No. 131365 (cons. 131506)

IN THE SUPREME COURT OF ILLINOIS

AIMEE STEWART, Petitioner-Appellant, vs. HONORABLE STEVEN J. ROSENBLUM, CIRCUIT COURT OF COOK COUNTY, Respondent-Appellee, PEOPLE OF THE STATE OF ILLINOIS, Appellee.	)	Complaint for Habeas Corpus or Alternatively a Writ of Mandamus or Prohibition or a Supervisory Order Pursuant to Supreme Court Rules 381 and 383. Appeal Pursuant to Rules 604(h) and 603. Circuit of Cook County, Fifth District No. 24 CR 0970601 Honorable Steven J. Rosenblum, Judge Presiding.

BRIEF AND APPENDIX OF PETITIONER-APPELLANT AIMEE STEWART

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ORAL ARGUMENT REQUESTED

E-FILED
2/28/2025 12:12 AM
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TABLE OF CONTENTS

POINTS AND AUTHORITIES

NATURE OF THE ACTION

The circuit court granted the State's sanctions petition but then indefinitely denied petitioner-appellant Aimee Stewart pretrial release under what is commonly known as the Pretrial Fairness Act (PFA), 725 ILCS 5/110-1, *et seq.* In so doing, the circuit court declared the PFA unconstitutional as applied to Ms. Stewart's case. Ms. Stewart is challenging her continuing denial of pretrial release through an original complaint for *habeas corpus*, a *writ* of *mandamus*, a *writ* of *prohibition* or a supervisory order under Rules 381 and 383 and through a consolidated interlocutory appeal pursuant to Rules 604(h) and 603. No questions are raised on the pleadings.

ISSUES PRESENTED FOR REVIEW

I. Whether the circuit court has statutory authority to deny Aimee Stewart pretrial release indefinitely based only on her failures to appear?

II. Whether the PFA is constitutional where it prohibits the indefinite detention of a criminal defendant pretrial based only on missed court dates?

III. Whether the remedy should be a grant of *habeas corpus*, a *writ* of *mandamus*, a *writ* of *prohibition*, or a supervisory order?

JURISDICTION

Jurisdiction lies under Supreme Court Rules 381, 383, 604(h), and 603. This Court allowed Ms. Stewart's motion for leave to file a complaint of *habeas corpus*, a *writ* of *mandamus*, a *writ* of *prohibition* or a supervisory order on January 10, 2025, in *Stewart v. Rosenblum*, case number 131365. On February 6, 2025, the appellate

court granted the State's motion to transfer Ms. Stewart's contemporaneously pending 604(h) appeal number 1-24-2544B to this Court pursuant to Rules 365 and 603. This Court docketed Ms. Stewart's appeal under case number 131506. On February 18, 2025, this Court granted Ms. Stewart's agreed motion to consolidate *People v. Stewart*, case number 131506, with *Stewart v. Rosenblum*, case number 131365.

STATUTE INVOLVED

§ 110-6. Revocation of pretrial release, modification of conditions of pretrial release, and sanctions for violations of conditions of pretrial release.

(a) When a defendant has previously been granted pretrial release under this Section for a felony or Class A misdemeanor, that pretrial release may be revoked only if the defendant is charged with a felony or Class A misdemeanor that is alleged to have occurred during the defendant's pretrial release after a hearing on the court's own motion or upon the filing of a verified petition by the State.

When a defendant released pretrial is charged with a violation of a protective order or was previously convicted of a violation of a protective order and the subject of the protective order is the same person as the victim in the current underlying matter, the State shall file a verified petition seeking revocation of pretrial release.

Upon the filing of a petition or upon motion of the court seeking revocation, the court shall order the transfer of the defendant and the petition or motion to the court before which the previous felony or Class A misdemeanor is pending. The defendant may be held in custody pending transfer to and a hearing before such court. The defendant shall be transferred to the court before which the previous matter is pending without unnecessary delay, and the revocation hearing shall occur within 72 hours of the filing of the State's petition or the court's motion for revocation.

A hearing at which pretrial release may be revoked must be conducted in person (and not by way of two-way audio-visual communication) unless the accused waives the right to be present physically in court, the court determines that the physical health and safety of any person necessary to the proceedings would be endangered by appearing in court, or the chief judge of the circuit orders use of that system due to operational challenges in conducting the hearing in person. Such operational challenges must be documented and approved by the chief judge of the circuit, and a plan to address the challenges through reasonable efforts must be presented and approved by the Administrative Office of the Illinois Courts every 6 months.

The court before which the previous felony matter or Class A misdemeanor is pending may revoke the defendant's pretrial release after a hearing. During the hearing for revocation, the defendant shall be represented by counsel and have an opportunity to be heard regarding the violation and evidence in mitigation. The court shall consider all relevant circumstances, including, but not limited to, the nature and seriousness of the violation or criminal act alleged. The State shall bear the burden of proving, by clear and convincing evidence, that no condition or combination of conditions of release would reasonably ensure the appearance of the defendant for later hearings or prevent the defendant from being charged with a subsequent felony or Class A misdemeanor.

In lieu of revocation, the court may release the defendant pre-trial, with or without modification of conditions of pretrial release.

If the case that caused the revocation is dismissed, the defendant is found not guilty in the case causing the revocation, or the defendant completes a lawfully imposed sentence on the case causing the revocation, the court shall, without unnecessary delay, hold a hearing on conditions of pretrial release pursuant to Section 110-5 and release the defendant with or without modification of conditions of pretrial release.

Both the State and the defendant may appeal an order revoking pretrial release or denying a petition for revocation of release.

(b) If a defendant previously has been granted pretrial release under this Section for a Class B or Class C misdemeanor offense, a petty or business offense, or an ordinance violation and if the defendant is subsequently charged with a felony that is alleged to have occurred during the defendant's pretrial release or a Class A misdemeanor offense that is alleged to have occurred during the defendant's pretrial release, such pretrial release may not be revoked, but the court may impose sanctions under subsection (c).

(c) The court shall follow the procedures set forth in Section 110-3 to ensure the defendant's appearance in court if the defendant:

(1) fails to appear in court as required by the defendant's conditions of release;

(2) is charged with a felony or Class A misdemeanor offense that is alleged to have occurred during the defendant's pretrial release after having been previously granted pretrial release for a Class B or Class C misdemeanor, a petty or business offense, or an ordinance violation that is alleged to have occurred during the defendant's pretrial release;

(3) is charged with a Class B or C misdemeanor offense, petty or business offense, or ordinance violation that is alleged to have occurred during the defendant's pretrial release; or

(4) violates any other condition of pretrial release set by the court.

In response to a violation described in this subsection, the court may issue a warrant specifying that the defendant must appear before the court for a hearing for sanctions and may not be released by law enforcement before that appearance.

(d) When a defendant appears in court pursuant to a summons or warrant issued in accordance with Section 110-3 or after being arrested for an offense that is alleged to have occurred during the defendant's pretrial release, the State may file a verified petition requesting a hearing for sanctions.

(e) During the hearing for sanctions, the defendant shall be represented by counsel and have an opportunity to be heard regarding the violation and evidence in mitigation. The State shall bear the burden of proving by clear and convincing evidence that:

(1) the defendant committed an act that violated a term of the defendant's pretrial release;

(2) the defendant had actual knowledge that the defendant's action would violate a court order;

(3) the violation of the court order was willful; and

(4) the violation was not caused by a lack of access to financial monetary resources.

(f) Sanctions for violations of pretrial release may include:

(1) a verbal or written admonishment from the court;

(2) imprisonment in the county jail for a period not exceeding 30 days;

(3) (Blank); or

(4) a modification of the defendant's pretrial conditions.

(g) The court may, at any time, after motion by either party or on its own motion, remove previously set conditions of pretrial release, subject to the provisions in this subsection. The court may only add or increase conditions of pretrial release at a hearing under this Section.

> The court shall not remove a previously set condition of pretrial release regulating contact with a victim or witness in the case, unless the subject of the condition has been given notice of the hearing as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act. If the subject of the condition of release is not present, the court shall follow the procedures of paragraph (10) of subsection (c-1) of the Rights of Crime Victims and Witnesses Act.
>
> (h) Crime victims shall be given notice by the State's Attorney's office of all hearings under this Section as required in paragraph (1) of subsection (b) of Section 4.5 of the Rights of Crime Victims and Witnesses Act and shall be informed of their opportunity at these hearings to obtain a protective order.
>
> (i) Nothing in this Section shall be construed to limit the State's ability to file a verified petition seeking denial of pretrial release under subsection (a) of Section 110-6.1 or subdivision (d)(2) of Section 110-6.1.
>
> (j) At each subsequent appearance of the defendant before the court, the judge must find that continued detention under this Section is necessary to reasonably ensure the appearance of the defendant for later hearings or to prevent the defendant from being charged with a subsequent felony or Class A misdemeanor.

725 ILCS 5/110-6 (2024).

STATEMENT OF FACTS

Petitioner-appellant, Aimee Stewart, is currently detained in the Cook County Jail and has been since November 5, 2024. As of today's date, she has spent 114 days in custody. The consolidated cases before this Court consist of both extraordinary relief under Rules 381 and 383 (case number 131365) and ordinary PFA relief under Rules 604(h) and 603 (case number 131506). Both cases arise from the same fact pattern.

Proceedings in Trial Court

On December 29, 2023, Ms. Stewart was arrested and charged with possession of a stolen motor vehicle (PSMV) under 625 ILCS 5/4-103(a)(1) (2023) in case

number 23500402401. (SR. 8-10)[1] Following her arrest, she was released from the police station and issued a citation to appear for her first court date. (SR. 8; C. 16) Ms. Stewart failed to appear on January 2, 2024, and a warrant was issued for her arrest. (SR. 1, 6-7; C. 19-20) Ms. Stewart was picked up on the warrant and appeared in court on this case for the first time on February 5, 2024. (C. 21-22)

For the following nine months, Ms. Stewart's case was in a preliminary hearing courtroom, and three additional warrants were issued because Ms. Stewart failed to appear in court. (SR. 1-7; C. 30, 43, 58) Ms. Stewart was arrested on each of those warrants, and each time was granted pretrial release because the State did not file a detention petition. (SR. 1-7, 11-12; C. 32, 34, 50, 53, 59, 63) Ms. Stewart was released with minimal conditions while her case was awaiting a preliminary hearing. (C. 25, 37, 54, 65) She was twice ordered to pretrial services level 1 monitoring with the Probation Department. (C. 25, 37) She was twice ordered released without any conditions. (C. 54, 65) While the case was in the preliminary hearing courtroom, Ms. Stewart appeared in court on nine occasions: three times at the courthouse at 26th and California and six times in Bridgeview in Cook County. (SR. 2-7) The State never filed a detention petition, a revocation petition, or a sanctions petition at any of those court dates. The State never answered ready for preliminary hearing.

[1] The record will be referred to as follows:

SR.	Rule 328 Supporting Record in the *Habeas* Case No. 131365
Supp. SR.	Supplemental Rule 328 Supporting Record in the *Habeas Case* No. 131365
C.	Common Law Record in Interlocutory Appeal No. 131506
R.	Report of Proceedings in Interlocutory Appeal No. 131606

On September 30, 2024, Ms. Stewart was indicted with one count of PSMV under 625 ILCS 5/4-103(a)(1) (2023) in case number 24 CR 0970601. (SR. 18-19) Ms. Stewart's felony case was assigned to the Honorable Steven Jay Rosenblum. (SR. 15-16) On October 15, 2024, Ms. Stewart did not appear at her first court hearing before Judge Rosenblum, and he issued a warrant for her arrest. (SR. 23-24)

Ms. Stewart then turned herself in to the police station, and on November 5, 2024, the arrest warrant was executed. (SR. 26) She was also charged with drug possession (PCS) based on drugs she possessed when she turned herself in to the police. The PCS charge was dismissed at the first court date on November 5, 2024. She was detained until she could appear before Judge Rosenblum on November 7, 2024. (SR. 27)

On November 7, 2024, Ms. Stewart appeared before Judge Rosenblum for the first time for the arraignment of her only pending charge of PSMV. (SR. 54)[2] Judge Rosenblum immediately gave Ms. Stewart warnings about being tried *in abstentia* if she failed to appear at future court dates. (SR. 54) The State confirmed that Ms. Stewart had been charged with PCS in a new case, but the charge had already been dismissed at the first appearance court. (SR. 55) The State filed a petition for sanctions

[2] The record in the *Habeas Corpus, Mandamus, Prohibition*, and Supervisory Order (*Habeas*) case, number 131365 contains duplicative material with the record in the Rule 604(h) appeal, number 131506. The hearing transcripts from November 7, 2024, November 20, 2024, and December 12, 2024, appear both in the Rule 328 Supporting Record for case number 131365 and in the Report of Proceedings in case number 131506. For those hearings, this brief will contain citations to the transcripts in the Rule 328 Supporting Record. The same transcripts appear in the Report of Proceedings but are not cited here.

based on Ms. Stewart's failure to appear. (SR. 29-30, 55)

A hearing on the sanctions petition followed. Ms. Stewart indicated through counsel that she missed the prior court date of October 15, 2024, because she was in the intensive care unit of Holy Cross Hospital from October 13, 2024, through October 28, 2024. (SR. 55) Counsel stated without contradiction that Ms. Stewart then turned herself in to address the warrant. (SR. 55) Counsel noted that Ms. Stewart did have a place to live. (SR. 55) In court, Ms. Stewart stated that she had drugs on her person when she turned herself in on the warrant. (SR. 56) She promised to show up to court, and Judge Rosenblum responded, "I wouldn't make promises like that, Miss Stewart, not on this case, as those promises, especially somebody who is turning themselves in with drugs on their person is usually not words that come out of their mouth." (SR. 56)

The State then reviewed the alleged facts of the case: Ms. Stewart was arrested on December 29, 2023, in a 2017 Kia that had allegedly been reported stolen on December 27, 2023, to the Champaign Police Department. (SR. 56-57) Ms. Stewart was arrested in Oak Lawn, Illinois, in the back passenger seat of the vehicle following a traffic stop. (SR. 57) The State claimed suspect heroin was found in the glove compartment of the vehicle and on the driver's person. (SR. 57) The State alleged that officers contacted the complaining witness, Ms. Stewart's grandmother, who stated that she had given Ms. Stewart a ride to the train station when Ms. Stewart said she needed some paperwork out of the car; the grandmother gave Ms. Stewart the keys to the car, and Ms. Stewart drove away. (SR. 44, 57-58)

The State further outlined Ms. Stewart's felony background: a 2018 escape conviction; a 2018 burglary conviction; a 2017 retail theft conviction; a 2016 unauthorized use of a prescription pad conviction; and a 2012 retail theft conviction. (SR. 58) The State said she also had several misdemeanor convictions. (SR. 58) The State noted that she had six prior failures to appear before the warrants in this case. (SR. 58)

Reviewing the records from Odyssey in the preliminary hearing case, Judge Rosenblum then delineated the warrants issued in this case: on January 2, 2024; June 5, 2024; September 4, 2024; and October 15, 2024. (SR. 59) She had an additional warrant from March 21, 2024. (C. 30) Ms. Stewart told Judge Rosenblum that she would not miss another court date and Judge Rosenblum responded, "Oh, of course not. I totally agree with you, Miss Stewart, it will not happen again because I am not releasing you." (SR. 59)

Judge Rosenblum then stated that he understood sanctions were limited to 30 days in jail but "the legislature is not giving [him] an opportunity as a judge to administer justice[]" and "[t]he statute as applied to a person like Miss Stewart is, quite frankly, unconstitutional." (SR. 59-60) Judge Rosenblum continued, "[a]s a judge, my job is to administer justice and to find a way to get through cases. Miss Stewart doesn't allow us to do that under any circumstances." (SR. 60) He went on:

> It does not matter how many times you release Miss Stewart, Miss Stewart is not going to come to court. You can tell by her background the time she has missed before, the time she has missed on this case, the convictions that she has, it is impossible to administer justice to Miss Stewart under the present situation with the Pretrial Fairness Act. This Court will no longer go along with that situation. It is four warrants before we even get to an arraignment

date on Miss Stewart. So I am not releasing her. Defendant is to be detained. (SR. 60-61)

Defense counsel responded that the State had filed a petition for sanctions and therefore Ms. Stewart does not qualify for "continuing custody indefinitely." (SR. 61) Ms. Stewart also indicated that she missed two court dates because she was in the hospital, in Waukegan and at Holy Cross. (SR. 61) Judge Rosenblum indicated that he would look at medical records, but as of that date Ms. Stewart was to be detained. (SR. 61) The defense further noted that there was no detention hearing and no finding by clear and convincing evidence. (SR. 62) Judge Rosenblum explained,

> Again, this isn't a detention hearing. Basically, I am treating it as a petition to revoke her pretrial release. The state has filed that violation of pretrial release conditions. They are just asking for sanctions, and I disagree with them that they are asking for sanctions. So I have, unfortunately for you, made a finding that there is clear and convincing evidence that the defendant violated the conditions of her pretrial release not once, not twice, not three times, but four separate times as she refuses to remain on this case for her failures to appear and warrants had to be issued on this case.
>
> And I have not seen any of this evidence that she was hospitalized. Even if she was for a few days, it certainly doesn't take into consideration that she didn't turn herself in after that time until now and she is arrested for a new possession of controlled substance case.

(SR. 62) Judge Rosenblum continued,

> So, I am in disagreement with you. State, 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 has violated the conditions of it, and I won't just assess a sanction because I believe assessing a sanction under these circumstances does not allow the court to do their job, which is to move the case and to get something going on it. But every time we release Miss Stewart that opportunity disappears because she refuses to come back.

(SR. 63-64) Judge Rosenblum then issued a written order granting the State's motion

for sanctions and ordering Ms. Stewart "detained." (SR. 31)

At the next hearing on November 20, 2024, defense counsel filed a Motion to Reconsider Denial of Pretrial Release. (SR. 34-35) In it, she argued that Ms. Stewart had not been charged with a detainable offense, that the court did not make the requisite findings for purposes of denying pretrial release, and if the court chose to impose sanctions, it could not exceed 30 days in jail. (SR. 34-35)

Judge Rosenblum asked the State if it wanted more time to respond because "[t]his is a constitutional issue at this time that you probably need to talk to the new administration about that and what your position is going to be and I obviously need to do some research too." (SR. 69) Judge Rosenblum did not release Ms. Stewart and continued her detention until the next court date of December 12, 2024. (SR. 32)

A hearing on the Motion to Reconsider occurred on December 12, 2024. (SR. 72-89) The State did not file a response to the Motion to Reconsider and noted in court that it had filed a request for sanctions, and it was "not taking a position as to this particular defendant on this case with regard to the Court's specific finding." (SR. 73) The State refused to take a position as to Ms. Stewart's continued detention and the court's specific finding that the law was unconstitutional as applied in this case. (SR. 73) Judge Rosenblum then attempted to set a hearing on the motion for a later date when the State would respond, but the defense asked that the motion be considered immediately, noting that Ms. Stewart was still being detained and could not appeal until the court ruled on the defense Motion to Reconsider. (SR. 74-75)

The defense noted that the State's petition for sanctions was filed on

November 7, 2024, and as of December 12, 2024, Ms. Stewart had been detained for more than 30 days since that date. (SR. 76) The defense objected to a continuance. (SR. 76) Judge Rosenblum reiterated that he found the PFA unconstitutional as applied to Ms. Stewart because the PFA prevented him from bringing a case to trial and administering justice when Ms. Stewart refused to come to court and all he could do as a result was sanction her and then release her. (SR. 76-77) Judge Rosenblum stated, "her actions have been very clear that she does not wish to deal with this case and will not come to court." (SR. 77) He repeated, "when a statute does not allow a judge to do their job as it applies to this particular case, and in this Court's opinion, it's unconstitutional." (SR. 78) Judge Rosenblum then reluctantly agreed to rule on the defense motion to reconsider. (SR. 78-79)

The defense argued that Ms. Stewart had not been charged with a detainable offense and as a result she could not be detained under these circumstances. (SR. 79) According to the defense, the State filed a petition for sanctions based on a warrant and the maximum penalty was 30 days in jail. (SR. 80) The defense contended that because Ms. Stewart had already served more than 30 days in jail, she should be released. (SR. 80) The State reiterated that it was not taking a position as to the constitutionality of the PFA as applied to Ms. Stewart and their original petition was a petition for sanctions under the PFA. (SR. 80)

Judge Rosenblum then reviewed the facts of the case, including the dates of prior warrants and arrests on those warrants. (SR. 81-82) He concluded that the PFA was problematic because it did not grant the court the discretion to hold a defendant

like Ms. Stewart if she had violated the conditions of her release but had not picked up a new offense. (SR. 83) According to the court, the PFA "gives the Court no discretion whatsoever that this Court is aware of in order to hold the defendant under these types of circumstances." (SR. 83) Judge Rosenblum concluded, "Ms. Stewart has made a mockery of the system here." (SR. 83) Judge Rosenblum then discussed an example he found compelling: extradition. (SR. 84) He stated,

> The defendant flees to another county, and you spend 40 or $50,000 to extradite them back to this country in order to face the charges they have. There's nothing in the statute that let's [sic] the judge hold them once you spent all that money and brought them back. They've left and gone to Mexico or gone over to Europe. They go out of state, and you spend the time and the problems for extradition. What in the statute allows you then to hold the defendant once you've gone back from those locations. They haven't committed a new Class A or a felony offense.
>
> There is nothing that gives the judge discretion.

(SR. 84) Judge Rosenblum denied the defense Motion to Reconsider. (SR. 84) Ms. Stewart remained detained. (C. 85)

Six days later, on December 18, 2024, Ms. Stewart filed a notice of appeal to the appellate court under Rule 604(h). An amended notice of appeal was filed on January 9, 2025. The appellate court assigned case number 1-24-2544B.

Proceedings under Rules 381 and 383

On December 27, 2024, Ms. Stewart filed a motion for leave to file a Complaint for *Habeas Corpus*, or alternatively a *Writ* of *Mandamus* or *Prohibition* in this Court, arguing that Ms. Stewart was being illegally denied pretrial release. This Court allowed Ms. Stewart's motion on January 10, 2025, in *Stewart v. Rosenblum*, case number 131365.

Continued Proceedings in the Trial Court after the PFA Notice of Appeal

Ms. Stewart's twice appeared before Judge Rosenblum on January 6, 2025, and again, on January 23, 2025. At both hearings, Judge Rosenblum again addressed whether Ms. Stewart should continue to be denied pretrial release and determined that she should be denied pretrial release, further clarifying his findings, because he found the PFA to be unconstitutional as applied to her.[3]

Hearing on January 6, 2025

Judge Rosenblum advanced Ms. Stewart's case on his own motion from January 15, 2025, to January 6, 2025, upon receiving Ms. Stewart's December 27, 2024, *Habeas* filing in this Court. (Supp. SR. 3) At the hearing on January 6, 2025, a representative from the Office of the Illinois Attorney General appeared. (Supp. SR. 12) Assistant Attorney General Eric Levin indicated that it was the position of the Attorney General that the PFA is constitutional on its face and as applied and his office would defend the constitutionality of the statute in this proceeding. (Supp. SR. 12) The AAG indicated that his office would not be representing the interests of Judge Rosenblum. (Supp. SR. 12-13) Judge Rosenblum asked that a Special Attorney General be appointed to represent his interests. (Supp. SR. 13)

[3] The hearings that occurred on January 6, 2025, and January 23, 2025, occurred after the filing of the notice of appeal under Rule 604(h) in case number 131506. The hearings are not technically relevant to the circuit court's orders on November 7, 2024, initially denying Ms. Stewart pretrial release, and December 12, 2024, denying the motion to reconsider the denial of pretrial release. This Court can use its supervisory power in Article VI, Section 16 of the Illinois Constitution to consider the hearing transcripts since Judge Rosenblum expressly addressed Supreme Court Rule 18 and the constitutionality of the PFA on January 6, 2025. Ill. Const. 1970, Art. VI, § 16. In addition, the hearings are relevant to Ms. Stewart's *habeas/mandamus* claims in case number 131365 because she continued to be denied pretrial release after both hearings.

Judge Rosenblum then proceeded to make a finding that he believed complied with Illinois Supreme Court Rule 18. Judge Rosenblum identified 725 ILCS 5/110-6 and 725 ILCS 5/110-6.1 as the portions of the statute that he found unconstitutional. Section 110-6.1 delineates the procedures for ordering initial detention. Section 110-6 concerns the procedures governing a revocation of pretrial release. Judge Rosenblum concluded that Section 110-6 was unconstitutional as applied to Ms. Stewart. (Supp. SR. 15) He noted the statute indicates that the only time when a defendant can be detained on a petition to revoke pretrial release is if the defendant picks up a new felony or Class A misdemeanor. (Supp. SR. 16) Judge Rosenblum noted that under Section 110-6 "the court cannot indefinitely detain an individual who has refused or not come to court[.]" (Supp. SR. 17) According to Judge Rosenblum, Section 110-6.1(a)(8), which allows indefinite detention of individuals charged with a greater than Class 4 felony who are a risk of willful flight, similarly requires the State to file a detention petition on those grounds; the statute does not allow a court the discretion to detain an individual *sua sponte*. (Supp. SR. 17) Moreover, according to Judge Rosenblum, the sanctions provision under Section 110-6 required him to release Ms. Stewart after 30 days, which he found "inappropriate at that time." (Supp. SR. 18) He noted:

> I felt that it violated my separation of powers that both the Legislature in doing the statute and the Executive Branch having the power to file a petition or not file a petition in that case left the judge no possibility of moving the case forward, a case where the Defendant had four times gone on warrants on this particular case not even counting her previous escape conviction, her previous time she didn't appear in court prior to the initial bond or I'm sorry the initial detention hearing, but it limited my ability under the facts that applied to this case to do anything.

(Supp. SR. 18) Judge Rosenblum identified his interests as "obtaining justice, moving a case forward, managing the call." (Supp. SR. 20) Judge Rosenblum stated,

> If I released Ms. Stewart, 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 conduct[] would continue. The only way I could do it was what I did, which was hold her.

(Supp. SR. 21) But then Judge Rosenblum expanded his ruling beyond the circumstances pending before him by saying, "I have issues with [the] constitutionality of it as a whole. It's not just the situation here. . . The statute has issues as it applie[s] to anybody on extradition." (Supp. SR. 22) He went on, "there are issues with it on the constitutionality as it applies to this case and as it may apply to future cases and why a ruling I think is necessary by the Illinois Supreme Court to make these determinations." (Supp. SR. 22) He indicated that he could find no alternative then finding is unconstitutional. (Supp. SR. 22-23) Judge Rosenblum then stated, "So that ruling is done." (Supp. R. 24)

The State then argued, citing Rule 18, that the PFA could be construed to be constitutional and that the finding of unconstitutionality was unnecessary where the judgment could rest on an alternative ground. (Supp. SR. 24) The State then sought leave to file a detention petition for the first time in this case. (Supp. SR. 27) The State admitted that while it previously had filed only a sanctions petition, it now believed there was clear and convincing evidence that Ms. Stewart was a flight risk. (Supp. SR. 24-25) It argued that it could file a detention petition under Section 110-6.1(d)(2) of the PFA based on this "new evidence[.]" (Supp.SR. 25) The State's position in

support was that it could file a detention petition under Section 110-6.1(a)(8) of the PFA where a defendant has a high likelihood of willful flight and has been charged with a greater than Class 4 felony. (Supp. SR. 26)

According to the State, the statute could be construed to allow Ms. Stewart's detention without declaring the statute unconstitutional. (Supp. SR. 26) It noted that Judge Rosenblum had treated the sanctions petition as a revocation petition, and Judge Rosenblum interjected that that was correct, and the State stated that Judge Rosenblum could recharacterize it as a petition for detention because there was clear and convincing evidence that Ms. Stewart was a flight risk. (Supp. SR. 26-27) The State asked Judge Rosenblum to reconsider whether the PFA is unconstitutional if it could grant the State's detention petition. (Supp. SR. 27-28)

Judge Rosenblum asked the State if there was a time limit concerning when a petition could be filed under Section 110-6.1(d)(2). (Supp. Sr. 28) Judge Rosenblum further questioned whether allowing the State to file a detention petition based on willful flight whenever a defendant missed a court date undermined the revocation/sanctions regime laid out in Section 110-6. (Supp. SR. 29)

The State responded that according to Section 110-6(i), nothing in Section 110-6 limits the State's ability to file a detention petition under 110-6.1(d)(2). (Supp. SR. 30) Thus, according to the State, whenever the State obtained new evidence or information, it could file a second or subsequent petition under Section 110-6.1(d)(2). (Supp. SR. 31) Here, the State contended it could file a second or subsequent petition where there was an individual like Ms. Stewart who missed many court dates and "refus[ed] to come to court." (Supp SR. 32)

Judge Rosenblum responded that if the refusal to come to court amounted to new evidence, then the Legislature would have put that in the revocation section of the PFA and not in Section 110-6.1 where there are time limits. (Supp. SR. 32) The State responded that Section 110-6.1(d)(2) does not have any time limits. (Supp. SR. 36)

The defense objected to the State's filing of a detention petition. (Supp. SR. 36) The defense argued that there was no new information on January 6, 2025, that the State did not previously have. (Supp. SR. 36) All prior information was available to the State on November 7, 2024, when the State instead chose to file a sanctions petition and not a detention petition. (Supp. SR. 36) Moreover, the State was relying on information that it was aware of when it charged Ms. Stewart in December 2023 including a 2018 escape conviction. (Supp SR.37-38) In addition, the State did not file a detention petition when any of the other warrants were issued in this case. (Supp. SR. 38) The defense contended the State's request to file a detention petition was too late on January 6, 2025. (Supp SR. 38)

The defense further argued that the State did not have sufficient evidence of willful flight in this case where the facts did not support "intentional conduct to evade prosecution." (Supp. SR. 38) Ms. Stewart reported repeatedly that she was previously in the hospital during prior court dates. (Supp. SR. 38) Moreover, she voluntarily went to the police station and turned herself in on the pending warrant. (Supp. SR. 39) These did not show evidence of willful flight. (Supp SR 39) The defendant contended that the State had chosen to file a sanctions petition and, as a result, Ms. Stewart could only be held for 30 days under a sanctions petition. (Supp. SR. 40) The defense argued

that Ms. Stewart had already been held for 30 days and there was thus no authority to continue to hold her. (Supp. SR. 40) The defense further argued that the 21-day limit in Section 110-6.1(c) applied to all detention petitions, even those filed under Section 110-6.1(d)(2) based on new information. (Supp. SR. 42) Finally, the defense contended that the court could not characterize the sanctions petition as a detention petition when different standards apply. (Supp. SR. 43)

Judge Rosenblum responded that even if he could grant the detention petition now, when he initially detained Ms. Stewart, there was no detention petition pending and Judge Rosenblum had no authority on his own motion to revoke pretrial release under the statute. (Supp. SR. 43-44) Judge Rosenblum explained that there is a simple solution: give judges discretion under Section 110-6 to revoke pretrial release, instead of relying on the State to file a detention petition under Section 110-6.1. (Supp. SR. 45)

The State responded that Judge Rosenblum's argument amounted to a facial challenge to the law and not an as-applied challenge. (Supp. SR. 45) According to the State, Judge Rosenblum should grant the State's detention petition to avoid declaring the PFA unconstitutional. (Supp. SR. 46)

Judge Rosenblum ordered Ms. Stewart to continue to be detained following this hearing. (Supp. SR. 47) It entered and continued the State's request for leave to file a detention petition to consider whether the State is time-barred from filing the detention petition. (Supp. SR. 48) The State questioned whether there was a final order and asked if the parties would have to return, and Judge Rosenblum stated:

Absolutely. I want to research it. I want the Office of the Illinois Courts to

> appoint counsel as I should have representing [sic] my interests in this because each side has an interest and the Defense and the State have a different interest than I in this. And I think a lot of courts in the State of Illinois have a lot of interest in this because they should know what is or is not appropriate? What can the State do and what can't the State do?

(Supp. SR. 50)

Hearing on January 23, 2025

The parties again appeared for a hearing for Judge Rosenblum to address whether the State would be entitled to file a detention petition. (Supp. SR. 58-59) Prior to the hearing, the defense presented the case of *People v. Farris*, 2024 Ill. App. (5th) 240745, to Judge Rosenblum for review. (Supp. SR. 59) In *Farris*, the Fifth District Appellate Court addressed whether the State could file a second or subsequent detention petition under Section 110-6.1(d)(2) based on noncriminal violations of pretrial release conditions and concluded that it could not. 2024 Ill. App. (5th) 240745, ¶ 46. Judge Rosenblum found the case "directly on point with this issues that are presented in this case" and let the parties address it. (Supp. SR. 60-61)

The defense noted first that *Farris* is final as no petition for leave to appeal was filed, and it is binding precedent on the circuit court because there was no conflicting case law, especially out of the First District. (Supp. SR. 61) The defense further argued that *Farris* was correctly decided. The Legislature created a process in Section 110-6 of the PFA to address non-criminal violations of pretrial release conditions such as failures to appear. (Supp. SR. 62) According to the defense, allowing the State to file a detention petition here based on willful flight for mere violations of conditions of pretrial release would render the PFA's sanctions process superfluous. (Supp. SR. 62)

The State responded that *Farris* was distinguishable based on the facts because the detention petition in that case was initially filed based on the safety standard and not on willful flight. (Supp. SR. 63-65) Here, the State contended there was a distinction between a violation of the conditions of release for failures to appear and willful flight. (Supp. SR. 63) According to the State, there are "repeated willful failures to appear." (Supp. SR. 64) The State argued that it could file a detention petition under Section 110-6.1(d)(2) for willful flight under Section 110-6.1(a)(8)(b), and the circuit court should grant the State's petition to detain. (Supp. SR. 65)

Judge Rosenblum confirmed with the State that PSMV was not a detainable offense except under Section 110-6.1(a)(8)(b) when there was a risk of willful flight. (Supp. SR. 65-66)

Judge Rosenblum stated, "It 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) He declared that he could not find a way in this case to hold the statute constitutional and "hold Ms. Stewart 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 that case if it were necessary." (Supp. SR. 66) Judge Rosenblum noted that the *Farris* decision reflected his reservations about the limits of using Section 110-6.1(d)(2) to get around the revocation statute. (Supp. SR. 66) Judge Rosenblum reiterated his belief that Section 110-6 – the sanctions/revocation section of the PFA—is unconstitutional because the Legislature removed a judge's ability to exercise discretion. (Supp. SR. 66-67) Judge Rosenblum noted that there were five warrants in this case and wondered what would happen on the tenth warrant or the

fifteenth warrant. (Supp. SR. 67) According to Judge Rosenblum, the Legislature has "written a statute that is incomplete, that does not give the judge the discretion or authority." (Supp. SR. 68)

Judge Rosenblum concluded that a new detention petition can be filed under Section 110-6.1(d)(2) when there was new evidence in the case such as new DNA evidence or a new witness; it was, however, not a "catchall to get the State around the revocation statute." (Supp. SR. 69) Otherwise, Judge Rosenblum reasoned, any minor violation of pretrial release conditions could result in a new detention petition. (Supp. SR. 70) Judge Rosenblum ultimately declared that *Farris* did not go far enough because it did not declare the revocation/sanction section unconstitutionally defective because it deprived a judge of the ability to do his legal job. (Supp. SR. 71) Judge Rosenblum denied the State leave to file a detention petition. (Supp. SR. 72)

Judge Rosenblum concluded with the following:

> 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 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)

PFA Appeal Transfer and Consolidation

On February 6, 2025, the appellate court granted the State's motion to transfer appeal number 1-24-2544B, Ms. Stewart's 604(h) appeal, to this Court pursuant to Rules 365 and 603. This Court docketed Ms. Stewart's appeal under case number 131506. On February 18, 2025, this Court granted Ms. Stewart's agreed motion to consolidate *People v. Stewart*, case number 131506, with *Stewart v. Rosenblum*, case number 131365.

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.

ARGUMENT

I. Judge Rosenblum lacked the statutory authority to indefinitely deny Aimee Stewart pretrial release under the Pretrial Fairness Act on November 7, 2024, and December 12, 2024, and Ms. Stewart continues to be illegally detained and should be immediately released. (*Habeas* and PFA Appeal)[4]

On November 7, 2024, Aimee Stewart appeared before Judge Steven J. Rosenblum for the first time on her Class 2 charge of possession of a stolen motor vehicle (PSMV) under 625 ILCS 5/4-103(a)(1) (2024). (SR. 53) She had turned herself in on a warrant that was issued by Judge Rosenblum when Ms. Stewart had missed a court date. (SR. 55) Based on the failure to appear, the State filed a sanctions petition that same day pursuant to 725 ILCS 5/110-6(f) (2024). (SR. 30) Instead of granting the sanctions petition and ordering sanctions of at most 30 days in jail, Judge Rosenblum improperly ordered indefinite detention, treating the sanctions petition as a petition to revoke. (SR. 31) This was error. Judge Rosenblum had no authority to revoke Ms. Stewart's pretrial release or detain her on November 7, 2024, and again on December 12, 2024, under the Pretrial Fairness Act (PFA), 725 ILCS 5/110-1 *et seq*. Moreover, Ms. Stewart continues to be detained without authority under the PFA, and should be immediately ordered released.

This Court recently determined that review of an order denying pretrial release is *de novo* where a circuit court's factual determination is not based on testimony.

[4] The original action for *Habeas Corpus* in case number 131365 (*Habeas*) was consolidated with the Rule 604(h) appeal in case number 131506 (PFA Appeal) for purposes of judicial efficiency. Not all the issues raised in this brief apply to both cases. This brief will designate whether an issue applies to the *Habeas* or the PFA Appeal or both.

People v. Morgan, 2025 IL 130626, ¶ 45. Here, Ms. Stewart made minimal statements before Judge Rosenblum denied pretrial release. (SR. 54-59) Similarly, whether the circuit court's denial of pretrial release was authorized by statute is a question of statutory construction subject to *de novo* review. See *People v. Swan*, 2023 IL App (5th) 230766, ¶ 16 (holding that issues of statutory construction are reviewed *de novo*).

The primary objective of statutory interpretation "is to ascertain and give effect to the intent of our legislature." *Swan*, 2023 IL App (5th) 230766 at ¶ 17. Thus, "[w]hen the statutory language is clear," a reviewing court "must apply the statute as written without resort to other tools of construction." *Jackson v. Board of Election Commissioners*, 2012 IL 111928, ¶48. The plain and ordinary meaning of the statutory language is generally the best indicator of the legislature's intent. *People v. Leib*, 2022 IL 126645, ¶28.

A. Judge Rosenblum could not detain Aimee Stewart under Section 110-6.1 of the PFA because the State did not file a detention petition, and the court never held a detention hearing at which the State met its burden of proving that pretrial release should be denied. (*Habeas* and PFA Appeal)

Under the PFA, all "defendants shall be presumed eligible for pretrial release and the State shall bear the burden of proving by clear and convincing evidence" that the defendant should be denied release. 725 ILCS 5/110-6.1(e) (2024); see also 725 ILCS 5/110-2(a) (2024) (establishing that the burden is on State to prove by "clear and convincing evidence" that pretrial release should be denied). For a court to detain a criminal defendant indefinitely, the State must first file a verified detention petition stating the basis for the denial of pretrial release under 725 ILCS 5/110-6.1(a), (d)

(2024) ("Upon verified petition by the State, the court shall hold a hearing and may deny pretrial release only if. . .").

The PFA delineates certain crimes as detainable offenses, and an individual charged with one or more those crimes can be ordered detained if his "pretrial release poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case[.]" 725 ILCS 5/110-6.1(a)(1)-(7) (2024). PSMV under 625 ILCS 5/4-103(a)(1) (2024), Ms. Stewart's only pending criminal charge, is *not* a listed detainable offense even if a defendant poses a safety threat. (SR. 19); 725 ILCS 5/110-6.1(a)(1)-(7) (2024).

Instead, a defendant charged with PSMV, a Class 2 felony, may only be detained if he has a "high likelihood of willful flight" under 725 ILCS 5/110-6.1(a)(8)(b) (2024). Willful flight is defined as:

> [I]ntentional 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.

725 ILCS 5/110-1(f) (2024).

Once an initial detention petition is filed describing the grounds for the detention, the circuit court must hold a detention hearing at which the State bears the burden of showing by clear and convincing evidence (1) "the proof is evident or the presumption great" that the defendant committed a detainable offense, (2) "the defendant poses a real and present threat to the safety of any person or persons or the community, based on the specific articulable facts of the case," if a listed detainable

offense under Section 110-6.1(a)(1)-(7), and (3) "no condition or combinations of conditions" provided by statute "can mitigate" the safety threat "based on the specific articulable facts of the case" or a defendant's willful flight. 725 ILCS 5/110-6.1(e)(1)-(3) (2024).

Ms. Stewart is not being detained pursuant to a detention petition and a subsequent detention hearing. In this case, Ms. Stewart was initially arrested on December 29, 2024. (SR. 8-10) Following her arrest, she was released from the police station and issued a citation for her next court date. (SR. 8; C. 16) After missing the first court date, she initially appeared on the case for the first time on a warrant on February 5, 2024. (C. 21-22) The State did not file a detention petition on that date. Over the next six months, Ms. Stewart's case was in the preliminary hearing courtroom. She frequently missed court, and warrants were issued. Ms. Stewart was arrested three more times on those warrants, and each time the warrants were executed, she was granted pretrial release. (SR. 1-7, 11-12) While the case was in the preliminary hearing courtroom, the State never filed a detention petition. Once the case was transferred to a felony courtroom, the State also did not file a detention petition on November 7, 2024, or November 20, 2024, or December 12, 2024. The State attempted to file a detention petition for the first time on January 6, 2025, but leave to file the detention petition was correctly denied on January 23, 2025. (Supp. SR. 27, 72) Ms. Stewart is not being denied pretrial release pursuant to a detention petition and a subsequent detention hearing. The State was never granted leave to file a detention petition, and the circuit court did not hold a detention hearing at which the State proved by clear and convincing evidence that Ms. Stewart committed the

detainable offense of PSMV and that no conditions could mitigate her risk of willful flight. The circuit court cannot detain a defendant without a detention petition or a detention hearing; the PFA makes that clear.

B. Judge Rosenblum had no authority to revoke Aimee Stewart's pretrial release, resulting in indefinite detention, under Section 110-6 where Ms. Stewart had no new pending charges, and the State filed a sanctions petition based only on a missed court date. (*Habeas* and PFA Appeal)

A court may also revoke a defendant's pretrial release – resulting in detention -- if "the defendant is charged with a felony or Class A misdemeanor that is alleged to have occurred during the defendant's pretrial release after a hearing on the court's own motion or upon the filing of a verified petition by the State." 725 ILCS 5/110-6(a) (2024). However, a court "shall, without unnecessary delay, hold a hearing on conditions of pretrial release" "[i]f the case that caused the revocation is dismissed." *Id.*

In this case, Ms. Stewart turned herself, and the warrant was executed on November 5, 2024. (SR. 26) She was then charged with a new possession of a controlled substance charge. That charge was dismissed quickly on November 5, 2024. (SR. 55) When she appeared before Judge Rosenblum for the first time on her PSMV case on November 7, 2024, Ms. Stewart had no other charges pending. (SR. 55) The State therefore had no basis for filing a revocation petition and, as a result, did not file one. Because the pending charge was dismissed, Judge Rosenblum could not use it to revoke Ms. Stewart's pretrial release on his own motion. The plain language of Section 110-6(a) makes clear that the dismissal of a new pending charge cannot be used to continue the revocation of pretrial release. 725 ILCS 5/110-6(a)

(2024) (If the case that caused the revocation is dismissed, a court must hold a hearing on pretrial release).

Instead, the State filed a sanctions petition based on a violation of a condition of pretrial release for missing a court date. The PFA allows the State to file a verified petition requesting a hearing for sanctions when a defendant appears in court pursuant to a summons or warrant issued in accordance with Section 110-3 (for missing a court date or failing to comply with any condition of pretrial release), or after being arrested for an offense that is alleged to have occurred during the defendant's pretrial release. 725 ILCS 5/110-6(d) (2024). Section 110-6(f) sets forth several possible sanctions for "violations" of pretrial release conditions, including a verbal or written admonishment from the court, imprisonment in the county jail, or a modification of the defendant's pretrial conditions. 725 ILCS 5/110-6(f)(1),(2),(4) (emphasis added) (2024). Section 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[.]" 725 ILCS 5/110-6(f)(2)(emphasis added) (2024).

The plain language of section 110-6(f) thus contemplates a maximum 30-day jail sentence as a sanction for multiple violations of pretrial release conditions. See *People v. Leib*, 2022 IL 126645, ¶ 28; see also *Kulhanek v. Casper*, 2023 IL App (1st) 221454, ¶ 24 ("When statutory language is plain and unambiguous, a court may not depart from the law's terms by reading into in exceptions, limitations, or conditions the legislature did not express, nor may it add provisions not found in the law."). The circuit court thus erred by imposing a statutorily unauthorized indefinite detention as a sanction. See *People v. Barner*, 2023 IL App (1st) 232147, ¶¶6, 9, 23-24 (finding

the defendant could not receive a jail sentence of more than 30 days as a sanction for failing to appear).

In *Barner*, the defendant was released on bond prior to the enactment of the PFA. *Barner*, 2023 IL App (1st) 232147 at ¶ 4. He then failed to appear on September 28, 2023, after the PFA went into effect. *Id.* at ¶ 6. The court issued a warrant with a notification date of October 26, 2023, but the defendant failed to appear that day, too. *Id.* He was subsequently arrested on a warrant and the State filed a revocation petition. *Id.* at ¶¶ 6-7. After a hearing on the State's petition, the court ordered the defendant detained "[t]ill the case is over." *Id.* at ¶ 11.

On appeal, the defendant argued that the State improperly filed a petition to revoke, the circuit court failed to follow the applicable procedures for a failure-to-appear violation, and that, even if the court's actions could be construed as imposing a sanction, he had already served the maximum allowable jail sanction for failing to appear of 30 days. *Barner*, 2023 IL App (1st) 232147 at ¶ 12. In reversing the circuit court's order granting the State's revocation petition, the *Barner* Court held that the State erred by filing a revocation petition in response to the defendant's failures to appear while on bond. *Barner*, 2023 IL App (1st) 232147 at ¶¶ 19-20. When a defendant fails to appear in violation of a condition of pretrial release, the proper procedure is for the State to file a petition requesting sanctions. Id. at ¶¶ 21-22. Had the State filed a petition for sanctions, the circuit court "could not have detained the defendant for more than 30 days as a sanction, and defendant was detained for longer than that period of time." *Id.* at ¶ 24. *Barner* thus ordered the defendant's immediate release. *Id.* at ¶17. Thus, in *Barner*, the appellate court refused to allow a court to

order revocation of pretrial release based only on a failure to appear.

Like in *Barner*, this Court should not allow Judge Rosenblum to construe a sanctions petition based on a failure to appear as a revocation petition. If the State in *Barner* was not allowed to file a revocation petition based on a failure to appear, Judge Rosenblum cannot order revocation of pretrial release by recharacterizing a sanctions petition based on a failure to appear as a revocation petition.

By recharacterizing the sanctions petition as a revocation petition, Judge Rosenblum was apparently objecting to the State's decision to dismiss the pending PCS charge. If the charge had not been dismissed, so long as it was at least a Class A misdemeanor, Judge Rosenblum could have revoked Ms. Stewart's pretrial release following a hearing. 725 ILCS 5/110-6(a) (2024). Judge Rosenblum was in effect acting as a prosecutor and determining which charges should be pursued. This was improper. Judges do not have the authority to determine what charges are brought and when. *See People ex. Rel. Daley v. Moran*, 94 Ill. 2d 41, 45 (1982) (noting that "the State's Attorney, as a member of the executive branch of government, is vested with exclusive discretion in the initiation and management of a criminal prosecution").

Judge Rosenblum had no statutory authority to detain Ms. Stewart starting on November 7, 2024, and continuing until now. For that reason, this Court should order Ms. Stewart released by reversing the trial court's detention order or by granting her release through habeas corpus, a *writ* of *mandamus* or *prohibition*, or through this Court's supervisory power.

C. This Court should review any forfeited errors under second prong of plain error. Alternatively, trial counsel was ineffective for not properly preserving this issue in a motion for relief. (PFA Appeal)

Although defense counsel did not raise all of Issue I. A. and B. in the motion for relief, this Court may review this error under the second prong of the plain-error doctrine, where the alleged error was so substantial it affected the fundamental fairness of the proceeding and challenged the integrity of the judicial process. Ill. Sup. Ct. R. 615(a)(allowing forfeited issues to be reviewed if a defendant's substantial rights are affected); *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005).

Here, the error is reviewable because the denial of pretrial release impacts Ms. Stewart's fundamental right to liberty. *See People v. Vingara*, 2023 IL App (5th) 230698, ¶23 (finding that denial of pretrial release affected defendant's substantial rights); see also *People v. Shannon*, 2024 IL App (5th) 231051, ¶11 (holding that statutorily unauthorized pretrial detention hearing affected defendant's substantial rights).

Additionally, the appellate court recognized that this appeal is not limited by the constraints of Rule 604(h) when it granted the State's motion to transfer Ms. Stewart's 604(h) appeal to the Illinois Supreme Court because it raised a constitutional issue under Rule 603. As a result, Ms. Stewart should not be limited by Rule 604(h) and any waiver/forfeiture rules therein.

Alternatively, defense counsel was ineffective under the two-pronged analysis set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), for failing to properly preserve this issue for review. See *Strickland*, 466 U.S. 668, 690-94 (1984) (holding that trial counsel is ineffective if his performance is objectively unreasonable and

prejudicial). The failure to properly preserve the entire issue in the motion to reconsider was error if the error is considered forfeited because Ms. Stewart's denial of pretrial release is error and without authority. See Issue I. A. and B; see also 725 ILCS 5/110-6(a) (2024) (revocation of pretrial release can only be based on a new Class A misdemeanor or a felony charge); see *Lafler v. Cooper*, 566 U.S. 156, 165 (2012) ("[A]ny amount of additional jail time has Sixth Amendment significance").

II. The Pretrial Fairness Act is a legitimate exercise of legislative power and does not improperly curb the discretion of judges in making detention decisions generally and limiting Judge Rosenblum's ability to detain Aimee Stewart in this case. (*Habeas* and PFA Appeal)

At her first appearance before him, Judge Rosenblum determined that he wanted to hold Aimee Stewart indefinitely because of the prior warrants in the case and that it took a year for Ms. Stewart to be arraigned. (SR. 59-61) Because Judge Rosenblum lacked the statutory authority to deny pretrial release indefinitely to Ms. Stewart under the Pretrial Fairness Act (PFA), 725 ILCS 110-1, *et seq.*, see Issue I, he instead *sua sponte* declared the PFA unconstitutional as applied to the facts in this case because it "is impossible to administer justice to Ms. Stewart" and ordered her detained. (SR. 31, 60) Judge Rosenblum ignored binding precedent from this Court in *Rowe v. Raoul*, 2023 IL 129248, holding the PFA does not violate that separation-of-powers clause of the Illinois Constitution. Moreover, he ignored remedies in the PFA – the sanctions provisions and pretrial release conditions – that adequately address his concerns. He also ignored other possible mechanisms to "administer justice" and searched for ways to declare the statute unconstitutional. This Court should reverse the circuit court's findings or issue a *writ* of *mandamus* or *prohibition*

and reiterate that the PFA does not violate the separate-of-powers clause of the Illinois Constitution. To the extent that the basis for Ms. Stewart's continued denial of pretrial release is this erroneous finding of unconstitutionality, she should be ordered released.

There is a strong judicial presumption that statutes are constitutional. *People v. Rizzo*, 2016 IL 118599, ¶ 23. "To overcome this presumption, the party challenging the statute must clearly establish that it violates the constitution." *Id.*, citing *People v. Sharpe*, 216 Ill. 2d 481, 487 (2005). "Courts have a duty to uphold the constitutionality of a statute whenever reasonably possible, resolving any doubts in favor of the statute's validity." *Rizzo*, 2016 IL 118599, ¶ 23. This Court has previously cautioned that circuit courts should not compromise the stability in an area of law by declaring legislation unconstitutional when the case does not require it. *People v. Cornelius*, 213 Ill. 2d 178, 189 (2004), citing *Hearne v. Illinois State Board of Education*, 185 Ill. 2d 443, 454 (1999). The constitutionality of a statute is a question of law that is reviewed *de novo*. *Cornelius*, 213 Ill. 2d at 188.

Moreover, facial and as-applied challenges are not interchangeable. *Rizzo*, 2016 IL 118599, ¶ 25. An as-applied challenge requires a showing that the statute violates the constitution as it applies to the facts and circumstances of the challenging party. *Id.* In contrast, a facial challenge requires a showing that the statute is unconstitutional under any set of facts, i.e., the specific facts related to the challenging party are irrelevant. *Id.* "In the absence of facts demonstrating an unconstitutional application of the statute, a person 'may not challenge the statute on the ground that it might conceivably be applied unconstitutionally in some hypothetical case.'" *In re M.I.*, 2013 IL 113776, ¶ 32, quoting *People v. Wisslead*, 108 Ill. 2d 389, 397 (1985).

Judge Rosenblum declared that Section 110-6 of the PFA unconstitutionally interferes with his inherent judicial authority to administer justice and violates the separation-of-powers clause. (SR. 59-60) The Illinois Constitution of 1970 sets forth the authority of the legislature and the judiciary. *People v. Mayfield*, 2023 IL 128092, ¶ 24. Article IV, section 1, states that "[t]he legislative power is vested in a General Assembly consisting of a senate and a house of representatives[.]" Ill. Const. 1970, art. IV, § 1. In Article VI, Section 1, "[t]he judicial power is vested in a Supreme Court, an Appellate Court, and Circuit Courts." Ill. Const. 1970, art. VI, § 1. Judicial power is "the power which adjudicates upon the rights of citizen and to that end construes and applies the law." *People v. Joseph*, 113 Ill. 2d 36, 42 (1986), quoting *People v. Hawkinson*, 234 Ill. 285, 287 (1927). In addition, "the administration of our judicial system is an element of the 'judicial power' exclusively conferred on the courts." *Joseph*, 113 Ill. 2d at 42 (1986).

"Questions arising from the overlapping exercise of legislature and judicial power are resolved according to the Illinois Constitution's separation-of-powers doctrine." *Mayfield*, 2023 IL 128092, ¶ 25. In Article II, section 1, the constitution reads that the legislative and judicial branches "are separate. No branch shall exercise power properly belonging to another." Ill. Const. 1970, Art. II, § 1. "This provision does not contemplate 'rigidly separated compartments.'" *Joseph*, 113 Ill. 2d at 41, quoting *In re Estate of Barker*, 63 Ill. 2d 113, 119 (1979). However, "statutes that undermine traditional and inherent judicial roles violate separation of powers." *Rowe v. Raoul*, 2023 IL 129248, ¶ 44.

This 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*. 2023 IL 129248, ¶¶ 43-49. In *Rowe*, two county State's Attorneys filed a lawsuit against the Illinois Attorney General and the Governor facially challenging the constitutionality of the PFA. *Id.*, ¶ 7. One argument raised in the plaintiffs' complaint alleged that the PFA violates the separation-of-power provision of the constitution. *Id.*, ¶ 8. The trial court agreed, finding bail to be an administrative matter for the courts and the PFA to be unconstitutional because it improperly encroaches on the administrative authority of the judiciary and the inherent authority of judges to detain criminal defendants pending trial as set out in *People ex rel. Hemingway v. Elrod*, 60 Ill. 2d 79 (1975). *Rowe*, 2023 IL 129248, ¶ 15.

This Court reversed the trial court and rejected the trial court's "overreading" of *Hemingway* that "the authority to deny or revoke bail to preserve the orderly process of criminal procedure is an administrative matter inherently entrusted solely to the courts." *Rowe*, 2023 IL 129248, ¶ 44. This Court noted that in its decision in *Hemingway*, it decided the "very narrow question of whether a trial court has the inherent authority to deny pretrial release" but then also discussed the American Bar Association's Standards Relating to Pretrial Release and Illinois Criminal Code Article 110 providing the conditions for admitting a defendant to bail. *Id.*, ¶ 47.

This Court concluded that the *Hemingway* court "would not have quoted those statutory provisions[,]" "[i]f we believed that bail was exclusively a matter for the judiciary." *Id.* Moreover, this Court noted in *Rowe* that the Legislature has been setting limits on judicial discretion in the bail/pretrial release context since passage of the 1963 Illinois Criminal Code. *Id.*, ¶ 48. This Court further remarked that its

decision is "consistent with other areas of criminal procedure[]" including "sentencing" where the Legislature has provided for mandating sentences even though sentencing is exclusively a judicial function. *Id.*, ¶ 49.

This Court has already concluded that the Legislature can constrain the trial court's discretion in the pretrial release context; it does not violate the separation-of-powers clause and render the law unconstitutional. Of note, this Court in *Rowe* catalogued the multitude of changes the legislature has made to the bail statute since 1963. *Id.*, ¶ 48. This Court remarked that in the 20 prior iterations of Section 110, there had never been any objections on separation-of-powers grounds to the limits and requirements imposed on the courts. *Id.* This Court hypothesized that challenges had not been made because the court found the changes to be "palatable." *Id.* However, for purposes of a legitimate separate-of-powers clause challenge, the substance of the change is irrelevant. *Id.*

Here, Judge Rosenblum's objection is solely to the substance of the changes and how it affects his perceived ability to administer justice as he sees fit. This is not a legitimate separation-of-powers claim and should be rejected. This Court's decision in *Rowe* is binding precedent on Judge Rosenblum, and he cannot disregard this Court's decision because he does not think the 30-day sanctions penalty is adequate.

Judge Rosenblum repeatedly stated that he was finding the PFA and later specifically Section 110-6 unconstitutional as applied to the facts of Ms. Stewart's case. As-applied constitutional challenges are, by definition, dependent on the specific facts and circumstances of the person raising the challenge. *People v. Harris*, 2018 IL 121932, ¶ 39. 'Therefore, it is paramount that the record be sufficiently developed in

terms of those facts and circumstances for purposes of appellate review.'" *Id.*, quoting *People v. Hartrich*, 2018 IL 121636, ¶ 31.

In this case, Judge Rosenblum met Ms. Stewart for the first time on November 7, 2024. (SR. 53) He heard limited mitigation from the defense that she was previously in the hospital at the last court date and had turned herself in on the warrant. (SR. 55-56) Ms. Stewart made a few brief statements to the court about her arrest and that would show up in the future. (SR. 56) The State then described the alleged facts of the case, of which Ms. Stewart is presumed innocent, and Ms. Stewart's background. (SR. 55-58) Judge Rosenblum then reviewed Odyssey, saw the prior warrants, and determined that he was going to hold Ms. Stewart indefinitely. (SR. 59) Without more than a brief conversation with Ms. Stewart, Judge Rosenblum denied pretrial release to Ms. Stewart because Ms. Stewart "is not going to come to court[,]" Ms. Stewart makes it impossible to "administer justice and to find a way to get through cases[,]" and "[i]t is four warrants before we even get to an arraignment date[.]" (SR. 60-61)

Judge Rosenblum ignored that Ms. Stewart had appeared in court at least nine times while the case was in the preliminary courtroom. (SR. 2-7) It is not Ms. Stewart's fault alone that the arraignment took so long. The State could have answered ready at any of the times that Ms. Stewart appeared in Bridgeview; the State could also have indicted her at any point over the year. Judge Rosenblum also did not give her a chance to appear in his courtroom or to communicate affirmatively with the court; he immediately held her the first moment that he saw her. Ms. Stewart interjected that on at least two occasions she missed court dates because she was in the hospital. (SR. 61) Judge Rosenblum could have taken testimony or asked further

questions about her hospitalizations, but he chose not to. The PFA's definition of willful flight contemplates multiple missed court dates as potentially "isolated" and affords criminal defendants an ability to communicate affirmatively. 725 ILCS 5/110-1(f) (2024). Ms. Stewart attempted to do that. Here, Judge Rosenblum made many assumptions regarding Ms. Stewart based on her missed court dates and did not hold a full evidentiary hearing to determine whether his assumptions were correct.

Judge Rosenblum also considered no alternatives to declaring the statute unconstitutional and ordering pretrial detention. Ill. S. Ct. R. 18(c)(4) (requiring a judge to consider alternative grounds to finding a statute unconstitutional). If Ms. Stewart does not appear in court for a trial, Judge Rosenblum could hold a trial *in abstentia*. 725 ILCS 5/115-4.1(a) (2024). He immediately gave Ms. Stewart the trial-*in-abstentia* warnings when she appeared in court. (SR. 54-55) A trial *in abstentia* affords a judge the possibility of holding a trial when a criminal defendant "is willfully avoiding trial." 725 ILCS 5/115-4.1(a) (2024). It is not correct therefore that the only mechanism to resolve Ms. Stewart's case was to deny her pretrial release.

Judge Rosenblum could have also considered holding Ms. Stewart in contempt of court. Criminal contempt proceedings are defined as "those directed to preservation of the dignity and authority of the court," while civil contempt proceedings "are those prosecuted to enforce the rights of private parties and to compel obedience to orders or decrees for the benefit of opposing parties." *Marcisz v. Marcisz*, 65 Ill. 2d 206, 208–09 (1976). He also could initiate indirect criminal contempt proceedings based on his belief that Ms. Stewart was aware of prior court orders to appear in court and was disregarding them. See, e.g., *People v. Perez*, 2014 IL App (3d) 120978, ¶ 21

(noting a "routine petition requesting the adjudication of indirect criminal contempt is based on an assertion that the accused was aware of a valid court order and willfully ignored the mandates of the court order"). If Judge Rosenblum felt that Ms. Stewart was undermining the dignity of the court at her first court date before him or ignoring prior court orders, he had the authority to hold her in contempt.

In her *habeas/mandamus* complaint, Ms. Stewart suggested as an alternative to declaring the PFA unconstitutional that the State could have filed a detention petition based on the high risk of willful flight under Section 110-6.1(a)(8)(b) on November 7, 2024, for her repeated failures to appear in court. (Habeas Complt, at 8) This was incorrect for many reasons.

First, an initial detention petition would have been untimely on November 7, 2024. It would not have been filed at the defendant's first appearance before a judge or within 21 days of arrest and release. 725 ILCS 5/110-6.1(c) (2024).

Moreover, the State could not file a "second or subsequent" detention petition on November 7, 2024, or on January 6, 2025, based on "any new facts not known or obtainable at the time of the filing of the previous petition" under 725 ILCS 5/110-6.1(d)(2), because it never filed an initial detention petition. See, e.g., *People v. Farris*, 2024 IL App (5th) 240745, ¶ 26 (holding "the purpose of section 110-6.1(d)(2) is to allow the circuit court to reconsider its initial decision with a more complete understanding of the facts as they existed at the time of the filing of the initial petition").

Third, the State cannot file a detention petition under Section 110-6.1(d)(2) based on "subsequent noncriminal violations of pretrial release." *Farris*, 2024 IL App

(5th) 240745, ¶ 46. In this case, Ms. Stewart missed several court dates. The State cannot file a detention petition based solely on Ms. Stewart's failures to appear because violations of pretrial release conditions are addressed in the revocation/sanctions section of the PFA and cannot serve as the basis for a new detention petition. 725 ILCS 5/110-6 (2024); *Farris*, 2024 IL App (5th) 240745, ¶ 42. Counsel apologizes for injecting this red herring into the case.

One remedy here was for the State to file a sanctions petition under 725 ILCS 5/110-6 (2024) and the circuit court to grant it, which is what the State initially filed on November 7, 2024. Ms. Stewart could not be detained indefinitely because of a sanctions petition; but she could be held for 30 days in jail. 725 ILCS 5/110-6(f)(2) (2024). If Ms. Stewart were released and then missed court again, the State could file another sanctions petition and Ms. Stewart could be denied pretrial release for an additional 30 days. Judge Rosenblum could have set multiple court dates while she was in custody. There is no indication that a sanction petition was previously filed and granted in this case, so Judge Rosenblum did not know whether sanctions would result in Ms. Stewart's appearance in court upon her release. Ms. Stewart has demonstrated that even if she misses court, she will nonetheless come under the ambit of the court. Five warrants in this case have been executed and resulted in her repeated appearances in court. There have been no attempts by Ms. Stewart to evade arrest or to leave the jurisdiction during this case. In the last instance, Ms. Stewart turned herself in upon discovering the warrant. Judge Rosenblum's claim that she will never come to court again is therefore incorrect and should not be the basis for declaring the PFA unconstitutional. Ordering sanctions is an adequate response to her failures to

appear.

Judge Rosenblum could have also considered various conditions of pretrial release instead of declaring the statute unconstitutional. 725 ILCS 5/110-5 (2024); 725 ILCS 5/110-10(b) (2024) (listing conditions). There is no evidence in the record that Judge Rosenblum considered putting Ms. Stewart on electronic monitoring, GPS monitoring, or home confinement. 725 ILCS 5/110-5(g) (2024) (all of which can be used to "reasonably ensure the appearance of the defendant for later hearings"). Ms. Stewart had an address that she could use for such monitoring. (SR. 55) Such conditions of pretrial release might have helped her appear at future court hearings. Since they were not tried or discussed, it is impossible to know.

In any event, Judge Rosenblum's statements at the hearings indicate that he is not only concerned with Aimee Stewart; he is concerned with the limits on judicial discretion generally in Section 110-6 of the PFA in all cases. Despite his assertions to the contrary, *his statements and actions make clear that he finds Section 110-6 of the PFA unconstitutional on its face*. Judge Rosenblum repeatedly discussed extradition – something wholly unrelated to Ms. Stewart who has never left the jurisdiction and has repeatedly been arrested – and his concerns that the State would extradite someone from another jurisdiction and a judge would be unable to detain that person longer than 30 days. (SR. 84; Supp. SR. 22, 73)

Extradition is a hypothetical example unrelated to the facts of this case. The discussion of extradition demonstrates the extent to which Judge Rosenblum is taking issue with the PFA generally and not particularly concerned with Ms. Stewart. *In re M.I.*, 2013 IL 113776, ¶ 32 (a constitutional challenge cannot be hypothetical). It also

demonstrates the extent to which Judge Rosenblum was taking a prosecutorial position in these proceedings. Judges do not decide whether to seek extradition; the executive branch does. It is therefore not up to judges to determine who should or should not be extradited and be concerned with the consequences of extradition. See 725 ILCS 225/22 (2025) (the governor seeks a fugitive warrant to extradite someone to Illinois).

Judge Rosenblum's statements on January 23, 2025, further demonstrate that he finds the PFA unconstitutional on its face. He explained at length why he wanted this Court to address this case. (Supp. SR. 74-75) He explained that he hoped this Court would recognize the constitutional issues with the PFA and that the legislature would fix it. (Supp. SR. 74) Or he hoped that this Court's ruling would result in "judges all over this state" having a better understanding of their discretion, in particular "[t]he rest of the court system will have guidance on this ability" for the State to file a petition based on new evidence under Section 110-6.1(d)(2). (Supp. SR. 75) If Judge Rosenblum declared the statute unconstitutional as applied to Aimee Stewart, then this Court's ruling would only apply to Ms. Stewart and would only minimally provide guidance to other judges.

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.

Section 110-6 of the PFA is not unconstitutional on its face as a violation of the separation-of-powers clause as this Court decided in *Rowe*, 2023 IL 129248, ¶

49. It is not unconstitutional as applied to Ms. Stewart where this Court has multiple remedies within the PFA. This Court should reverse Judge Rosenblum's orders denying Ms. Stewart pretrial release on this basis or issue a *habeas corpus* order, a *writ* of *mandamus* or *prohibition*, or a supervisory order granting Ms. Stewart release.

III. This Court should grant petitioner's complaint for *habeas corpus* or alternatively grant a *writ* of *mandamus* or *prohibition* or a supervisory order where petitioner is being illegally detained. (*Habeas*)

Habeas Corpus

This Court has original jurisdiction in cases related to *habeas corpus*. Ill. Const. 1970, Art. 6, § 4(a). A person imprisoned or otherwise restrained of liberty may apply for *habeas corpus* "to obtain relief from such imprisonment or restraint, if it proved to be unlawful." 735 ILCS 5/10-102 (2024). Application for such relief "shall be made to the Supreme Court or to the circuit court of the county in which the person in whose behalf the application is made, is imprisoned or restrained." 735 ILCS 5/10-103 (2024). For individuals "in custody by virtue of process from any court legal constituted," he may be discharged:

> (2) Where, through the original imprisonment was lawful, nevertheless, by some act, omission or event which has subsequently taken place, the party has become entitled to be discharged.
>
> (3) Where the process is defective in some substantial form required by law.

735 ILCS 5/10-124(2), (3) (2024); see *Barney v. Prisoner Review Board*, 184 Ill. 2d 428, 430 (1998).

Here, Ms. Stewart was arrested pursuant to an arrest warrant for missing a court date. (SR. 53) Judge Rosenblum, however, has exceeded his authority to detain

her in response to the State's sanctions petition and especially to keep her in detention more than 30 days because the maximum penalty for sanctions is 30 days under the PFA, as discussed above. Judge Rosenblum does not otherwise have the authority to detain Ms. Stewart under the PFA or to ignore binding precedent from this Court.

Writ* of *Mandamus

Alternatively, this Court could consider a *writ* of *mandamus*. Ill. Const. 1970, Art. 6, § 4(a) (Illinois Supreme Court has original jurisdiction over *mandamus*). *Mandamus* is an extraordinary remedy appropriate to enforce the performance of official duties by a public officer where no exercise of discretion is involved. *People ex rel. Birkett v. Jorgenson*, 216 Ill. 2d 358, 362 (2005). In *Burnette v. Terrell*, 232 Ill. 2d 522 (2009), this Court explained when a *writ* of *mandamus* under Rule 381 is appropriate:

> 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. Although *mandamus* generally provides affirmative rather than prohibitory relief it can be used to compel the undoing of an act.

232 Ill. 2d at 543 (internal citations omitted). In addition, "*mandamus*-type relief may be awarded when the issues involved are of great importance to the administration of justice even if all the normal criteria for its issuance are not satisfied." *Id.*, citing *People ex rei. Carey v. White*, 65 Ill. 2d 193, 197 (1976).

Here, Ms. Stewart has a clear legal right of relief; she should not have been held in detention more than 30 days from November 5, 2024, under the PFA. She has been held for 114 days. Judge Rosenblum had a duty under the PFA to limit his sanctions penalty to 30 days. Ms. Stewart has appealed Judge Rosenblum's decision,

and that appeal is pending here, having been consolidated with this case. The pending appeal was of the circuit court's order denying pretrial release from November 7, 2024, and the order denying Ms. Stewart's motion to reconsider the denial of pretrial release from December 12, 2024. (Appendix, at A10-11) The circuit court held two additional hearings after the filing of the notice of appeal, in which it reiterated that the statute is unconstitutional, and Ms. Stewart should continue to be detained. (Supp. SR. 51, 75) Those additional hearings can be addressed in this *mandamus* action or based on this Court's supervisory power.

Writ* of *Prohibition

This Court also has original jurisdiction over *writs* of *prohibition*. Ill. Const. 1970, Art. 6, § 4(a). Like a *writ* of *mandamus*, a *writ* of *prohibition* is an extraordinary remedy. *Edwards v. Atterberry*, 2019 IL 123370, ¶ 7. It is intended to "prevent a judge from acting where he has no jurisdiction to act or to prevent a judicial act which is beyond the scope of a judge's legitimate jurisdictional authority." *Id.* This Court has delineated the four requirements of a *writ* of *prohibition* as follows:

> First, actions sought to be prohibited must be judicial or quasi-judicial in nature. Second, the jurisdiction of the tribunal against whom the writ is sought must be inferior to that of the issuing court. Third, the action sought to be prohibited must be either outside the jurisdiction of the tribunal or, if within its jurisdiction, beyond its legitimate authority. Fourth, the party seeking the writ must be without any other adequate remedy.

People ex rel. No. 3 J. & E. Disc., Inc. v. Whitler, 81 Ill. 2d 473, 479–80 (1980) (internal citations omitted).

In this case, all four requirements for a *writ* of *prohibition* are met. Judge Rosenblum, who is presiding over Ms. Stewart's criminal case ordered Ms. Stewart

detained without authority on November 7, 2024, and she has been in custody for 114 days. This was a judicial act. Second, this Court from which Ms. Stewart is seeking the *writ* is superior to the Circuit Court of Cook County where Judge Rosenblum presides. Third, as described in section A and B above, Ms. Stewart is being held in violation of the PFA and contravention of this Court's authority. Finally, Ms. Stewart's other remedy is the appeal that is currently pending with this action.
As stated above, the pending appeal was of the circuit court's orders denying pretrial release from November 7, 2024, and denying Ms. Stewart's motion to reconsider the denial of pretrial release from December 12, 2024. The circuit court held two additional hearings after the filing of the notice of appeal – on January 6, 2025, and on January 23, 2025 – in which it reiterated that the statute is unconstitutional, and Ms. Stewart should continue to be detained. Those additional hearings can be addressed in this *prohibition* action or based on this Court's supervisory power. A *writ* of *prohibition* is therefore also appropriate in this case.

Supervisory Order

Supervisory orders are appropriate "when 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." *Burnette v. Terrell*, 232 Ill. 2d 522, 545 (2009). In *Burnett*, this Court accepted the petition (which was filed alternatively as a *writ* of *mandamus*, *writ* of *prohibition*, or for a supervisory order), ordered full briefing and argument, and chose to grant supervisory relief. In this case, intervention is needed to keep Judge Rosenblum from acting beyond his authority

CONCLUSION

Judge Steven J. Rosenblum had no authority to revoke Petitioner-appellant Aimee Stewart's pretrial release or detain her on November 7, 2024, and again on December 12, 2024, under the Pretrial Fairness Act (PFA), 725 ILCS 5/110-1, *et seq.*, where she only missed court dates. Moreover, Judge Rosenblum is incorrect that Section 110-6 of the PFA is unconstitutional as applied to Ms. Stewart because it violates separation-of-powers principles where Judge Rosenblum did not adequately consider alternative to declaring the statute unconstitutional.

Petitioner-appellant Aimee Stewart respectfully requests that this Honorable Court reverse the circuit's court orders denying her pretrial release in appeal number 131506 or grant her Complaint for *Habeas Corpus*, alternatively issue *writs* of *Mandamus* or *Prohibition* or a supervisory order.

Respectfully submitted,

Sharone R. Mitchell, Jr.
Cook County Public Defender

By: */s/ Rebecca A. Cohen*
Rebecca A. Cohen
Assistant Public Defender

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Attorney for Petitioner
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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 petition under Rule 342(a), is 48 pages.

/s/Rebecca A. Cohen
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Assistant Public Defender,
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INDEX TO THE RECORD

Case Number 131365:

Rule 328 Supporting Record (SR.):

Rule 328 Supplemental Supporting Record (Supp. SR.):

Case Number 131506:

Common Law Record (C.):

ORDER AFTER SANCTIONS HEARING 12/13/2022

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
_____ DEPARTMENT, _____ DIVISION/DISTRICT

People of the State of Illinois
v.
Defendant: Stewart, Aimee

Case Number: 24CR0970601
Charge: PSMV
IR Number: 2360645
(or circle SID/FBI#): _____

ORDER AFTER SANCTIONS HEARING
725 ILCS 5/110-6(e), 110-6(f)

Defendant appeared ☐ in person CR1821 ☐ virtually. CR1822

FINDINGS:

☐ The Court finds that there is insufficient evidence to justify sanctioning the defendant. CR1849

☑ The Court having held a hearing pursuant to 725 ILCS 5/110-6(e) finds the State has shown by clear and convincing evidence that the defendant violated his or her conditions of pretrial release set forth in the Court Order entered on _____, to wit: CR1850

☑ Failure to Appear (ref#81 (4 times)
☐ Arrest for ☐ Felony ☐ Class A Misd. ☐ Class B Misd. ☐ Class C Misd. ☐ Local Ordinance Violation ☐ Petty Offense (Case Number: _____) (ref#82)
☐ Violation of Sheriff's EM (ref#83)
☐ Violation of Pretrial Services GPS (ref#85) ☐ Violation of Pretrial Services Home Confinement (ref#84)
☐ Violation of Domestic Violence Order of Protection (ref#87) ☐ Pretrial Services Technical Violation (ref#86)
☐ Violation of Stalking No Contact Order (ref#89) ☐ Violation of Civil No Contact Order (ref#88)
☐ Violation of Workplace Protection Restraining Order (ref#91) ☐ Violation of Firearm Restraining Order (ref#90)
☐ Other violation of pretrial release conditions: (ref#92) _____

and that the defendant had actual knowledge the action would violate a court order, and that the violation was willful and was not caused by a lack of access to monetary resources.

IT IS HEREBY ORDERED that:

☐ Defendant is given an oral admonishment (see record of proceedings)
☐ Defendant is admonished as follows:

_____

_____

ENTERED
Judge Steven Rosenblum-2115
NOV 07 2024
IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

☐ Defendant is remanded to the custody of the Cook County Sheriff for a period of _____ (max. 30 days)
☐ Defendant's conditions of pretrial release are modified as provided in a separate order (see Conditions of Pretrial Release Order).
☒ A is Detained

See and comply with the terms and conditions of the following orders:

☐ DV Order of Protection #_____ ☐ Civil No Contact Order #_____ ☐ Stalking No Contact Order #_____
☐ Workplace Protection Restraining Order #_____ ☐ Firearm Restraining Order #_____

Next Court Date: 11/20/24 **Time:** 9:30 **Location:** Lrm 107 **Room:** _____
Defendant to appear ☐ **in person** ☐ **virtually. Virtual Information:** _____

ENTERED: Date: 11/7/24 Judge's Signature: _____ Judge's Number: 2115

Sheet #	CRIMINAL DISPOSITION SHEET	Branch/Room/Location	Court Interpreter
0001	Defendant Sheet# 1 of 1	D5, Courtroom 107 10220 South 76th Avenue, Bridgeview, IL 60455	

Case Number	Defendant Name	Attorney	Court Date	Court Call/Time
24CR0970601	AIMEE STEWART		11/7/2024	9:30 AM

CB/DCN#	IR#	EM	Case Flag	Bond#	Bond Type	Bond Amount
	2360645					

CHARGES	* IN CUSTODY 11/05/2024 * COURT ORDER ENTERED	CODES
C1 625 ILCS 5/4-103(a)(1) RECEIVE/POSS/SELL STOLEN VEH		

PIC [redacted] Stenfeld LTFA/g A ICC

STATE FILES MOTION FOR REIMBURSEMENT ☐
DEFENDANT HAS A COPY OF CHARGING INSTRUMENT ☑
DEFENDANT WAIVES READING ☑
DEFENDANT PLEAS NOT GUILTY ☑
DEFENDANT T.I.A. ADMONISHMENTS ☑ A ICJA
STATE FILES DISCOVERY MOTION ☑
STATE FILES DISCOVERY ANSWERS ☑

LTF Pet for Sanctions /g
Δ to be detained - finding PFA viol constitution as applied to this C
ARG BA 11/20/24 x
4 Sep case warrant on this case b/c A

JUDGE:	JUDGE'S NO.:	RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:	VERIFIED BY:
	2617		

Sheet #	CRIMINAL DISPOSITION SHEET	Branch/Room/Location	Court Interpreter
155	Defendant Sheet #1	D5, Courtroom 107 10220 South 76th Avenue, Bridgeview, IL, 60455	

Case Number	Defendant Name	Attorney Name	Session Date	Session Time
24CR0970601	STEWART, AIMEE		12/12/2024	09:30 AM

CB/DCN#	IR #	EM	Case Flag	Bond #	Bond Type	Bond Amt
030309934	2360645					

CHARGES	** IN CUSTODY 11/5/2024 ** COURT ORDER ENTERED	CODES
C1 625 ILCS 5/4-103(a)(1) RECEIVE/POSS/SELL STOLEN VEH	PDic Sternfeld Disc complete. Dic (C) State takes no position Mot to reconsider Denial of Pretrial release/ Denied ARG BA 1/15/25 To determine if special prosecutor - State to contact AG to be present on 1/15 IP	

JUDGE:	JUDGE'S NO:	RESPONSIBLE FOR CODING AND COMPLETION BY DEPUTY CLERK:	VERIFIED BY:
	2615		

A-7

IN THE CIRCUIT COURT OF Clinton COUNTY
Fifth JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS,
Plaintiff-Appellee,

-vs-

Aimee Stewart,
Defendant-Appellant.

No. 24CR09706

NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h)

(Defendant as Appellant)

Court from which appeal is taken:

Circuit Court of Cook County.

The Judge who entered the order on the motion for relief under Rule 604(h)(2): Rosenblum

Date of Order on Motion for Relief*: 11/07/2024

***Without an Order on a Motion for Relief, this notice of appeal is prohibited by Rule 604(h)(2).**

Date(s) of Hearing(s) Regarding Pretrial Release: 11/07/2024, 11/20/2024 12/12/2024

Court to which appeal is taken:

Appellate Court of Illinois, Fifth Judicial District

Name of Defendant and address to which notices shall be sent (if Defendant has no attorney):

Defendant's Name: Aimee Stewart
Defendant's Address: CCDOC
Defendant's E-mail:
Defendant's Phone:

If Defendant is indigent and has no attorney, does he or she want one appointed? ☑ Yes ☐ No

Name of Defendant's attorney on appeal (if any):

Attorney's Name: _____

Attorney's Address: _____

Attorney's E-mail: _____

Attorney's Phone: _____

Name of Defendant's trial attorney (if any):

Attorney's Name: Coryn Steinfeld

Attorney's Address: 10220 S. 76th Ave, Bridgeview, IL 60455

Attorney's E-mail: coryn.steinfeld@cookcountyil.gov

Attorney's Phone: 708-974-6470

Is the trial attorney a public defender? ☑ Yes ☐ No

Nature of Order Appealed (check only one):

☐ Denying pretrial release

☑ Revoking pretrial release

☐ Imposing conditions of pretrial release

Are there currently pending any other appeals in this matter by the same party under the Pretrial Fairness Act? ☐ Yes* ☑ No

***If Yes, this notice of appeal is prohibited by Rule 604(h)(11).**

I certify that everything in this NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h)is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.

Your Signature

Coryn Steinfeld
Printed Name

Public Defender
Attorney # (if any)

IN THE CIRCUIT COURT OF Cook ☑ COUNTY
Fifth ☑ JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS,
Plaintiff-Appellee,

-vs-

AIMEE STEWART,
Defendant-Appellant.

No. 24 CR 0970601

AMENDED

NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h)

(Defendant as Appellant)

Court from which appeal is taken:

Circuit Court of Cook ☑ County.

The Judge who entered the order on the motion for relief under Rule 604(h)(2): Steven J. Rosenblum

Date of Order on Motion for Relief*: December 12, 2024

***Without an Order on a Motion for Relief, this notice of appeal is prohibited by Rule 604(h)(2).**

Date(s) of Hearing(s) Regarding Pretrial Release: November 7, 2024, November 20, 2024, and December 12, 2024.

Court to which appeal is taken:

Appellate Court of Illinois, First ☑ Judicial District

Name of Defendant and address to which notices shall be sent (if Defendant has no attorney):

Defendant's Name: Aimee Stewart
Defendant's Address:
Defendant's E-mail:
Defendant's Phone:

If Defendant is indigent and has no attorney, does he or she want one appointed? ☑ Yes ☐ No

A-10

Name of Defendant's attorney on appeal (if any):

Attorney's Name: APD Rebecca Cohen
Attorney's Address: 69 W. Washington, 15th Floor, Chicago, IL 60602
Attorney's E-mail: pdpretrialappeals@cookcountyil.gov
Attorney's Phone: 312-603-0600

Name of Defendant's trial attorney (if any):

Attorney's Name: Coryn Steinberg
Attorney's Address: 10220 S. 76th Avenue, Bridgeview, IL 60455
Attorney's E-mail: coryn.steinberg@cookcountyil.gov
Attorney's Phone: 708-974-6470
Is the trial attorney a public defender? ☑ Yes ☐ No

Nature of Order Appealed (check only one):

☐ Denying pretrial release
☑ Revoking pretrial release
☐ Imposing conditions of pretrial release

Are there currently pending any other appeals in this matter by the same party under the Pretrial Fairness Act? ☐ Yes* ☑ No

***If Yes, this notice of appeal is prohibited by Rule 604(h)(11).**

I certify that everything in this NOTICE OF APPEAL FROM PRETRIAL DETENTION OR RELEASE ORDER PURSUANT TO ILLINOIS SUPREME COURT RULE 604(h)is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/1-109.

/s/ Rebecca A. Cohen
Your Signature

Rebecca A. Cohen
Printed Name

30295
Attorney # (if any)

Print Form Save Form Reset Form

A-11

No. 131365 (cons. 131506)

IN THE SUPREME COURT OF ILLINOIS

AIMEE STEWART, Petitioner-Appellant, vs. HONORABLE STEVEN J. ROSENBLUM, CIRCUIT COURT OF COOK COUNTY, Respondent-Appellee PEOPLE OF THE STATE OF ILLINOIS, Appellee.	)	Complaint for Habeas Corpus or Alternatively a Writ of Mandamus or Prohibition or a Supervisory Order Pursuant to Supreme Court Rules 381 and 383. Appeal Pursuant to Rules 604(h) and 603. Circuit of Cook County, Fifth District No. 24 CR 0970601 Honorable Steven J. Rosenblum, Judge Presiding.

NOTICE OF FILING AND PROOF OF SERVICE

To: Eileen O'Neill-Burke, State's Attorney, 309 Daley Center, Chicago, IL 60602
email: eserve.criminalappeals@cookcountyil.gov

Kwame Raoul, Attorney General, 100 W. Randolph, 12th Floor, Chicago IL 60601 email: eserve.criminalappeals@ilag.gov; Katherine.Doersch@ilag.gov

Alan Spellberg, Special Assistant Attorney General, Law Office of Alan J. Spellberg, 2070 Green Bay Road, Unit 105, Highland Park, IL 60035
Email: Alan@Spellberglaw.com

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. On February 28, 2025, this Brief and Appendix of Petitioner-Appellant was filed with the Clerk of the Supreme Court of Illinois using the court's

electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, people named above with identified email addresses will be served using the Court's electronic filing.

SHARONE R. MITCHELL, JR.
Public Defender of Cook County
Counsel for Petitioner

By: */s/Rebecca A. Cohen*
REBECCA A. COHEN
Assistant Public Defender

E-FILED
2/28/2025 12:12 AM
CYNTHIA A. GRANT
SUPREME COURT CLERK