No. 128092

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- GARY MAYFIELD, Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, No. 2-20-0603. There on appeal from the Circuit Court of the Nineteenth Judicial Circuit, Lake County, Illinois, No. 20 CF 392. Honorable Mark L. Levitt, Judge Presiding.

REPLY BRIEF FOR DEFENDANT-APPELLANT

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ARGUMENT

Administrative orders by the judicial branch purporting to suspend or alter the operation of the legislatively enacted speedy trial statute unconstitutionally violated the constitutional doctrine of the separation of powers.

In his opening brief, Mr. Mayfield argued that this Court exceeded its general administrative and supervisory authority over the courts granted to it by the Illinois Constitution when it issued orders purporting to suspend the operation of the Illinois Speedy Trial Act. Specifically, where each branch of government is granted unique and distinct responsibilities which may not be delegated to nor acquired by a different branch of government, this Court violated its own well-established conception of separation of powers when it attempted to write into the legislatively-enacted Speedy Trial Act exceptions that did not appear within the Act. As such, because this Court's orders suspending the operation of the Speedy Trial Act were unconstitutional, Mr. Mayfield's conviction must be reversed as he was not brought to trial within the statutorily required 120-day period.

The State does not dispute that there were more than 120 days of pretrial delay that were not attributable to the defense. Nor does it dispute that the Speedy Trial Act does not authorize courts to toll the speedy-trial period for any reason other than those identified in the statute itself. The dispositive issue, then, is whether the Illinois Supreme Court's orders purporting to suspend the operation of the Speedy Trial Act were legally valid. To this point, the State offers no persuasive reason to find that they were.

The State's brief is unpersuasive as much of the State's argument rests on a profound misunderstanding of the issue presented here. At no point has Mr. Mayfield called into question this Court's general administrative and supervisory authority over

the adjudication and application of law and the procedural administration of the courts. Nor is the fact the courts have the inherent authority to regulate their own dockets in question. Rather, the only question is whether this Court can exercise its general administrative and supervisory authority to temporarily abrogate a legislative enactment that exists to protect the constitutional rights of criminal defendants. Once that issue is properly understood, much of the State's argument falls as irrelevant.

Indeed, the State's argument is based entirely on the presumption that the Speedy Trial Act is a mere rule of procedure involving a matter of judicial administration, falling under the Court's general supervisory and administrative authority. (St. Br., p. 13, 15-16) Notably, the State offers no argument or defense for this unprecedented determination. In fact, much like the Second District, in assuming that the Speedy Trial Act is merely a procedural rule implemented to facilitate the operation of the courts, the State fails to cite any authority for that crucial proposition–not a case, not a statute, not a rule, not a treatise, not even a law-review article. This is because the notion that the speedy-trial act is merely a procedural regulation is contrary to more than a century of this Court's precedent teaching that the right to a speedy trial is one of substance, not procedure, is properly defined by the legislature, and neither interferes with the operation of nor is amenable to interference by the judiciary.

For example, as Mr. Mayfield noted in his opening brief, in *Newlin v. People* this Court found that it could not read into the speedy trial statute an exception for the sickness of judges. (Def. Op. Br., p. 15-16); 221 Ill. 166, 175 (1906). Notably, this Court determined that where "the provisions of the law do not insure the transaction of the business of the courts a remedy may be afforded *by the legislature*." *Newlin*, 221 Ill. at 174 (emphasis added). In making this determination, this Court emphasized

that "we are *without the power* to read into the statute in question an exception which does not appear there." *Newlin*, 221 Ill. at 174 (emphasis added).

Yet, the State suggests that this Court should disregard *Newlin* because it claims that the concept of a judicial sphere with constitutionally-protected administrative authority was not a feature of Illinois law until the 1970 constitution. (St. Br., p. 21) This is incorrect; the notion of a defined judicial sphere free from legislative encroachment was an established feature of Illinois constitutional law long before the 1970 constitution. *See, e.g.*, *People v. Bruner*, 343 Ill. 146, 157 (1931) (the legislature is "expressly prohibited from exercising" a power that is "judicial in its nature"); *In re Day*, 181 Ill. 73, 83-87 (1899) (invalidating legislation altering standards for admission to practice of law for encroaching on judicial branch's administrative authority). As this Court found in 1977, "the Constitution of 1870 . . . provided that all judicial power in the State was placed in the supreme court and other courts . . . [which] embraced everything necessary to the full performance of the judicial functions." *People v. Jackson*, 69 Ill.2d 252, 257 (1977). Moreover, the notion of a defined judicial sphere free from legislative encroachment in accordance with the doctrine of separation of powers did not originate in 1970, but has existed since the founding of this nation. *See* The Federalist No. 48, at 256-260 (James Madison) (George W. Carey & James McClellan eds., 2001) (discussing the idea of separation of powers generally).

Further, assuming *arguendo* that the State's reasoning that *Newlin* should be rejected because it was decided under the 1870 constitution was persuasive, that same reasoning cannot be used to discredit the cases decided after the 1970 constitution's adoption. *See People v. Sandoval*, 236 Ill.2d 57, 67 (2010) ("The balancing inherent in our speedy-trial statute is the prerogative of the legislature."); *People v. Flores*,

104 Ill.2d 40, 49–50 (1984) (explaining that the speedy-trial statute does not encroach upon the judiciary because, although it sets a deadline for the start of trial, it nevertheless leaves courts in control of their own schedules). Indeed, well after *Newlin* was decided, when asked to read a limitation into the Speedy Trial Act and the intrastate detainer statute, this Court has stated that where "the statute at issue protects and effectuates an accused's constitutional rights, the suggestion that we constrain the statute's scope in a way not specifically authorized by the legislature is simply untenable." *People v. Wooddell*, 219 Ill.2d 166, 173 (2006).

Additionally, the fact that the speedy trial statute has some effect on judicial administration does not transform the statute into a matter of procedure within this Court's constitutional authority as the State seemingly suggests. (St. Br., p. 15-16). As noted in Mr. Mayfield's opening brief, this Court has long recognized that the Court's Article VI, Section 16 power does not exclude the legislature from acting in a way which may have a peripheral effect on judicial administration. *People v. Joseph*, 113 Ill.2d 36, 43 (1986). Indeed, this Court has upheld the legislature's enactment of rules of evidence (*People v. Rolfingsmeyer*, 101 Ill.2d 137 (1984)), of statutes mandating that a judge impose a particular sentence (*People v. Taylor*, 102 Ill.2d 201 (1984)), a statute requiring a judge to inspect a presentence report before imposing sentence (*People v. Youngbey*, 82 Ill.2d 556 (1980)), and a statute ordering a judge to wait two days between the stages of a bifurcated divorce proceeding (*Strukoff v. Strukoff*, 76 Ill.2d 53 (1979)).

If, as the State claims, an accused's speedy trial rights could be reduced to a mere matter of judges' authority to control their own scheduling and docket, then the Speedy Trial Act would have always unconstitutionally encroached on that authority where it requires the dismissal of charges when trial does not commence in a properly

scheduled time. *See People v. Jackson*, 69 Ill.2d 252, 256 (1977) ("If the power is judicial in character, the legislature is expressly prohibited from exercising it."); *see also People v. Spegal*, 5 Ill.2d 211, 221 (1955) (rejecting position that courts had inherent authority to overrule requests for bench trials, as so holding would imply many statutes were invalid). Because the Act has long been considered valid, however, the assumption that speedy trial rights are merely a matter of scheduling or docket management consigned to the judiciary is fundamentally flawed.

Thus, the Speedy Trial Act is not merely a procedural rule involving the scheduling of criminal trials, but instead enforces the constitutional right to a speedy trial. *People v. Zeleny*, 396 Ill.App.3d 917, 919-920 (2d Dist. 2009) As such, this Court could not lawfully suspend the operation of the statute on its own, without a determination that the statute itself is unconstitutional. *See People ex rel. Difanis v. Barr*, 83 Ill.2d 191, 201 (1980) ("As long as the means chosen by the legislature to achieve a desired end are lawful and inoffensive to the State and Federal constitutions, our inquiry may proceed no further").

It is well-settled that the judicial branch has no authority to thwart the legislature by suspending statutes, or by reading exemptions into statutes, to make them conform with the court's policy preferences, let alone to do so in an advisory way when there is no case before it. *See Board of Education of Roxana Community School District No. 1*, 2013 IL 115473, ¶25. As discussed in Mr. Mayfield's opening brief, the administrative and supervisory authority bestowed upon the courts by Article VI, Section 16 of the Illinois Constitution does not allow this Court to interfere with a constitutional enactment of the legislature. This Court's orders altering the Speedy Trial Act were nothing less than a judicial rewriting of a statute's operation, and indeed was essentially tantamount

to a suspension of the statute. As such, they cannot be reconciled with basic norms governing the separation of powers.

Moreover, the State's reliance on the fact the General Assembly has "concurrent constitutional authority to enact statutes regulating the administration of the court system consistent with public policy, but only so long as those regulations do not conflict with pronouncements of this Court" is also misplaced. (St. Br., p. 13, 19) The State relies on language from *Kunkel v. Walton*, 179 Ill.2d 519, 528 (1997), where this Court concluded that the authority of the branches of government may overlap, and language in *People v. Walker*, 119 Ill.2d 465, 475 (1988), where this Court recognized the legislature has "the concurrent constitutional authority to enact complementary statutes" concerning court procedure. (St. Br., p. 13). The State seizes on this notion of shared authority and suggests that there are broad territories like speedy trial rights in which the legislature can act, but only when the judiciary has as yet been silent. (St. Br., p. 15-16, 19). Yet, the State fails to recognize that this Court in *Kunkel* rejected the idea that there are such areas broad enough to encompass speedy trial rights, noting that the idea of concurrent powers only allows for statutes which merely "complement the authority of the judiciary or that have only a peripheral effect on court administration." *Kunkel*, 179 Ill.2d at 528.

Because the Speedy Trial Act's impact greatly exceeds the narrow bounds of this shared domain, the State's argument fails. The Act's plain language mandates the termination of an entire judicial proceeding through the dismissal of charges when it is violated. *See People v. Staten*, 159 Ill.2d 419, 426 (1994)(describing the statute's strict operation). The Act constrains rather than "complement[s]" judges' "authority." *Kunkel*, 179 Ill.2d at 528. And, the impacts of the Speedy Trial Act on the process of

criminal trials are far from a mere "peripheral effect." *Kunkel*, 179 Ill.2d at 528. The Act's potential consequences animate routine choices about whether to continue a case, they mandate the regular allocation of each party's responsibility for delays, and when found violated, the Act requires the charges to be dismissed and the defendant to go free. Therefore, because speedy trial issues are not merely "peripheral" to the trial process, they cannot inhabit an area of shared authority between the judiciary and the legislature.

Similarly, the State's argument that where a conflict exists between a legislative enactment and a pronouncement of the Supreme Court on a matter within the Court's authority, the rule will prevail, is irrelevant. (St. Br., p. 14) As discussed in the opening brief and above, the Speedy Trial Act is a proper legislative expansion of defendant's Sixth Amendment rights and does not encroach on the judiciary branch. (Def. Op. Br., p. 12-14); *People v. Christy*, 206 Ill.App.3d 361, 367 (4th Dist. 1990). The administrative and supervisory authority bestowed upon the courts that the State cites to does not allow this Court to interfere with a constitutional enactment of the legislature. Thus, the State is incorrect in asserting that this Court's orders must prevail in a conflict with a proper constitutional enactment of the legislature.

Finally, this Court should be troubled that the State's argument lacks any limiting principle. The State locates the power to suspend the Speedy Trial Act's operation not in some temporary source of emergency authority, but in the judicial branch's defining of constitutional authority. To find the power to nullify speedy trial rights in *that* provision entails that the power is not contingent on the pandemic at all. As such, to accept the State's argument requires accepting the proposition that this Court or every Chief Judge in the State can, for *any* reason it deems appropriate, suspend, amend, or even abolish

the statutory right to a speedy trial–and potentially many other fundamental statutory rights– via order or rule. That is a stunning assertion of power, and one with what appears to be no check on such judicial overreach.

In sum, it is evident that the Speedy Trial Act is not merely a procedural rule involving the scheduling of criminal trials, but instead enforces the constitutional right to a speedy trial. *Zeleny*, 396 Ill.App.3d at 919-920. The judicial branch has no authority to thwart the legislature by suspending statutes, or by reading exemptions into statutes, to make them conform with the court's policy preferences, let alone to do so in an advisory way when there is no case before it. *See Board of Education of Roxana Community School District No. 1*, 2013 IL 115473, ¶25. Nor does the administrative or supervisory authority bestowed upon the courts by Article VI, Section 16 of the Illinois Constitution allow this Court to interfere with a constitutional enactment of the legislature. As this Court has recently observed, the principle that a court ought "not read into [a statute] exceptions, conditions, or limitations that the legislature did not express" holds even as the "pandemic . . . loomed large in the mind." *Corbin v. Schroeder*, 2021 IL 127052, ¶¶42-45.

As such, this Court could not lawfully suspend the operation of the statute on its own, without a determination that the statute itself is unconstitutional. *See Barr*, 83 Ill.2d 191, 201 (1980) ("As long as the means chosen by the legislature to achieve a desired end are lawful and inoffensive to the State and Federal constitutions, our inquiry may proceed no further"). Thus, short of declaring the Speedy Trial Act unconstitutional, this Court's orders altering the Act represent an attempt by the judicial branch to rewrite, and as a result suspend a statute. Such judicial rewriting of the speedy trial statute cannot be reconciled with basic norms governing the separation of powers. To hold otherwise would irreconcilably conflict with a host of this Court's precedents.

Newlin, 221 Ill. 166; *City of Urbana v. Andrew N.B.*, 211 Ill.2d 456, 470 (2004) (recognizing that this Court's general administrative and supervisory authority extends only to the adjudication and application of law and the procedural administration of the courts); *Henrich v. Libertyville High School*, 186 Ill.2d 381, 394 (1998) (holding that courts may not enact or amend statutes); *People v. House*, 10 Ill.2d 556, 558 (1957) (holding that the Speedy Trial Act confers a "substantial and absolute right upon the defendant under the constitution").

Therefore, the orders purporting to suspend the operation of the legislatively enacted Speedy Trial Act violate this Court's own well-established conception of separation of powers and must be found unconstitutional. In the event the Speedy Trial Act requires amendment in order to conform with the needs of public policy, that responsibility plainly lies with the legislature, not the courts. Thus, because this Court's orders suspending the operation of the Speedy Trial Act were unconstitutional, Mr. Mayfield's conviction must be reversed as he was not brought to trial within the statutorily required 120-day period.

CONCLUSION

For the foregoing reasons, Gary Mayfield, defendant-appellant, respectfully requests that this Court reverse his conviction.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this reply brief conforms to the requirements of Rules 341(a) and (b). The length of this reply brief, excluding pages contained in the Rule 341(d) cover and the certificate of service, is 11 pages.

/s/Zachary Wallace
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NOTICE AND PROOF OF SERVICE

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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 November 9, 2022, the Reply Brief 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, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellant in an envelope deposited in a U.S. mail box in Elgin, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Reply Brief to the Clerk of the above Court.

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