Respondent further stated that it was his responsibility as a judge "to administer justice and to find a way to get through cases," but that petitioner's conduct in this case and her background in previous cases shows that it is "impossible to administer justice to [petitioner] under the present situation with the Pretrial Fairness Act." (SR 60-61; R 15-16) Respondent further found that "[i]t does not matter how many times you release [petitioner], [she] is not going to come to court." (SR 60; R 15) Accordingly, Respondent ordered that "[petitioner] is to be detained." (SR 61; R16)

Petitioner's counsel objected, pointing out that petitioner was not charged with a "detainable offense" and that petitioner does not qualify for indefinite custody because the State had only filed a petition for sanctions. (SR 61; R 16) Respondent then stated:

> "I understand what the petition was for. I also understand as a judge that there are limits to what we can do. The statute does not consider situations like [petitioner]. Four separate warrants on the same case before we can even get to an arraignment. Four separate warrants. We have been on this case for a year. At times [petitioner] has been picked up and released and not shown up to court."

(SR 61; R 16)

When petitioner interjected that she had been "incarcerated by the hospital in Waukegan and now Holy Cross" and offered to "show proof of that," Respondent told her that he would be "happy to look at that proof" and instructed petitioner to file a written motion to reconsider. (SR 61; R 16)

Petitioner's counsel further objected to petitioner's detention because "there was not a detention hearing," and that there were no allegations proven by clear and convincing evidence. (SR 62; R 17) In response, Respondent reiterated that he was not conducting a detention hearing. And was instead "treating it as a petition to revoke her pretrial release." (SR 62; R 17) Respondent further stated that he "made a finding that there is clear and convincing evidence that [petitioner] violated the conditions of her pretrial release . . . four separate times." (SR 62; R 17) Respondent also noted that there was no evidence presented that petitioner had been hospitalized, but even if she had been, she failed to turn herself in a timely manner. (SR 62; R 17) And when she ultimately did turn herself in, she was also arrested for a new possession of a controlled substance case. (SR 62; R 17)

Respondent then stated that he disagreed with the State's decision to only seek sanctions in this case because "every time you release [petitioner] she doesn't come back to court." (SR 63; R 18) Respondent explained:

> "I understand what the statute says, but as applied to this particular case it does not allow the court to do their job in this case. And so over your objection, your strenuous one, I have held a hearing today, I have listened to both sides and I do find that she violated the conditions of [pretrial release], and I won't just assess a sanction because I believe assessing under these circumstances does not allow the court do their job, which is to move

> the case and to get something going on it. But every time we release [petitioner] that disappears, that opportunity disappears because she refuses to come back."

(SR 63-64; R 18-19)

Respondent then admonished petitioner that she could appeal his order, but that she must first file a written motion to reconsider including all the reasons she believes his ruling was incorrect. (SR 64; R 19) He further informed her that if she failed to include a claim of error in her motion to reconsider, it "would be waived" and she "couldn't bring it up in [her] appeal." (SR 64; R 19) Petitioner stated that she understood the admonishments. (SR 64; R 19) The matter was then continued to November 20, 2024. (SR 65; R 20)

At the conclusion of the proceedings, Respondent signed the court sheet which stated that he had found that the "PFA violates [the] constitution as applied to this case." (SR 29; C 77) In addition, Respondent modified the preprinted "Order After Sanctions Hearing" form to clearly indicate that petitioner was being "detained" as a result of the hearing. (SR 31; C 80)

Respondent Denies Petitioner's Motion to Reconsider

On the next court date, petitioner's counsel filed a "Motion to Reconsider Denial of Pretrial Release." (SR 34-35; C 87-88) The motion did not address Respondent's finding that the statutes were unconstitutional as applied and instead simply pointed out that petitioner "is NOT charged with a detention-eligible offense, as defined in 725 ILCS 5/110-6.1," and that "sanctions cannot exceed 30 days." (SR 34, 35; C 87, 88) (emphasis in original). In addition, the Assistant State's Attorney informed the court that an offer had been tendered to the defense, but petitioner's counsel stated that petitioner "does not wish

to accept that at this time." (SR 68; R 3); The matter was then continued until December 12, 2024, for the State to file a response to the motion to reconsider. (SR 70; R 5)

However, when the matter was called on December 12th, the Assistant State's Attorney informed Respondent that the State would not be filing a written response to petitioner's motion to reconsider, that it had merely requested sanctions and that it had no position regarding the constitutionality of the statute as applied to petitioner. (SR 73) Then, when Respondent attempted to set a date for the hearing on the motion to reconsider so he could conduct additional research on the issues, petitioner's counsel objected and requested an immediate hearing on the motion so that petitioner could appeal Respondent's ruling. (SR 74-75) Respondent agreed, stating "if you're asking me to make a decision today without researching it further, and giving me an opportunity to look for reasons why I could be wrong on this issue, then I'll rule today." (SR 79)

Petitioner's counsel then argued that Respondent's order detaining petitioner was contrary to the plain language of section 110-6.1 (725 ILCS 5/110-6.1) because possession of a stolen motor vehicle is not included in the list of detainable offenses and also because the State had merely filed a petition for sanctions, which is limited by statute to a maximum of 30 days in jail. (SR 79-80) The ASA acknowledged that the "[o]riginal petition was a petition for sanctions," but reiterated that "at this time the State is not taking a position on the constitutionality of the statute as applied to this defendant." (SR 80-81)

Respondent then denied the motion to reconsider, detailing petitioner's repeated failures to appear and the numerous warrants issued for her arrest, and noting that even though she failed to appear at "every single court date," she was released each time after being arrested pursuant to a warrant. (SR 81-82) He stated that his concern with statute is

that it "gives the court no discretion whatsoever" to hold petitioner after she repeatedly violated the conditions of her release. (SR 83) Respondent explained:

> "[Petitioner] has made a mockery of the system here. In every court date she's released she doesn't appear in the next court date. A judge has a duty to move the case forward. It's a year later for us to be at arraignment. A year. Four times police had to go out and arrest [petitioner] after her original charges on this case in order to bring [sic] to the Court. She's been continued to be released. The problem with the statute is it doesn't give a judge ever the discretion to stop what's going on and move the case forward. You'll never get to trial under the present circumstances or the way the statute treats it."

(SR 83-84)

Respondent further described his concern regarding the legislature's failure to provide judges with any discretion to hold defendants in certain cases, including cases involving a defendant's extradition from another jurisdiction. (SR 84-85) Respondent then concluded:

> "So while I do understand the legislature and their feelings on possession of a stolen motor vehicle and their feelings on what they think can occur, I don't believe that they consider situations like [petitioner] that constantly does not appear in court no matter what sanction that you give her, she doesn't come back to court. So it is a sad day when a judge has no discretion to do their job. I don't believe that is accurate. I don't believe that the statute is appropriate under the particular circumstances of this case. So while I

have not done my full research, I am not prepared to cite everything today, your motion to reconsider the denial of pretrial release is denied."

(SR 85)

Petitioner's counsel then informed Respondent that in regard to "at least two of the warrants [petitioner] has indicated that she was in the hospital," and that that was why she failed to come to court. (SR 86) Respondent replied by noting that no medical evidence or proof was ever offered to support the claim, and that even though petitioner may have some medical issues, "she still made no efforts in order to come back to court until each time she was arrested." (SR 86-87)

The matter was then continued to January 15, 2025. (SR 87-88) Respondent also asked the Assistant State's Attorney to contact the Attorney General's Office to have them appear on that date since he had declared a statute unconstitutional. (SR 87-88)

Petitioner Appeals to the Appellate Court and Seeks Extraordinary Relief in this Court

Petitioner filed a Notice of Appeal pursuant to Supreme Court Rule 604(h) on December 18, 2024. (SR 38; C 91) That appeal was docketed in the First District Appellate Court and assigned case number 1-24-2544B.[3]

Shortly thereafter, on December 27, 2024, petitioner filed a motion for leave to file a petition for a writ of *habeas corpus*, *mandamus* or prohibition, or in the alternative, a motion for supervisory relief. In the petition, petitioner essentially alleged that by indefinitely detaining her on a non-detainable offense, Respondent exceeded his lawful judicial authority and that she was entitled to be immediately released from custody.

[3] The notice of appeal was amended on January 8, 2025, to accurately reflect petitioner's name and the circuit court case number, and to include the date of the denial of her motion for reconsideration. (See Appendix to Pet. Br. A10)

Respondent Specifies His Findings Pursuant to Supreme Court Rule 18

The parties next appeared in court on January 6, 2025, after Respondent advanced the case on his own motion. (SR 2-3) A representative of the Illinois Attorney General's Office appeared as well. (Supp SR 2) At that time, Respondent noted that despite petitioner's filing both a notice of appeal in the Appellate Court and a petition for leave to file an original action in the Illinois Supreme Court, he still had lawful jurisdiction over the matter. (Supp SR 4-6) He further stated that because his ruling was that the statutes are unconstitutional as applied to petitioner's case, he believed that petitioner's Notice of Appeal was filed in the wrong court and that the appeal should properly be heard by the Illinois Supreme Court. (Supp SR 4-6)[4] In addition, the Assistant Attorney General informed Respondent that "the Attorney General's position is that the statute is constitutional both on its face and as applied in these circumstances." (Supp SR 12) Respondent then stated that he believed he had made the necessary findings under Supreme Court Rule 18 regarding a finding of unconstitutionality, but nonetheless specified them so that the record would be clear. (Supp SR 14-23)

Respondent stated that he found sections 110-6 and 110-6.1 unconstitutional as applied to the particular circumstances of petitioner's case in that a defendant may only be detained pursuant to a petition to revoke pretrial release if she is charged with a new felony

[4] Petitioner subsequently filed an "Unopposed Motion for Direct Appeal Pursuant to Supreme Court Rule 302(b)," seeking to have her appeal in case no. 1-24-2544B transferred to this Court. This Court denied that motion on January 27, 2025. *People v. Stewart*, No. 131435. Then, on January 28, 2025, the State filed a motion in the Appellate Court seeking to have the appeal transferred to this Court pursuant to Rule 365 ("Appeal to Wrong Court") because jurisdiction over appeals from orders finding statutes to be unconstitutional lies exclusively in the Supreme Court. The Appellate Court granted that motion on February 6, 2025, and the matter was docketed under case no. 131506. That appeal was subsequently consolidated with petitioner's original action against Respondent on February 18, 2025.

or Class A misdemeanor. (Supp SR 16) Respondent further explained that under Section 110-6, if the defendant violates the conditions of pretrial release, the maximum sanction that may be imposed by the court is 30 days of incarceration and that "the court cannot indefinitely detain an individual who has refused or not come to court." (Supp SR 17) Respondent also noted that while section 110-6 can be invoked either by the State's filing of a petition or by the court on its own motion, the "catch-all" provision in section 110-6.1(a)(8) – which authorizes the detention of a defendant charged with a greater than Class 4 felony who "has a high likelihood of willful flight to avoid prosecution" – requires a petition by the State and may not be invoked by the court *sua sponte*. (Supp SR 17)

As a result, Respondent concluded that under these statutes, he was "bound to release [petitioner] within thirty days." (Supp SR 18) However, because such an outcome left him with "no possibility of the moving the case forward," he found that the statutes, as applied in these particular circumstances, violated the constitutionally-mandated separation of powers because they do not permit a judge to detain a defendant who "willfully does not come back to court, even when they do it as much as [petitioner] was doing it in this case." (Supp SR 18,19) He further noted that the "statute as applied to this particular case" failed to "protect the Court's interest and the Judicial Branch's interest in obtaining justice, moving a case forward, [and] managing the call. All of the things that are required of a judge on a particular case, the statute did not allow me to do." (Supp SR 20)

In explaining why an as-applied unconstitutional finding was required and that the statutes could not be reasonably construed in a manner to preserve their validity under the particular circumstances of this case, Respondent stated:

> "If I released [petitioner], it was this Court's opinion that her willful conduct would continue; that she had six prior failures to appear. She had a prior escape in her background. She had a long criminal history. She had missed court at least on four separate occasions in this time in this courtroom and that nothing would prevent her from missing court again; that I believe that conducted [sic] would continue. The only way I could do it was what I did, which was hold her."

(Supp SR 21)

Respondent acknowledged that he has "issues with that [sic] constitutionality of it as a whole," and explained his concerns about how these statutory provisions, "as presently written," might apply in cases involving the extradition of a defendant from another state or a foreign country. (Supp SR 22) However, he reiterated that his conclusion was based on the constitutionality of the statute "as it applies to this case." (Supp SR 22)

The State Attempts to File A Detention Petition Pursuant to Sections 110-6.1(a)(8) and 110-6.1(d)(2)

The Assistant State's Attorney then argued that a finding of unconstitutionality was unnecessary in this case because even though the State had not previously filed a detention petition, it had revised its position and was now seeking petitioner's detention pursuant to section 110-6.1(a)(8). (Supp SR 24) The ASA asserted that the State is "in agreement with the Court's decision from November 7th that there's clear and convincing evidence, that [petitioner] here is a flight risk," and that there is no reason to believe that she would willfully return to court if released. (Supp SR 25) The ASA further maintained that such a petition was proper under section 110-6.1(d)(2) because it authorizes detention based on "new facts not known or obtainable at the time of the filing of a previous petition." (Supp

SR 25) Accordingly, the ASA argued that "[t]he People believe there is a basis and a mechanism through which the Court can detain the [petitioner], ensure that she is brought to trial, administer justice and not have to find the statute unconstitutional." (Sup SR 26)

However, Respondent pointed out that the State's argument not only ignored the time limitations for the filing of a petition under section 110-6.1, but was also in "direct conflict" with the plain language of section 110-6 which delineates what a court may do after a defendant is placed on pretrial release. (Supp SR 28-30) The ASA then argued that 110-6.1(d)(2) permitted the filing of a detention petition "at any time when new evidence is discovered or new information comes to the attention" of the State. (Supp SR 31) He further argued that the statutory provision "represents the Legislature's intention to capture those individuals that are making a mockery of the justice system and making a mockery of this Court by failing and refusing to come to court." (Supp SR 31-32)

Petitioner's counsel objected to the State's attempt to file a detention petition, pointing out that "[t]here is no new information that they didn't have on November 7, 2024 when they filed the sanctions petition." (Supp SR 36) Counsel highlighted the fact that the State did not file a detention petition when petitioner was initially charged in December 2023, even though it was fully aware of her prior conviction for escape, or at any subsequent time despite being "picked up four or five times." (Supp SR 37) Counsel further argued that although the State would have been permitted to file a detention petition based on willful flight on November 7th, the evidence was not sufficient to establish that petitioner's failure to appear was intentional since she had reportedly been in the hospital "during at least three court dates," and then "went to the police station and turned herself in" after she found out about the warrant. (Supp SR 39) Finally, counsel asserted that

because the State had purposefully filed a petition for sanctions rather than a detention petition, Respondent had improperly recharacterized that pleading as a request for indefinite detention even though different standards apply. (Supp SR 40, 43)

Respondent agreed that different standards apply under the two statutory provisions, but noted that unlike 110-6, section 110-6.1 "requires a State's petition" and "does not allow the judge to do it on their own motion." (Supp SR 43) He then stated:

> "As a judge, I cannot administer justice without the permission of the Executive Branch, a separation of powers argument, because it takes – even if I agree with the State here that there is a separate avenue of [110-]6.1 and they can file a . . . detention petition, it requires them file it. It doesn't allow the court to do it on its own. So it takes the action of another branch of government in order for me to reconsider the situation on what are ultimately revocations of that initial detention [sic].

(Supp SR 44)

When the ASA interjected that Respondent was seemingly articulating a facial constitutional analysis rather than an as-applied one, Respondent disagreed and pointed out that because the State did not file a detention petition on November 7th, he was faced with a "different situation" at that time. (Supp SR 45) The ASA then admitted that Respondent was correct in concluding that due to the State's failure to file such a petition at that time, the court had "no authority" to detain petitioner under the statute "[a]s it applied to this case." (Supp SR 45-46)

Respondent entered and continued the State's motion for leave to file a detention petition. Respondent also continued the matter to January 23, 2025 so he could research the issues presented by the parties. (Supp SR 48-49, 52)

This Court Grants Petitioner Leave to File a Petition for Extraordinary Relief

In the interim, on January 10, 2025, this Court granted petitioner's motion for leave to file a petition for *habeas corpus, mandamus,* prohibition or supervisory relief pursuant to Supreme Court Rules 381 and 383.

Respondent Denies the State's Request for Leave to File a Detention Petition

When the parties next appeared before Respondent on January 23rd, the Assistant State's Attorney reported that the State had tendered an offer to petitioner's counsel, and counsel stated that petitioner did not wish to accept the offer at that time. (Supp SR 57) Respondent then noted that petitioner's counsel had provided him with the decision in *People v. Farris,* 2024 IL App (5th) 240745 — which held that detention petitions under section 110-6.1(d)(2) "cannot be based on subsequent noncriminal violations of pretrial release" because section 110-6(a) "would become superfluous if the State could simply file a subsequent petition to deny pretrial release based on . . . any violation of the conditions of pretrial release" (*id.* at ¶¶ 46, 43) — and the parties argued over its significance and application to petitioner's case. (Supp SR 59-65)

Respondent found that *Farris* supported his earlier reservations about the State's attempt to file a detention petition based on petitioner's repeated failure to appear in court, and denied the State's request for leave to file a petition to detain under section 110-6.1(d)(2). (Supp SR 66-72) Specifically, he found that 110-6.1(d)(2) only applies when the State has acquired new information about the charged offense, such as the discovery of

a new witness or DNA evidence, and is not a "catchall to get the State around the revocation statute." (Supp SR 69) He explained:

> "Any piece of evidence that happened afterwards becomes new evidence to the State if I agree with the State on this and would then allow them to file a petition to detain time and again, whether it's one failure to appear, one miss on an electronic monitoring, one step into a zone on the GPS. There could be a hundred different reasons in which the State would then bring it forward again for a new petition to detain. Well that's exactly why we have specific guidelines in [110-]6.1, that there are certain situations when the State can and what they can do with that, and that is the sanction procedures."

(Supp SR 70)

Respondent also noted that he looked for an alternative to declaring the statutes unconstitutional as applied to petitioner's case because "[i]t is always my intent to follow the statutes and the codes of this state and all the constitutional requirements, and I try to do that on a daily basis." (Supp SR 66) However, he could not find a construction of the statutes that would uphold their constitutionality and "still acquire the same goal, which was to hold [petitioner] in order to move the case forward and make sure that justice did take place, that we could get to a trial date, that we could do motions on the case if it were necessary." (Supp SR 66) He added that he found the statutes to be unconstitutional as applied to petitioner's case because they do "not give the judge the tools to do his job," that "[t]he legislature has removed the judge's ability," and that "at some point the judge has to

have the discretion to move the case forward, to do their judicial duties as required under the law." (Supp SR 67, 68) Respondent then stated:

> "So this is a case that needs to be decided by the Supreme Court, and here's why. If the Supreme Court agrees with me that the statute has constitutional issues with it, then perhaps the legislature will fix it and we won't have this problem. The judges will have the discretion to do their jobs. If they disagree and they agree with the State that they can go under Section (d)(2), then still this Court feels like I have created a situation in which judges all over this state now have an understanding that they have discretion under Section (d)(2), that prosecutors under [sic] the State have discretion under (d)(2).
>
> So if they disagree with me in the Supreme Court and they agree with the State that there is a provision under (d)(2), at least we have the guidance then and I'll feel that I then have guidance. The rest of the court system will have guidance on this ability.
>
> And if they feel under the third circumstance that it's all constitutional and the State can't go forward, then I don't know where we're going with ever getting justice because somebody could be out there for 20 different warrants and the court would have no discretion except for to do a sanction. So, either way, we will have the guidance that we need that is necessary in these cases."

(Supp SR 74-75) The matter was then continued to March 5, 2025. (Supp SR 76)

Petitioner Files Her Opening Brief in this Court

Petitioner's counsel filed her opening brief in this Court on February 28, 2025. At the end of the Statement of Facts section of that brief, counsel stated:

> "While these consolidated cases have been pending in this Court, the parties have negotiated a potential plea agreement in the circuit court, subject to Judge Rosenblum's approval. On February 26, 2025, Assistant Public Defender Coryn Steinfeld and Assistant State's Attorney David Mullner spoke with Judge Rosenblum to determine whether he would be amenable to the potential plea agreement. On information and belief, Judge Rosenblum indicated to them that he was not inclined to accept any plea agreement while this case was pending at this Court. He did agree to hold a Rule 402 conference on the next court date: March 5, 2025."

(Pet. Br. 23)

Similarly, near the end of the Argument section, counsel asserted:

> "It is even clearer that Judge Rosenblum does not care about resolving Ms. Stewart's case when on information and belief he expressed his desire for her case to continue pending at the circuit court instead of being resolved through a plea agreement, so that the controversy remains ripe for this Court's review."

(Pet. Br. 43)

Respondent Clarifies the Record

When the parties appeared before Respondent on March 5th, Respondent began the court proceeding by addressing the assertions made in Petitioner's opening brief. (Supp2

SR 8) Specifically, Respondent stated:

> "Last week, Public Defender's Office filed a brief in the case claiming this Court, based upon my ruling, that the particular section dealing with revocation in the Pretrial Fairness Act was unconstitutional. They filed their brief in front of the Supreme Court. And although I really have no say in what occurs in that brief, there's a special attorney general that represents this Court on that case, as well as a public defender, a regular attorney general that had been notified on that case. That's all of record already.
>
> In reviewing the brief though that was sent to me as one of the parties involved, I did notice that the defense had included information in here that was outside of the record, that in this Court's opinion, not only is it outside of the record, but it was completely inaccurate as to what occurred in my courtroom and taken out of context. So I wanted to address that on the record today since there is no record of this even though the Public Defender's Office placed it in the appeal, there should be a record now that they have made it an issue."

(Supp2 SR 8-9)

Then, after reading aloud the above-referenced portions of Petitioner's Opening Brief (Supp2 SR 9-10), the following colloquy occurred:

> THE COURT: So we are clear exactly what happened on February 26th, 2025, I'll let both the public defender and the State's Attorney give their rendition of what occurred also. On that date, I was involved in a jury trial

on a quarter kilo cocaine case. I had, I believe, 30 or 40 cases on the call, and I was in the middle of all of that with a jury waiting for me.

As I took a break, Ms. Steinfeld and Mr. Mullner approached me for approximately 30 to 40 seconds in the hallway behind the court to let me know that they had reached a potential plea agreement and wanted to motion her case up that day. I told them I was in the middle of a jury trial with a heavy call and there was no way that I could handle anything on that case. But that if she wanted a 402 conference, she could have a 402 conference on the next date, which was the very following week on the case. I did indicate to them that I was hopeful that the Supreme Court would give some guidance. But I was certainly willing to have a 402 conference on the case. That is my recollection of that 30 to 40 second conversation that we had on the case.

Ms. Steinfeld indicated she would try and motion it up that day then, and we would be here on the 5th, and she would ask for a conference at that time. I said that was fine. That has now been inferred that I'm not willing to work out a potential plea agreement in this matter, and that I'm not inclined to accept any plea agreement in this matter, according to the brief. That is not at all what occurred in this case in that 30 to 40 seconds.

So I wanted to make it of record. And I'll now allow the public defender and the State's Attorney to make whatever record they feel occurred in that conference.

Ms. Steinfeld.

MS. STEINFELD: Assistant Public Defender Coryn Steinfeld. Your Honor, as your Honor knows, I did not prepare the brief. I have still not read the brief. We had had that conversation that your Honor describes. The reason that I then related it to the other public defender who was preparing the brief was solely for scheduling purposes about motioning the case up. So I have no other position on how it was portrayed or what her argument is.

THE COURT: Are you saying then that I'm accurate in my description of the details of that conversation?

MS. STEINFELD: Yes, Judge. And I related to her that we were going to have a 402 conference this week.

THE COURT: Okay.

MS. STEINFELD: Or request a 402 conference.

THE COURT: State, do you wish to make any comments?

MR. MULLNER: No, Judge. I believe the Court made an accurate rendition of the brief conference that took place. I would note, for the record, it was a very brief conference for scheduling purposes. And the State certainly did not take any inference from the Court in terms of whether it had a position on the outcome of the case.

THE COURT: Okay. Thank you. I appreciate both of the comments."

(Supp2 SR 10-12)

Respondent next pointed out that he found the police report regarding petitioner's November 4, 2024 arrest pursuant to the warrant he issued on October 15th on the Circuit

Court's electronic docketing system. (Supp2 SR 13) Respondent noted the arrest report "indicated a much different story" than the assertions which had been made to him by petitioner's counsel on the earlier court dates. (Supp2 SR 13-14) Specifically, he pointed out that one attorney had asserted on January 6, 2025 that petitioner "turned herself in when she found out about the warrant" and that "[s]he went to the police station and turned herself in," and that the other attorney had stated on November 7, 2024, that petitioner "turned herself in on Tuesday, and that's how she found out she had a warrant when she got out of the [hospital]." (Supp2 SR 14) However, he then noted that the reporting officer's summary of the arrest provides a "completely different rendition of turning oneself in on a warrant." (Supp2 SR 16)

Petitioner's counsel then explained that the defense attorneys did not have the police report on November 7th, and therefore based their assertions on "the representations made by [their] client as to how the circumstances of her arrest came about." (Supp2 SR 16) She further stated that because the State did not contradict or correct the record about whether petitioner had turned herself in, "the Public Defender's Office continued to rely upon those statements that she had turned herself in." (Supp2 SR 16-17) However, counsel acknowledged that "the police report indicates that [petitioner] did not turn herself in and was, in fact, arrested." (Supp2 SR 19) The Assistant State's Attorney likewise stated that he did not have the report at the time, and noted that it indicates that petitioner did not turn herself in. (Supp2 SR 19-20)

Respondent Conducts a Rule 402 Conference

Petitioner's counsel then requested a Rule 402 conference. (Supp2 SR 20) After Respondent admonished petitioner about her rights and she agreed to his participation in

the conference, Respondent and the parties had an off-the-record discussion. (Supp2 SR 21-22) When they returned to open court, Respondent stated they discussed various options for resolving the matter and that one of the options included a lesser sentence if petitioner completed the "Thrive program."[5] (Supp2 SR 22) Respondent told petitioner that based on what he learned at the 402 conference, "it's the drug problem that lead[s] to all these arrests," and that he believes that Thrive is the "best drug program out there." (Supp2 SR 23) After petitioner agreed to participate in the program, the matter was continued until April 7, 2025, so Respondent can monitor her progress.

ARGUMENT

This Court Should Deny Petitioner's Request For Extraordinary Relief Where Respondent Properly Determined That The Statutory Scheme Contained In The "Pretrial Fairness Act" Was Unconstitutional As It Applied To The Particular Circumstances Of Petitioner's Case Because It Precluded the Exercise of His Inherent Judicial Authority To Deny Pretrial Release To Ensure Petitioner's Appearance At Trial And Thereby To Properly Manage His Docket And Ensure The Orderly Administration Of Justice.

Petitioner claims that she is entitled to extraordinary relief in the form of a writ of *habeas corpus, mandamus* or prohibition because Respondent "lacked the statutory authority to indefinitely deny [her] pretrial release" where the "Pretrial Fairness Act," clearly provides that a "circuit court cannot detain a defendant" without a detention petition filed by the State and a hearing where the State proves by clear and convincing evidence that no conditions of release could mitigate the risk of petitioner's willful flight. (Pet. Br.

[5] The Thrive Program is a substance abuse program available to female detainees in Cook County Jail. THRIVE stands for "Therapeutic Healing Recovery Initiative for Vitality and Empowerment." See https://cookcountysheriffil.gov/departments/cook-county-department-of-corrections/programs-and-services/substance-abuse/ (visited April 3, 2025).

24, 27-28, 44-47) In the alternative, she asks this Court to exercise its supervisory authority and vacate the order detaining her in order to keep Respondent from acting beyond the scope of his lawful authority. (Pet. Br. 47)

Specifically, petitioner points out that Respondent was not authorized to detain her under section 110-6.1 (725 ILCS 5/110-6.1) because she has not been charged with a "detainable offense" under section 110-6.1(a)(1)-(7) and because the State did not file a timely detention petition under section 110-6.1(a)(8)(B), alleging that she was charged with a felony offense greater than an Class 4 felony and that there was "a high likelihood of willful flight." (Pet. Br. 25-26) Similarly, she also claims that Respondent had no authority under section 110-6 (725 ILCS 5/110-6) to revoke her pretrial release where she was not charged with any new criminal offenses (as they were previously dismissed by the State) and where the State elected instead to file a sanctions petition based solely on the non-criminal violation of missed court dates. (Pet. Br. 28-29) Petitioner argues that because "[s]ection 110-6(f)(2) explicitly and unambiguously states that 'imprisonment in the county jail' is only authorized as a sanction 'for a period not exceeding 30 days,'" Respondent **"**erred by imposing a statutorily unauthorized indefinite detention as a sanction." (Pet. Br. 29 (quoting 725 ILCS 5/110-6(f)(2))).

Petitioner further accuses Respondent of "acting as a prosecutor and determining which charges should be pursued" and of "ignor[ing] binding precedent from this Court," when he *sua sponte* ruled that the statutory scheme was unconstitutional as applied to the particular circumstances of petitioner's case because it "is impossible to administer justice" to her. (Pet. Br. 31. 33) She points out that in *Rowe v. Raoul*, 2023 IL 129248, this Court "addressed the constitutionality of the PFA under separation of powers concerns and

concluded the statute was a valid exercise of Legislative power" (Pet. Br. 35-36) and therefore argues that Respondent "cannot disregard this Court's decision because he does not think the 30-day sanctions penalty is adequate." (Pet. Br. 37)

She also claims that Respondent refused to properly consider the available alternatives to declaring the statutes unconstitutional, such as imposing a 30-day sanction each time petitioner misses court after she is released from custody, holding a trial in *absentia* when she fails to appear for trial, initiating indirect criminal contempt proceedings or ordering additional conditions of release, such as electronic monitoring or home confinement. (Pet. Br. 39, 41-42) Finally, petitioner argues that despite his repeated statements to the contrary, Respondent actually found "Section 110-6 of the PFA unconstitutional on its face " out of an animus toward the Pretrial Fairness Act and "the limits on judicial discretion generally in Section 110-6" and an overriding desire for this Court to address the issues. (Pet. Br. 42, 43)

However, petitioner's claims are without merit. Although Respondent agrees that his order detaining petitioner was not in accord with the plain language of sections 110-6 and 110-6.1, it was nonetheless fully authorized by Illinois law. Specifically, despite the statutory limitations on a circuit court's ability to address a defendant who refuses to come to court voluntarily, Respondent correctly recognized that he could exercise his "inherent authority to deny pretrial release" where such action is required to preserve the orderly process of criminal procedure. (*Rowe,* 2023 IL 129248, ¶¶ 46-47). Moreover, as this Court has explained, such authority is a necessary component of the courts' overall "'power to manage the conduct of proceedings before them.'" *Id. at* ¶ 46 (quoting *People ex rel. Hemingway v. Elrod*, 60 Ill. 2d 74, 80 (1975)). As a result, Respondent necessarily acted

lawfully and appropriately when he determined that based on her repeated actions, petitioner would not return to court voluntarily if she were released and that her ongoing detention was required to achieve an orderly and expeditious disposition of the case.

Furthermore, because Respondent correctly determined that the statutes could not be construed in a manner which would allow him to ensure petitioner's appearance at trial – given that the maximum sanction available under the Pretrial Fairness Act was 30 days of incarceration and petitioner had missed *every* court date while she was on pretrial release during the 10 months the case had been pending and only appeared when she was arrested pursuant to a warrant – he properly declared them unconstitutional as applied under the separation of powers doctrine because they unduly infringed upon his inherent judicial authority. And, contrary to petitioner's accusations, this decision was solely based on Respondent's concern over his ability to administer justice in this case and was not in any way the result of a generalized hostility toward the Pretrial Fairness Act.

Thus, because Respondent's actions were lawful and proper, this Court should deny petitioner's request for extraordinary relief in the form of *habeas corpus, mandamus* and prohibition. Likewise, this Court should deny her alternative request for supervisory relief.

A. Standard Of Review

In an original action pursuant to Article VI, §4(a) of the Illinois Constitution of 1970 relating to *habeas corpus, mandamus* or prohibition, "[o]nly issues of law will be considered." Supreme Court Rule 381(a). See also *Cordrey v. Prisoner Review Board*, 2014 IL 117155, ¶ 18, (explaining that "only issues of law will be considered in original actions for *mandamus*"); *People ex rel. Hemingway v. Elrod*, 60 Ill. 2d 74, 76 (1975) (stating that the original action for *habeas corpus* presented a "sole issue of law").

The only issue of law presented in this matter is whether Respondent, the Honorable Steven J. Rosenblum, properly determined that sections 110-6 and 110-6.1 of the "Pretrial Fairness Act" (725 ILCS 5/110-6, 110-6.1) are unconstitutional as applied because the statutory scheme precludes his exercise of the inherent judicial authority to deny pretrial release even though petitioner has conclusively and repeatedly demonstrated that she refuses to voluntarily come to court and appear for trial. As a result, the standard of review is *de novo*. *McElwain v. Office of the Ill. Sec'y of State*, 2015 IL 117170, ¶ 11 ("this case arises from a circuit court order declaring a statute unconstitutional as applied, and our review of a statute's constitutionality is *de novo*"). See also *Rowe v. Raoul*, 2023 IL 129248, ¶ 20 ("The issue of whether a statute is constitutional presents a question of law, which this court reviews *de novo*.").

Similarly, because petitioner's alternative request for supervisory relief under Supreme Court Rule 383 requires this Court to determine if Respondent was "'acting beyond the scope of [his] authority'" (*People v. Abdullah*, 2019 IL 123492, ¶ 36 (quoting *People ex rel. Birkett v. Bakalis*, 196 Ill. 2d 510, 513 (2001)), that claim also presents a question of law which this Court reviews *de novo*.

B. Respondent Agrees That He Had No "Statutory Authority" To Order Petitioner Detained Where The State Never Filed A Detention Petition Under Section 110-6.1(a)(8) and Could Not Properly File A Petition Under Section 110-6.1(d)(2), and Also Where Section 110-6(f)(2) Limited Any Sanction To 30 Days In Jail.

Petitioner correctly maintains that under sections 110-6 and 110-6.1, Respondent did not have the statutory authority to detain petitioner for longer than 30 days. Specifically, even though petitioner is charged with the Class 2 felony of Possession of a Stolen Motor Vehicle (625 ILCS 5/4-103(b)) (SR 19; C 69) and there is a "high likelihood

of willful flight to avoid prosecution" (725 ILCS 5/110-6.1(a)(8)), Respondent could not *sua sponte* order her detention under that provision. Instead, section 110-6.1 requires that the State file a verified petition to detain within 21 days of the defendant's first appearance. 725 ILCS 5/110-6.1(a),(c)(1). Since no such petition was ever filed by the State, Respondent could not rely upon this provision to order petitioner's detention even though he found that there was clear and convincing evidence of her "willful flight," *i.e.* the undeniable fact that she *never* appeared in court voluntarily and instead required five separate warrants to be issued and executed over a span of 10 months just to bring the matter to arraignment. See 725 ILCS 5/110-1(f) ("'Willful flight' means intentional conduct with a purpose to thwart the judicial process to avoid prosecution. Isolated instances of nonappearance in court alone are not evidence of the risk of willful flight. *Reoccurrence and patterns of intentional conduct to evade prosecution,* along with any affirmative steps to communicate or remedy any such missed court date, may be considered as factors in assessing future intent to evade prosecution.") (emphasis added).

Similarly, although the State ultimately attempted to file a detention petition under section 110-6.1(d)(2) in response to Respondent's ruling (Supp SR 24), Respondent properly determined that this provision has no application to this case because the State was not relying on any "new facts" other than petitioner's failure to comply with the conditions of her release. (Supp SR 66-72) See also 725 ILCS 5/110-6.1(d)(2) ("If the State seeks to file a second or subsequent petition under this Section, the State shall be required to present a verified application setting forth in detail any new facts not known or obtainable at the time of the filing of the previous petition."). As the Appellate Court held in *People v. Farris*, 2024 IL App (5th) 240745, ¶ 46, a detention petition under section

110-6.1(d)(2) "cannot be based on subsequent noncriminal violations of pretrial release." Instead, the petition must be limited to those "new facts" which "could have had a bearing on the circuit court's initial detention determination, e.g., locating a witness, locating video evidence, lab or expert results received posthearing, etc." *Id.* at ¶ 44.

This Appellate Court ruling was not only binding on Respondent (see *People v. Harris*, 123 Ill. 2d 113, 128 (1988) ("It is fundamental in Illinois that the decisions of an appellate court are binding precedent on all circuit courts regardless of locale.")), it was also correct. *Farris* properly recognized that allowing the State to use subsection (d)(2) to file a detention petition based on a defendant's conduct while on pretrial release would render section 110-6 "superfluous" because the State "could simply file a subsequent petition to deny pretrial release based on any 'new facts,' even if those facts do not give rise to the requirements for revocation of pretrial release." *Farris*, 2024 IL App (5th) 240745, ¶ 43. In this case, since there has never been any assertion that there are "new facts not known or obtainable at the time" of the State's initial decision to not seek detention, the State's belated attempt to file a detention petition was clearly improper.

Finally, Respondent agrees that under section 110-6(f)(2), the maximum penalty he could impose in response to the State's petition for sanctions was "imprisonment in the county jail for a period not exceeding 30 days." 725 ILCS 5/110-6(f)(2).[6] See also *People v. Barner*, 2023 IL App (1st) 232147 (holding that the trial court had no authority to order the defendant detained "[t]ill the case is over" for missing a single Zoom court appearance

[6] In actuality, the maximum period of detention under this provision may only be 15 days' incarceration. See *People v. Seymore*, 2025 IL App (2d) 240616 (holding that any sanction of imprisonment in the county jail pursuant to section 1106-(f)(2) is subject to day-for-day good conduct credit), leave to appeal *allowed*, No. 131564 (March 25, 2025).

because the maximum sanction for failing to come to court is 30 days). As a result, he acknowledges that his order that "[petitioner] is to be detained" (SR 61; R16) was contrary to this legislative directive. Nevertheless, as explained fully below, Respondent's order finding the statutes unconstitutional as applied to petitioner's case was a lawful exercise of his inherent judicial authority to deny pretrial release in order to manage the docket and to achieve an orderly and expeditious disposition of petitioner's case.

B. Respondent Properly Exercised His Inherent Judicial Authority To Deny Petitioner Pretrial Release Where The Evidence Clearly and Convincingly Demonstrated that Petitioner Would Not Willfully Return to Court and Appear for Trial.

In *People ex rel. Hemingway v. Elrod*, 60 Ill. 2d 74, 79 (1975), this Court expressly recognized that circuit court judges possess the inherent authority to deny pretrial release as "an incident of their power to manage the conduct of proceedings before them . . . when such action is appropriate to preserve the orderly process of criminal procedure." In *Hemingway*, the petitioner claimed that he was being unlawfully held prior to trial without bail and sought a writ of *habeas corpus* from this Court. Although this Court agreed that petitioner was "'bailable' under the provisions of our constitution" because there was no possibility of the death penalty being imposed if he were convicted (*id.* at 79), it did not grant the writ and order him released from custody. Instead, this Court remanded the matter to the circuit court for the judge find "an appropriate balance . . . between the right of an accused to be free on bail pending trial and the need of the public to be given necessary protection." *Id.* at 84.

Significantly, in discussing the constitutional import of the right to be released on bail pending trial, the Court stressed the inherent judicial authority to *deny* pretrial release in certain situations, expressly noting that "the constitutional right to bail must be qualified

by the authority of the courts." *Id.* at 79. The *Hemingway* Court then identified three specific circumstances where, if "supported by sufficient evidence to show that it is required," a court may exercise its inherent authority to hold a defendant in custody pending trial: (1) "to prevent interference with witnesses or jurors;" (2) "to prevent the fulfillment of threats;" and (3) where "a court is satisfied by the proof that an accused will not appear for trial regardless of the amount or conditions of bail." *Id.* at 80.

Following *Hemingway*, this Court has reaffirmed the inherent judicial authority to deny pretrial release at every opportunity. See e.g. *People v. Bailey*, 167 Ill. 2d 210, 239-40 (1995) (holding that a statute which permitted a court to deny release for the otherwise bailable offense of stalking was lawful because it "merely codifies the inherent authority of courts to deny bail to prevent the fulfillment of threats as described in *Hemingway*"); *People v. Purcell*, 201 Ill. 2d 542, 550 (2002) (citing *Hemingway* for the proposition that "[t]he denial of bail must not be based on mere suspicion but must be supported by sufficient evidence to show that it is required"); *People v. Campa*, 217 Ill. 2d 243, 262 n. 4 (2005) (citing *Hemingway* and *Bailey* regarding the "the right to bail under section 9 of article I of the Illinois Constitution of 1970 and the court's inherent power to deny bail").

Most recently, in *Rowe*, this Court reversed the circuit court's order striking down as facially unconstitutional those portions of Public Acts 101-652 and 102-1104, which "dismantled and rebuilt Illinois's statutory framework for the pretrial release of criminal defendants." *Rowe*, 2023 IL 129248, ¶ 4. In overruling the lower court's finding that the legislature's elimination of cash bail violated the separation of powers because it unduly infringed upon the courts' inherent authority to deny or revoke bail, this Court "reject[ed] the trial court's reasoning, and particularly, its overreading of *Hemingway*." *Id. at* ¶ 45.

This Court then reiterated *Hemingway*'s holding that "courts have 'the inherent power' to deny bail when the defendant may interfere with witnesses or may not appear for trial" and that such power may be exercised to "'preserve the orderly process of criminal procedure.'" *Id. at* ¶ 46 (quoting *Hemingway*, 60 Ill. 2d at 79, 80).

Rowe further explained that once *Hemingway* "decided the very narrow question of whether a trial court has the inherent authority to deny pretrial release," it indicated that it was the legislature's prerogative to "provide conditions for admitting a defendant to bail." *Id. at* ¶ 47 (citing *Hemingway*, 60 Ill. 2d at 81-84). Accordingly, this Court held that while *Hemingway* recognized a court's inherent authority to deny pretrial release in certain circumstances, it also supported the legislature's authority to eliminate monetary bail as a potential condition of release as ordered by a court. *Id.* at ¶ 47-48.

In addition, as recognized in *Hemingway*, the inherent power to deny pretrial release is simply a component of the broader inherent judicial power "to enter any orders necessary to prevent abuse or manipulation of the system." *Palos Community. Hosp. v. Humana Ins. Co.*, 2021 IL 126008, ¶ 35 As the *Palos Community* court noted, "[s]ettled law recognizes that trial courts possess 'inherent powers that are governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.'" (quoting *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016)) (internal quotation marks and citation omitted). See also *J.S.A. v. M.H.*, 224 Ill. 2d 182, 196 (2007) ("the trial court possesses the inherent authority to control its own docket and the course of litigation, including the authority to prevent undue delays in the disposition of cases caused by abuses of the litigation process").

Here, it is clear that Respondent properly exercised his inherent judicial authority

to deny pretrial release to petitioner because her repeated and willful failure to appear in court conclusively demonstrated that she "will not appear for trial regardless of the . . . conditions of [release]." *Hemingway,* 60 Ill. 2d at 80. The record reveals that she abused and manipulated the pretrial release system, causing undue delay on the proceedings. Despite repeatedly promising that she would appear at each and every court date, petitioner *never* voluntarily came to court throughout the entire pendency of the case. Instead, multiple judges had to issue five arrest warrants and two notices to appear, placing a significant burden on law enforcement and courthouse personnel. As Respondent stated, "these circumstances do[] not allow the court do [its] job, which is to move the case and to get something going on it," because "every time we release [petitioner] . . . that opportunity disappears because she refuses to come back." (SR 64; R 18-19) Given these facts, Respondent clearly had the inherent judicial authority to detain petitioner.

D. Respondent Properly Found Sections 110-6 and 110-6.1 Unconstitutional As Applied To Petitioner's Case Because They Unduly Infringed Upon His Inherent Judicial Authority To Deny Pretrial Release And To Manage The Court Proceedings In Order To Achieve An Orderly And Expeditious Disposition.

Because sections 110-6 and 110-6.1 precluded Respondent from exercising his inherent judicial authority to deny petitioner pretrial release, he properly found those statutes to be unconstitutional as applied to petitioner's case. Specifically, he found that the statutes, as applied to these particular circumstances, violated the separation of powers because they unduly infringed on the inherent judicial power to administer justice and to manage the court proceedings. (Supp SR 17-20) As Respondent stated, the statutes as applied to this particular case fail to "protect the Court's interest and the Judicial Branch's interest in obtaining justice, moving a case forward, [and] managing the call." (Supp SR

20) In particular, he found section 110-6 to be unconstitutional as applied since it limits the court to imposing the plainly-inadequate sanction of just 30 days' incarceration upon a defendant who "willfully does not come back to court, even when they do it as much as [petitioner] was doing it in this case." (Supp SR 19) He likewise found section 110-6.1 to be unconstitutional as applied since it required the Executive Branch to file a petition before a judge could detain a defendant, like petitioner, who has repeatedly engaged in willful flight to avoid prosecution. (Supp SR 17, 43-44)

The separation of powers clause of the Illinois Constitution provides: "The legislative, executive and judicial branches are separate. No branch shall exercise powers properly belonging to another." Ill. Const. 1970, art. II, § 1. Although the separation of powers provision clearly distinguishes the three branches of State government, it is not designed to achieve a complete divorce among them. *People v. Peterson,* 2017 IL 120331, ¶ 30. However, "[w]hen the legislature encroaches upon a fundamentally judicial prerogative, this [C]ourt has not hesitated to protect the court's authority." *Murneigh v. Gainer*, 177 Ill. 2d 287, 303 (1997). See also *People v. Flores,* 104 Ill. 2d 40, 48-49 (1984) (holding that a portion of the trial in *absentia* statute "unduly infringe[d] upon the inherent authority of the judiciary" and could only survive constitutional scrutiny if it were construed as permissive rather than mandatory).

"Inevitably, there will be areas in which the separate spheres of government overlap, and in which certain functions are shared." *In re Derrico G.*, 2014 IL 114463, ¶ 76. It was for this precise reason that this Court held in *Rowe v. Raoul* that the legislature could amend the pretrial release provisions to eliminate cash bail "without offending separation of powers principles." 2023 IL 129248, ¶ 48. But *Rowe* involved a ruling that

statutes were facially unconstitutional and is therefore "fundamentally distinct" from the as-applied ruling made by Respondent in this case. See *People v. Thompson*, 2015 IL 118151, ¶ 36.

Petitioner concedes that "facial and as applied challenges are not interchangeable" (Pet Br. 34 (citing *People v. Rizzo*, 2016 IL 118599, ¶ 25)), but nonetheless claims that "[t]his Court has already addressed the constitutionality of the PFA under separation of powers concerns and concluded the statute was a valid exercise of Legislative power in *Rowe*." (Pet. Br. 35-36 (citing *Rowe,* 2023 IL 129248, ¶¶ 43-49)). This is clearly mistaken because it ignores the fact that a ruling rejecting a facial challenge does not mean that the statute is valid in all circumstances. Rather, it means that the statute is *not* unconstitutional in *every* circumstance. See *Oswald v. Hamer*, 2018 IL 122203, ¶ 40 ("A statute is facially invalid only if no set of circumstances exists under which the statute would be valid. . . . Thus, if any situation exists where a statute could be validly applied, a facial challenge must fail.") (internal citations omitted). As a result, a statute can be both facially constitutional and unconstitutional as applied to a particular circumstance. See *East St. Louis Federation of Teachers, Local 1220, American Federation of Teachers, AFL–CIO v. East St. Louis School District No. 189 Financial Oversight Panel*, 178 Ill. 2d 399, 421-22 (1997) (holding that although a statute was "not facially unconstitutional," it was "unconstitutional as applied in this case").

In this case, Respondent repeatedly stated that his ruling was limited to a finding that the statutes were unconstitutional as applied to the *particular circumstances* of this case. (SR 29, 60; Supp SR 16-22, 67-68; R 15; C 77) As a result, *Rowe* does not control.

However, this Court's decision in *Flores* is highly instructive. In that case, the trial

court ruled that a portion of the trial in *absentia* statute which required courts to wait two days after the defendant failed to appear before proceeding was unconstitutional as applied to a case where the defendant absconded in the middle of a jury trial because it unduly interfered with the inherent authority of the court. 104 Ill. 2d at 44-45. On appeal to this Court, the Court held that the statute must be construed as permissive because a mandatory construction would "unduly infringe upon the inherent authority of the judiciary." *Id.* at 48. The Court explained:

> "We believe that to allow the legislature to mandate how long a trial judge must wait before proceeding with a trial, when a defendant has wilfully absented himself from his trial once it has commenced, unconstitutionally infringes upon a trial judge's authority to control his docket."

Id. at 49. In describing why a mandatory construction of the statute would be unconstitutional, the Court noted that it was impossible for a judge to "plan ahead" and properly manage the docket if he had to wait two days to proceed:

> "If the defendant chooses to walk out once his trial has commenced, his act can cause complete disruption of the court's docket. A judge would not know from case to case whether the defendant would appear or walk out during trial. A defendant should not benefit from his own defiance of the criminal justice system."

Id. at 50.

In this case, Respondent similarly recognized the disruption petitioner's defiance of court orders and the conditions of her release brought to the courthouse. Given her

ongoing failure to come to court voluntarily, no judge could predict if she would actually appear for trial, thereby inconveniencing the victim, the witnesses, the attorneys as well as the judge and the other courtroom personnel as they prepared for a trial that might not actually occur. Similarly, by scheduling a hearing or trial in petitioner's case, Respondent would necessarily have to schedule other matters at different times. While that presents no problems if the parties all come to court as expected, when a defendant fails to appear — like petitioner had for *every* court date when she was on pretrial release — the entire docket can be upended.

Sanctioning a non-compliant defendant like petitioner by detaining her for 30 days (or possibly just 15 days) would not solve this problem because given Respondent's already crowded docket, he would be unable to bring petitioner's matter to trial within such a short time span. Petitioner would then have to be released yet again, and given her past conduct, she would be highly unlikely to voluntarily return to court. As such, another arrest warrant would have to be issued and the entire case would have to wait until she was arrested again at some unknown time in the future.

Although Respondent sought to avoid declaring the statutes unconstitutional as applied to petitioner's case, he was unable to because unlike the situation in *Flores*, it is not possible to construe sections 110-6 and 110-6.1 in a permissive manner since their plain language precludes the courts from detaining any defendant under these particular circumstances. Thus, given the undisputed mandatory nature of the statutes, there can be no question that they unduly infringe upon the inherent judicial authority to deny pretrial release in those cases where the "court is satisfied by the proof that an accused will not appear for trial regardless of the amount or conditions of bail." *People ex rel. Hemingway*

v. Elrod, 60 Ill. 2d 74, 80 (1975). Rather than act out of hostility or animus toward the statutes, Respondent's conclusion that the statutes were unconstitutional as applied was premised solely upon the need to fairly and effectively administer justice in petitioner's case and all the cases before him. See *Flores*, 104 Ill. 2d at 48 (noting that "[e]ach judge in Illinois is responsible for the efficient and expeditious handling of all matters assigned to him or her"). His orders were lawful and in complete accord with this Court's rulings,

To avoid this conclusion, petitioner seemingly claims that there is insufficient evidence of her willful flight and that Respondent failed to sufficiently inquire into her claim that she had been in the hospital. (Pet. Br. 39-40) But Respondent specifically instructed her to submit any supporting records or documentation with her motion to reconsider. (SR 61; R 16) Since she did not offer any such documentation or even claim in her motion to reconsider that the evidence did not support Respondent's finding that she was willfully absent from court (SR 34, 35; C 87, 88), there is absolutely no basis for petitioner's claims.

Petitioner also asserts that Respondent ignored the fact that she "appeared in court at least nine times while the case was in the preliminary [hearing] courtroom." (Pet. Br. 38) But the record belies any such claim. Respondent was not only fully aware of how many times she "appeared," but also that she never once came to court voluntarily and instead had to be repeatedly arrested by law enforcement just to move the proceedings forward. Petitioner conveniently omits this critical and undeniable fact.

Petitioner likewise claims that "[t]he State could have answered ready at any of the times that [petitioner] appeared in Bridgeview" and that it could have "indicted her at any point over the year." (Pet. Br. 38) While Respondent cannot speak for the State or the

decisions it made, he notes that it would have been impossible for the State to be prepared to present a preliminary hearing since they could never know when Respondent would appear in court. It is unrealistic to expect witnesses and court personnel to remain standing by just in case petitioner shows up to court.

Also, petitioner's claim that a finding of unconstitutionality was unnecessary because viable alternatives to detention were available to Respondent (Pet. Br. 39) is clearly incorrect, as none of her proposed solutions even acknowledge Respondent's inherent judicial authority, much less provide the means to ensure petitioner's appearance at trial.

She first claims that Respondent could order a trial in *absentia* if she failed to appear. But this Court has long recognized that "[t]rials conducted in the absence of a defendant are not favored, and courts are reluctant to permit a trial to proceed in a defendant's absence." *People v. Smith*, 188 Ill. 2d 335, 340 (1999). Such a suggestion also ignores the fact that "'[i]t is not only defendant's right to be present, but it is also [her] duty, especially where [she] has been released on bail.'" *Id.* (quoting *People v. Steenbergen*, 31 Ill. 2d 615, 618 (1964)).

Similarly, petitioner's claim that she could have been held in indirect criminal contempt for her failure to appear (Pet. Br. 39) is nonsensical because Respondent would not have been able to hold summary contempt proceedings or otherwise quickly impose any penalty in the hopes of ensuring her appearance at trial. Specifically, while an act of "direct criminal contempt" can be punished summarily, that is only true because the judge has directly observed the contumacious behavior and additional hearings are unnecessary. See *People v. Jashunsky*, 51 Ill. 2d 220, 224 (1972). See also *People v. Ernest*, 141 Ill.2d

412, 426-27 (1990) (explaining that the "summary contempt power" is restricted to contumacious conduct that "takes place in open court and within the presence of the judge").

In contrast, where an allegation of contempt "requires proof of matters outside the immediate knowledge of the court," the matter involves "indirect criminal contempt" and cannot be handled summarily by the judge. *People v. L.A.S.*, 111 Ill. 2d 539, 543-44 (1986) (holding that the trial court improperly found the juvenile to be in direct criminal contempt for failing to return to court after a recess because "[h]er absence, standing alone, was insufficient to establish that she wilfully intended to disrupt the proceedings and embarrass the court"). Instead, "[a] person who is charged with indirect criminal contempt . . . is entitled to constitutional protections that are afforded to any other criminal defendant." *People v. Lindsey*, 199 Ill.2d 460, 471 (2002). "These protections include the privilege against self-incrimination, the presumption of innocence, the State's burden to prove the charge beyond a reasonable doubt, the right to counsel, the right to a public trial, the right to confront witnesses and to compel testimony, the right to be present at trial, and the right to testify or to remain silent." *Id.* As a result, initiating contempt proceedings against petitioner would simply add one more case to Respondent's docket without helping him bring the original PSMV case to an expeditious resolution.

Petitioner also suggests that Respondent should have considered electronic monitoring, GPS tracking, home confinement or other conditions of release rather than simply detaining her. (Pet. Br. 41) But while those conditions of release are useful in preventing a released defendant from committing additional offenses or for remaining in contact with the supervising agency when not in court, they cannot ensure that the

defendant will actually come to court as required.

Finally, petitioner claims that a sanction of 30 days was a sufficient and viable alternative because "[i]f [she] were released and then missed court again, the State could file another sanctions petition and [petitioner] could be denied pretrial release for an additional 30 days." (Pet. Br. 41) She suggests that such a plan would be appropriate because she has never attempted to evade arrest or leave the jurisdiction when the police would execute a warrant. (Pet Br. 41) In other words, petitioner suggests that she should not be detained because she could be arrested again in the future, if necessary. However, such an argument ignores the fact that "a defendant who has been released . . . pending trial has a duty to appear at the place and time designated for trial." *Smith*, 188 Ill. 2d at 345. It also overlooks the fact that short periods of detention do nothing to change petitioner's behavior, because as Respondent found "every time you release [petitioner] she doesn't come back to court." (SR 63; R 18)

Thus, it is clear that Respondent properly ruled that sections 110-6 and 110-6.1 are unconstitutional as applied to the particular circumstances of this case because they unduly infringe on the courts' inherent authority.

E. Because Respondent's Actions Were Both Authorized and Appropriate, Petitioner is Unable to Meet Her Burden That Extraordinary Relief Is Warranted in this Case.

As demonstrated above, Respondent's actions in this matter were both fully authorized by Illinois law and were warranted by the extreme nature of petitioner's conduct. As a result, she is unable to meet her burden of demonstrating that she is entitled to extraordinary relief in the form of *habeas corpus*, *mandamus*, prohibition or supervisory relief, and this Court should deny her request.

First, petitioner claims that Respondent "has exceeded his authority to detain her in response to the State's sanctions petition" where the "maximum penalty for sanctions is 30 days." (Pet. Br. 44-45) As a result, she claims that a writ of *habeas corpus* should be issued pursuant to 735 ILCS 5/10-103(2),(3) because Respondent "does not otherwise have the authority to detain [her] under the PFA or to ignore binding precedent from this Court." (Pet. Br. 45) But, as detailed above, Respondent clearly had the inherent authority to deny pretrial release where the evidence clearly showed that petitioner would not voluntarily return to court. See *Round v. Lamb*, 2017 IL 122271, ¶ 8 ("To be entitled to release from custody pursuant to an order of *habeas*, a petitioner must demonstrate that he has been "'incarcerated under a judgment of a court that lacked jurisdiction of the subject matter or the person of the petitioner, or [that] there has been some occurrence subsequent to the prisoner's conviction that entitles him to release.'" (quoting *Beacham v. Walker*, 231 Ill. 2d 51, 58 (2008)). As a result, she is lawfully detained and *habeas corpus* relief is not warranted.

Petitioner also claims that a writ of *mandamus* or prohibition should be issued by this Court because Respondent "had a duty to limit his sanctions penalty to 30 days" under the statute and she is therefore "being held in violation of the PFA and contravention of this Court's authority." (Pet Br. 45, 47) However, like her *habeas corpus* claim, the *mandamus* and prohibition requests should be denied because Respondent properly exercised his inherent authority to deny pretrial release and she cannot establish that Respondent was required to forgo that authority and follow the statutes instead. See *People ex rel. Devine v. Stralka*, 226 Ill. 2d 445, 449 (2007) ("A writ of *mandamus* may be awarded if the petitioner establishes a clear legal right to relief, a clear duty of the public official to

act, and a clear authority in the public official to comply with the writ, as well as the lack of other adequate remedies."); *Edwards v. Atterberry*, 2019 IL 123370, ¶ 8 (a writ of prohibition will not issue unless four requirements are met: the action to be prohibited must be of a judicial or quasi-judicial nature, the writ must be directed against a tribunal of inferior jurisdiction; the action to be prohibited must be outside the tribunal's jurisdiction or, if within its jurisdiction, beyond its legitimate authority, and there must not be any other adequate remedy available to the petitioner). Further, petitioner cannot make the requisite showings of a lack of adequate remedies where her appeal of Respondent's ruling pursuant to Supreme Court Rule 604(h) has been consolidated with this original action.[7]

Finally, as to petitioner's alternative request for a supervisory order, this Court has made clear that it "'will not issue a supervisory order unless the normal appellate process will not afford adequate relief and the dispute involves a matter important to the administration of justice or intervention is necessary to keep an inferior tribunal from acting beyond the scope of its authority.'" *People v. Abdullah*, 2019 IL 123492, ¶ 36 (quoting *People ex rel. Birkett v. Bakalis*, 196 Ill. 2d 510, 513 (2001)). Since petitioner cannot make such a showing, her request for a supervisory order should be denied as well.

[7] Respondent notes that it is unclear if his ruling finding the statutes unconstitutional as applied is properly before this Court in case no, 131506 as that issue was not included in petitioner's motion to reconsider. (SR 34-35; C 87-88) See Rule 604(h)(2) ("Upon appeal, any issue not raised in the motion for relief, other than errors occurring for the first time at the hearing on the motion for relief, shall be deemed waived.").

CONCLUSION

As is demonstrated by the foregoing analysis, Respondent acted in complete accord with his inherent judicial authority when he ordered petitioner detained based on her repeated failure to appear in court. Accordingly, the petition for extraordinary relief in the form of *habeas corpus*, *mandamus*, prohibition or supervisory relief should be denied.

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341 (a) and (b) The length of this brief, excluding the pages containing the Rule 341 (d) cover, the Rule 341 (h)(1) statement of points and authorities, the Rule 341 (c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 14,636 words.

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PLEASE TAKE NOTICE that on April 4, 2025, the foregoing Brief and Argument for the Respondent, the Honorable Steven J. Rosenblum, was filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, Odyssey eFileIL.

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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. I further certify that on April 4, 2025, I filed the attached Brief and Argument for the Respondent, the Honorable Steven J. Rosenblum, with the Clerk of the Supreme Court and caused the foregoing documents to be served on the above-mentioned counsel at the above email addresses using the court's Odyssey electronic filing system.

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