

TABLE OF CONTENTS

NATURE OF THE CASE	1
ISSUE PRESENTED	1
JURISDICTION	2
STATEMENT OF FACTS	3

POINTS AND AUTHORITIES

ARGUMENT	9
I. Standards of Review	10
<i>In re D.S.</i> , 198 Ill. 2d 309 (2001)	10
<i>People v. Marker</i> , 233 Ill. 2d 158 (2009)	10
II. Defendant is not entitled to vacatur of his conviction because his statutory right to a speedy trial was not violated	10
<i>Barker v. Wingo</i> , 407 U.S. 514 (1972)	17
<i>Bd. of Educ. of Roxanna Comm. Sch. Dist. No. 1 v. Pollution Control Bd.</i> , 2013 IL 115473	18
<i>Best v. Taylor Mach. Works</i> , 179 Ill. 2d 367 (1997)	13
<i>Burger v. Lutheran General Hosp.</i> , 198 Ill. 2d 21 (2001)	13
<i>Citibank, N.A. v. Ill. Dept. of Rev.</i> , 2017 IL 121634	18
<i>Corbin v. Schroeder</i> , 2021 IL 127052	18, 19
<i>DeSmet ex rel. Estate of Hays v. Cnty. of Rock Island</i> , 219 Ill. 2d 497 (2006)	18
<i>Donovan v. Holzman</i> , 8 Ill. 2d 87 (1956)	18

<i>Henrich v. Libertyville High School</i> , 186 Ill. 2d 381 (1998)	18
<i>Kunkel v. Walton</i> , 179 Ill. 2d 519 (1997)	13
<i>McDunn v. Williams</i> , 156 Ill. 2d 288 (1993)	15
<i>Newlin v. People</i> , 221 Ill. 166 (1906)	21
<i>People ex rel. Difanis v. Barr</i> , 83 Ill. 2d 191 (1980)	18
<i>People v. Crane</i> , 195 Ill. 2d 42 (2001)	17
<i>People v. Gawlak</i> , 2019 IL 123182	13
<i>People v. Hunter</i> , 2013 IL 114100.....	17
<i>People v. Joseph</i> , 113 Ill. 2d 36 (1986).....	16
<i>People v. Kennedy</i> , 101 Ill. 6 App. 2d 91 (4th Dist. 1968).....	16
<i>People v. Peterson</i> , 2017 IL 120331	13, 14, 19, 21
<i>People v. Sandoval</i> , 236 Ill. 2d 57 (2010)	15, 17
<i>People v. Stuckey</i> , 34 Ill. 2d 521 (1966)	17
<i>People v. Walker</i> , 119 Ill. 2d 465 (1988)	13, 15, 19
<i>Smith v. Bd. of Educ. of Oswego Comm. High Sch. Dist.</i> , 405 Ill. 143 (1950).....	18
<i>Stamos v. Jones</i> , 40 Ill. 2d 62 (1968)	16
<i>Stiska v. City of Chi.</i> , 405 Ill. 374 (1950)	18
Ill. Const. 1970, art. I, § 8	17
Ill. Const. 1970, art. II, § 1.....	12

Ill. Const. 1970, art. VI, § 16	13, 20, 21
Ohio Const. Art. IV, § 5.....	20
U.S. Const., amend. VI	17
U.S. Const., amend. XIV	17
725 ILCS 5/103-5 (West 2018).....	12, 17
Communication from Ohio Supreme Court Chief Justice Maureen O'Connor regarding speedy trial requirements, <i>available at</i> perma.cc/2KQY-2EKK	20
CONCLUSION	22
CERTIFICATE OF COMPLIANCE	
PROOF OF FILING AND SERVICE	

NATURE OF THE CASE

Defendant, Gary Mayfield, was found guilty of aggravated domestic battery under 720 ILCS 5/12-3.2(a)(1) at a Lake County bench trial and sentenced to 42 months in prison. C163, 166.¹ He appealed, and the appellate court rejected his argument that this Court lacked authority to toll the statutory time restrictions provided in Illinois's Speedy Trial Act, 725 ILCS 5/103-5 (2020), and affirmed his conviction. A43. Defendant appeals from that judgment.

ISSUE PRESENTED

Starting in March 2020, in response to the Covid-19 pandemic, this Court issued a series of orders tolling the time requirements of the Speedy Trial Act. These orders were issued consistent with the *Emergency Preparedness Standards for the Illinois Circuit Courts* ("Standards") promulgated on January 1, 2009, by the Administrative Office of the Illinois Courts pursuant to this Court's direction for the purpose of "protecting the health and safety of Judicial Branch personnel and . . . keeping the courts open and operational in the event of a disruption or emergency." Section 2.08 of the Standards provides, in relevant part:

¹ Citations to defendant's appendix, the common law record, the report of proceedings, and defendant's opening brief appear as "A_," "C_," "R_," and "Def. Br. __," respectively.

In the event a court facility is closed due to an emergency, procedures shall be established to facilitate requests to suspend, toll, or otherwise grant relief from time deadlines imposed by statutes and rules. This may include, but is not limited to, those procedures affecting speedy trials in criminal and juvenile proceedings.

The issue presented is whether defendant's conviction should be affirmed because he had a timely trial under the Speedy Trial Act as tolled by this Court's orders.

JURISDICTION

Jurisdiction lies under Supreme Court Rules 315 and 602. This Court allowed defendant leave to appeal on March 30, 2022.

STATUTORY PROVISION INVOLVED

§ 5/103-5. Speedy Trial.

- (a) Every person in custody in this State for an alleged offense shall be tried by the court having jurisdiction within 120 days from the date he or she was taken into custody unless delay is occasioned by the defendant, by an examination for fitness ordered pursuant to Section 104-13 of this Act [725 ILCS 5/104-13], by a fitness hearing, by an adjudication of unfitness to stand trial, by a continuance allowed pursuant to Section 114-4 of this Act [725 ILCS 5/114-4] after a court's determination of the defendant's physical incapacity for trial, or by an interlocutory appeal. Delay shall be considered to be agreed to by the defendant unless he or she objects to the delay by making a written demand for trial or an oral demand for trial on the record. The provisions of this subsection (a) do not apply to a person on bail or recognizance for an offense but who is in custody for a violation of his or her parole, aftercare release, or mandatory supervised release for another offense.

725 ILCS 5/103-5 (2020).

STATEMENT OF FACTS

Pre-Trial

On February 15, 2020, defendant was charged with two counts of domestic battery against Taneeka Rogers. C24. On March 4, 2020, a grand jury indicted him of four counts of domestic battery. C27-30. At defendant's arraignment in the Circuit Court of Lake County on March 12, 2020, R2-5, Judge Theodore Potkonjak informed defendant and counsel that the case was set before Judge Mark Levitt and that Judge Levitt's next available trial date was April 27, 2020, R4. Defense counsel responded, "If that's the earliest, Judge." *Id.* Judge Potkonjak replied, "Earliest date April 27th for trial," and set the case for trial on that date. *Id.*

On March 20, 2020, in response to the Covid-19 pandemic, this Court ordered that "the Chief Judges of each circuit may continue trials for the next 60 days and until further order of this Court," and that trial delays resulting from that order would not be attributable to the State or the defendant under the Speedy Trial Act, 725 ILCS 5/103-5. *See* A14 (Ill. Sup. Ct. Order M.R. 30370, Mar. 20, 2020). Four days later, at a case management conference, this case was continued by order of the circuit court in defendant's absence. C45.

On April 7, 2020, this Court issued an additional order that allowed the chief judges of each circuit to continue trials until further notice of the Court, and directed that “such continuances shall be excluded from speedy trial computations contained in section 103-5.” A16 (Ill. Sup. Ct. Order M.R. 30370, Apr. 7, 2020). The Court added, “Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of this Court.” *Id.*

About one week later, on April 15, 2020, defendant appeared remotely from the Lake County Jail for a hearing on his motion to reduce bond. C48. On April 21 and 27, 2020, the case was again continued on the circuit court’s motion in defendant’s absence. C52, 53.

On May 20, 2020, this Court entered an amended order:

The Chief Judges of each circuit may continue trials until further order of this Court. The continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial. Therefore, such continuances shall be excluded from speedy trial computations contained in section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)) and section 5-601 of the Illinois Juvenile Court Act (705 ILCS 405/5-601 (West 2018)). Statutory time restrictions in section 103-5 of the Code of Criminal Procedure of 1963 and section 5-601 of the Juvenile Court Act shall be tolled until further order of this Court. This provision also applies when a trial is delayed when the court determines proper distancing and facilities limitations prevent the trial from proceeding safely. The judge in the case must find that such limitations necessitated the delay and shall make a record thereof.

A18 (Ill. Sup. Ct. Order M.R. 30370, May 20, 2020). Two days later, on May 22, 2020, the Chief Judge of the Lake County Circuit Court tolled the operation of the speedy trial statute. A28.

On May 26, 2020, defendant appeared remotely from the Lake County Jail for a case management conference. R8. Defense counsel observed that the case was on the June 1, 2020, trial call, and said, “[W]e are objecting to any continuances. He is demanding trial at this time.” *Id.* The court responded:

June 1st is not a realistic date for trial, number one. The Supreme Court, by order, has suspended speedy. I know that our chief judge has been trying to figure out ways that we can accommodate all of our people and start trying to get our juries back working again. A number of ideas have been proposed, none of them practical.

R8-9.

On June 1, 2020, defense counsel argued, “Your Honor, this comes before you for a jury trial today. . . . As indicated last week, we are continuing to demand trial. We are not agreeing to any continuances.” R12. The court responded, “Sir, I can’t accommodate your jury trial because of the COVID-19 shutdown by order of the Supreme Court. Speedy trial has been suspended by order of the Chief Judge in the 19th Judicial Circuit. No jurors are currently being brought into the building.” *Id.* On June 9, 2020, defense

counsel and the court substantively repeated this exchange. R16. On June 23, 2020, defendant asked the court to set a date for a bench trial. R20. By agreement, the court scheduled the bench trial for July 27, 2020. R21.

On July 7, 2020, defendant filed a motion for the bench trial to proceed via video conference. C66. The People responded that the court should deny defendant's motion and continue the trial to a date when a bench trial could safely be held in person. C72. On July 24, 2020, the court heard arguments on defendant's motion, and counsel argued, "We are also asking that the Court proceed virtually on Monday with the bench trial as previously scheduled. If the Court is not inclined to proceed in that manner, we would ask then you to consider the shortest of continuances, perhaps the first week in August." R28. The court responded:

[Defendant's] case, I contemplated being in the courtroom, and it was after that the Circuit determined that because of safety issues that we were not going to be doing in-person hearings and trials until the beginning of August. I know it seems like an arbitrary date but we were trying to facilitate big moves inside of the courthouse which now have been initiated. My courtroom will not be very familiar looking to anybody at this point. I think both sides have good arguments on this and I really need to think about it because the bottom line, . . . you cannot possibly contemplate all of the things that could happen during the course of the trial, and waiving and giving up rights at this point is incredibly premature because you may later find yourself in a position where you say that wasn't fair, I don't like what happened. So, I don't want to put you or the State in that position because I think it is unfair to both sides. What I will say is I will consider this and I will keep you on the call for

Monday. It won't be proceeding on Monday. If I determine that we can facilitate a virtual trial, we can proceed on Tuesday, Wednesday and Thursday. Short of that, the week of August 3rd . . . is one week away.

R32-33. On July 27, 2020, the court informed the parties that it could not accommodate a virtual trial and proposed a trial date of August 3, 2020. R37. The prosecutor noted he was out of town that week. *Id.* The court then proposed August 13, 2020. *Id.* Defense counsel responded, "We are asking for the soonest available date. That was the subject of my, I guess, objection last week wanting to do via Zoom. We waited so long." R37-38. The court set the case for an in-person bench trial on August 13, 2020. R39.

On August 11, 2020, defendant moved to dismiss pursuant to the speedy trial statute. C90. He argued that 121 days had run on the speedy trial clock as of the date of the motion — from his first court appearance on February 16, 2020, until the court's June 1, 2020, continuance, and then again from July 27, 2020 forward. C92. On August 20, 2020, the People responded, arguing principally that the Speedy Trial Act had been tolled by this Court's order. C124-28. On August 31, 2020, following a hearing, the court denied defendant's motion; it found that the speedy trial clock began to run on, and time was attributable to the People from, August 3, 2020 (the earliest available trial date pursuant to the Chief Judge's direction). R63-64.

Trial

The case proceeded to an in-person bench trial on September 9, 2020. R81. Rodgers testified that she was defendant's girlfriend at the time of the offense. R101. On the night of the attack, defendant accused Rodgers of sleeping with a childhood friend and then physically assaulted her at her home in Waukegan. R101. Defendant slapped Rodgers, she fled, and when she returned, he hit her again, knocked her to the floor, and kicked her in her stomach and head. R101-102.

The court held that Rodgers's testimony was "clear," "uncontradicted," and "unimpeached." R163. It found defendant guilty of aggravated domestic battery. *Id.*

Defendant's post-trial motion argued, in relevant part, that the circuit court erred in denying his speedy trial motion to dismiss. C150. The court disagreed:

The [post-trial] motion is and shall be denied. I should comment, however, since [counsel] noted it again reiterating her motion or her bases for her motion to dismiss, that being the calculation of time, I will state for the record that it is now October 5th — 6th rather, and we are still not operational in court. The parties at this time are — even now, everybody in my courtroom is masked and socially distanced; and cases that are proceeding to trial or to hearing are done only on a case by case basis. The Supreme Court's orders are still in effect. The orders of the Chief Judge of this Circuit are still in effect. The rationale that I gave for allowing the case to continue during Defendant's demand continues. There is no basis in my world to

believe that anything was done inappropriately or more importantly that there was any undue delay in bringing [defendant] to trial. In fact, the fact is he was one of the first trials that we have had, so that should be of record.

R171. The court then sentenced defendant to 42 months in prison, served at 50%, and four years of mandatory supervised release. C163.

Appeal

On appeal, defendant argued that even taking the orders of this Court and the Chief Judge of the Lake County Circuit Court into account, his trial was untimely,² and, in the alternative, that this Court exceeded its authority by “suspending” the operation of the speedy trial statute. A33. The appellate court held that taking the courts’ orders into account, 120 days had not run when defendant filed his motion to dismiss. A39. Additionally, the appellate court found, “the supreme court had the authority to allow for tolling speedy-trial terms in response to the extraordinary and dire circumstances that existed when the orders were entered.” A43.

ARGUMENT

This Court should affirm the appellate court’s judgment because this Court appropriately exercised its supervisory authority pursuant to the

² Defendant does not renew this argument on appeal to this Court.

Illinois Constitution when it tolled the timing requirements of the Speedy Trial Act.

I. Standards of Review

Whether an order is unconstitutional because it violated the Illinois Constitution's separation of powers doctrine is a question of law, which this Court reviews *de novo*. *In re D.S.*, 198 Ill. 2d 309, 321 (2001). The interpretation of a supreme court rule, like a statute, is also reviewed *de novo*. *People v. Marker*, 233 Ill. 2d 158, 162 (2009).

II. Defendant is not entitled to vacatur of his conviction because his statutory right to a speedy trial was not violated.

Defendant demanded trial for the first time on May 26, 2020. R8. Before that date, this Court had entered orders tolling the timing requirements of the Speedy Trial Act. Accordingly, the speedy trial clock did not begin running in this case until August 3, 2020, the earliest possible date on which the circuit court could have conducted a trial pursuant to the orders of this Court and the orders of the Chief Judge of the Circuit Court promulgated pursuant to this Court's orders. At the time defendant filed his motion to dismiss on August 11, 2020, only eight days had run on the speedy trial clock. Therefore, defendant's statutory speedy trial claim fails.

Defendant is incorrect that “[t]his Court’s orders allowing for the indefinite delay of trials and suspension of the legislatively enacted Speedy Trial Act violate Article II, Section 1 of the Illinois Constitution” (*e.g.*, the separation of powers clause). *See* Def. Br. 12-13. As an initial matter, this Court did not suspend the Speedy Trial Act. Rather, it tolled or excluded time attributable to continuances issued pursuant to M.R. 30370, “Illinois Courts Response to COVID-19 Emergency.” And the Court undoubtedly had the authority to take this action, and any other action related to timing requirements involved in the administration of the court system, pursuant to Article VI, Section 16 of the Illinois Constitution.

On April 7, 2020, in response to the Covid-19 crisis, the Court “exercise[d] [its] general administrative and supervisory authority over the courts of Illinois conferred on this Court pursuant to Article VI, Section 16 of the Illinois Constitution of 1970,” and directed that the chief judges of each circuit may continue trials until further order of the Court, and that time restrictions under the Speedy Trial Act “shall be tolled until further order of this Court.” A16. It found that “continuances occasioned by this Order serve the ends of justice and outweigh the best interests of the public and defendants in a speedy trial.” *Id.*

On May 20, 2020, again pursuant to its Article VI, Section 16 authority, this Court amended its order: “The Chief Judges of each circuit may continue trials until further order of this Court” for the same reasons. A18. Again, the Court confirmed that “such continuances shall be excluded from speedy trial computations contained in section 103-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5 (West 2018)),” and that “[s]tatutory time restrictions in section 103-5 of the Code of Criminal Procedure . . . shall be tolled until further order of this Court.” *Id.* Moreover, the Court ordered, “This provision also applies when a trial is delayed when the court determines proper distancing and facilities limitations prevent the trial from proceeding safely.” *Id.* Just two days later, the Chief Judge of the Lake County Circuit Court tolled the operation of the speedy trial statute in that court. A26.

Defendant’s argument that this “Court’s grant of administrative authority does not stretch so far as to allow it to rewrite long-standing statutory protections of constitutional rights, like the Speedy Trial Act,” Def. Br. 17, turns the Illinois Constitution’s separation of powers clause, Ill. Const. 1970, art. II, § 1, on its head. Where an order of the Illinois Supreme Court and an Act of the General Assembly conflict on a matter of judicial

administration, it is the Court's order that controls, not the statute. *See People v. Peterson*, 2017 IL 120331, ¶ 31.

The Illinois Constitution vests this Court with general administrative and supervisory authority over all the courts, and empowers the Court to promulgate procedural rules to aid the judiciary in the discharge of its constitutional duties. *People v. Gawlak*, 2019 IL 123182, ¶ 34 (citing Ill. Const. art. VI, § 16). This judicial power includes rulemaking authority to regulate the trial of cases. *Peterson*, 2017 IL 120331, ¶ 29. And this Court has a constitutional duty to preserve the integrity and independence of the judiciary and to protect judicial power from encroachment by other branches of government. *Best v. Taylor Mach. Works*, 179 Ill. 2d 367, 438 (1997).

To be sure, the General Assembly has the authority to pass legislation regulating court procedures. The separation of powers clause is not intended to achieve a “complete divorce” between the branches of government, *Burger v. Lutheran General Hosp.*, 198 Ill. 2d 21, 33 (2001); *Kunkel v. Walton*, 179 Ill. 2d 519, 528 (1997), and the separate spheres of authority exercised by each branch may “overlap,” *Kunkel*, 179 Ill. 2d at 528. Because the legislative branch is charged with determining public policy, it has “the concurrent constitutional authority to enact complementary statutes” concerning court procedure. *People v. Walker*, 119 Ill. 2d 465, 475 (1988). But

notwithstanding this overlap in authority, this Court retains primary constitutional authority over court procedure; accordingly, where an irreconcilable conflict exists between a legislative enactment and a rule of the Court on a matter within the Court's authority, the rule will prevail.

Peterson, 2017 IL 120331, ¶ 31. Thus, to the extent that this Court's orders and the Speedy Trial Act conflict — in that the Court's orders tolled the statutory speedy trial period based on a balancing of considerations due to Covid-19 but the Act did not — the Court's order controls.

This result does not change because the Court exercised its authority here via court order as opposed to issuing a rule, as defendant posits, *see* Def. Br. 17 (“this Court has not promulgated rules concerning speedy trials and has therefore left the matter to the legislature”). The Court's supervisory authority is:

an extraordinary power. It is hampered by no specific rules or means for its exercise. It is so general and comprehensive that its complete and full extent and use have practically hitherto not been fully and completely known and exemplified. It is unlimited, being bounded only by the exigencies which call for its exercise. As new instances of these occur, it will be found able to cope with them. Moreover, if required, the tribunals having authority to exercise it will, by virtue of it, possess the power to invent, frame, and formulate new and additional means, writs, and processes whereby it may be exerted. This power is not limited by forms of procedure or by the writ used for its exercise.

McDunn v. Williams, 156 Ill. 2d 288, 301-02 (1993) (citations omitted). In other words, this Court may exercise its supervisory authority by any means it deems appropriate. So, the fact that the Court tolled the statutory speedy trial clock by order rather than rule does not undermine the primacy of the Court's orders on this matter of judicial procedure.

Contrary to defendant's assertion that there "is no principled way to hold that the Act's fixed deadlines are ordinarily within the legislature's control, but become transported out of the legislature's domain when circumstances make those deadlines administratively challenging," Def. Br. 21, that is exactly how the Illinois Constitution distributes authority among the branches of government. 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. *See Walker*, 119 Ill. 2d at 475. This Court had not previously issued rules or orders governing the tolling of time for purposes of speedy trial calculations, so the General Assembly was free to do so. *See People v. Sandoval*, 236 Ill. 2d 57, 67 (2010). But when this Court determined in its supervisory role over the judiciary that tolling the Speedy Trial Act's time limitations was necessary to confront the exigencies of the Covid-19 pandemic and to "serve the ends of

justice,” A16, the Court properly exercised its primary constitutional authority to regulate the administration of cases in the State’s court system. The Constitution makes clear that this Court’s supervisory authority prevails, even if applying this Court’s orders conflicts with the Act. *See, e.g., People v. Kennedy*, 101 Ill. 6 App. 2d 91, 95 (4th Dist. 1968) (authority to make rules governing time for appeal lies solely with this Court) (citing *Stamos v. Jones*, 40 Ill. 2d 62, 66 (1968) (“the constitution has placed responsibility for rules governing appeal in the Supreme Court, and not in the General Assembly”)).

Indeed, *People v. Joseph*, 113 Ill. 2d 36 (1986), on which defendant relies for the proposition that “the Court’s Article VI, Section 16 power does not ‘purport to exclude the legislature from acting in any way which may have a *peripheral* effect on judicial administration,’” *see* Def. Br. 21 (citing *Joseph* 113 Ill. 2d at 43) (emphasis in original)), held that the legislature *was* excluded from acting to require that postconviction petitions proceed before a judge who was not involved in the original proceeding. As the Court explained, that legislative enactment conflicted with Illinois Supreme Court Rule 21, which granted the chief judges of the circuits the authority to issue general orders regarding the assignment of judges. *Joseph*, 113 Ill. 2d at 45-46.

Defendant is likewise incorrect when he suggests that the Court lacked the authority to toll the statutory speedy trial clock because doing so undermined the constitutional right to a speedy trial that the statute prophylactically seeks to protect (nor, notably, has defendant ever argued that his constitutional speedy trial right was violated). Def. Br. 13, 20. The statutory speedy trial right, 725 ILCS 5/103-5, is separate from the constitutional right to a speedy trial, U.S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, § 8. While the provisions address similar concerns, the statutory and constitutional rights are not coextensive. *People v. Hunter*, 2013 IL 114100, ¶ 9. Both this Court and United States Supreme Court have long held that the constitutional right to a speedy trial must be balanced against the interests of justice, *see Barker v. Wingo*, 407 U.S. 514, 522 (1972); *Sandoval*, 236 Ill. 2d at 67 (citing *People v. Crane*, 195 Ill. 2d 42, 47 (2001)), which is precisely what this Court did when it tolled the statutory speedy trial clock, A16. Thus, the Court's orders did not undermine the purpose of the Speedy Trial Act to "prevent the constitutional issue from arising." *People v. Stuckey*, 34 Ill. 2d 521, 523 (1966).

Defendant's reliance on cases regarding the general power of the legislature to enact laws and the court's province to construe them, *see, e.g.* Def. Br. 11, 13-14, 16-17, is misplaced because they are irrelevant to

determining whether this Court may override a statutory pronouncement with respect to the procedural administration of the court system. For example, in *Henrich v. Libertyville High School*, 186 Ill. 2d 381 (1998), *see* Def. Br. 11, the Court applied established rules of statutory construction when determining whether the School Code or Tort Immunity Act controlled a particular factual circumstance, *see* 186 Ill. 2d at 383, but said nothing about the issue presented here. Numerous other cases cited by defendant are similarly inapposite because they discuss the general limits on this Court's authority to interpret or limit legislative acts rather than the Court's supervisory authority over the procedural administration of the court system. *See Bd. of Educ. of Roxanna Comm. Sch. Dist. No. 1 v. Pollution Control Bd.*, 2013 IL 115473 (Def. Br. 13, 16); *People ex rel. Difanis v. Barr*, 83 Ill. 2d 191 (1980) (Def. Br. 13-14); *Smith v. Bd. of Educ. of Oswego Comm. High Sch. Dist.*, 405 Ill. 143 (1950) (Def. Br. 14); *Stiska v. City of Chi.*, 405 Ill. 374 (1950) (Def. Br. 14); *DeSmet ex rel. Estate of Hays v. Cnty. of Rock Island*, 219 Ill. 2d 497 (2006) (Def. Br. 14); *Donovan v. Holzman*, 8 Ill. 2d 87 (1956) (Def. Br. 14); and *Citibank, N.A. v. Ill. Dept. of Rev.*, 2017 IL 121634 (Def. Br. 16, 17)

Defendant's reliance on *Corbin v. Schroeder*, 2021 IL 127052 (Def. Br. 17-18), is also unavailing. There, this Court refused to "suspend an Election

Code provision” based on the exigencies of the Covid-19 pandemic, where the General Assembly had not done so and none of the “changes’ to various procedures ordered by the Governor” concerned the provision of the Election Code at issue. *Corbin*, 2021 IL 127052, ¶ 44. The Court noted that even during the pandemic, it remained true that this Court cannot read exceptions, conditions, or limitations into statutes that the General Assembly did not include. *Id.* at ¶¶ 42-45. But *Corbin* dealt with interpretation of an election rule regarding ballot access, *id.* at ¶ 44, not a rule governing the administration of judicial proceedings. Because the rule at issue in *Corbin* did not encroach on this Court’s primary constitutional authority to regulate the trial of cases, *Corbin* is inapposite.

It is irrelevant that Kansas and Ohio chose to address the pandemic’s challenges via legislative amendments to their speedy trial acts. *See* Def. Br. 18-19. Certainly, the General Assembly could have amended the speedy trial statute. *See Walker*, 119 Ill. 2d at 475 (legislative branch has “concurrent constitutional authority to enact complementary statutes” concerning court procedure). But that does not change the fact that this Court has recognized its primary supervisory authority over court procedure pursuant to the Illinois Constitution, even where the General Assembly has concurrent authority. *See Peterson*, 2017 IL 120331, ¶ 31.

Nor is it telling that the Chief Justice of the Ohio Supreme Court opined that the Ohio Supreme Court lacked the authority to toll Ohio's statutory speedy trial right. *See* Communication from Ohio Supreme Court Chief Justice Maureen O'Connor regarding speedy trial requirements, *available at* perma.cc/2KQY-2EKK (last visited Oct. 25, 2022); Def. Br. 19. As an initial matter, Justice O'Connor noted that under Ohio law, even after the legislatively enacted tolling period expired, individual judges had "the authority to continue jury and bench trials for defendants on a case-by-case basis" in response to the Covid-19 pandemic. *Id.* Moreover, the Ohio Constitution vests that state's Supreme Court with a more limited power to supervise the judiciary than the Illinois Constitution bestows on this Court. The Ohio Constitution holds, "In addition to all other powers vested by this article in the Supreme Court, the Supreme Court shall have general superintendence over all courts in the state. Such general superintending power shall be exercised by the chief justice in accordance with rules promulgated by the Supreme Court." Ohio Const. Art. IV, § 5. But the Ohio Constitution goes on to state that such "rules shall not abridge, enlarge, or modify any substantive right." *Id.* Illinois's constitution places no such limitation on the power of this Court to exercise its "supervisory authority over all courts." Ill. Const. 1970 Art. VI, § 16. Accordingly, while it may be

that the Ohio Supreme Court could not toll Ohio's speedy trial statute, this Court plainly possesses the authority to toll Illinois's statute.

Finally, as the appellate court correctly determined, A9-11, defendant's reliance on *Newlin v. People*, 221 Ill. 166 (1906), see Def. Br. 15-16, is misplaced. In *Newlin*, the defendant could not be timely brought to trial due to a judge's illness. 221 Ill. at 175. This Court reversed the defendant's conviction and explained, "If the provisions of the law do not insure the transaction of the business of the courts a remedy may be afforded by the legislature. We are without power to read into the statute in question an exception which does not appear there." *Id.* at 173-74. But *Newlin* was decided under the Illinois Constitution of 1870, which did not vest this Court with "[g]eneral administrative and supervisory authority over all courts" that the current constitution grants. Ill. Const. 1970, art. VI, § 16. Indeed, *Newlin's* reasoning is inconsistent with the broad scope of judicial power that this Court has repeatedly recognized it possesses under the 1970 Constitution. See *Peterson*, 2017 IL 120331, ¶ 31. That authority encompasses the power to regulate the scheduling of trials, and when this Court exercises that authority, legislation in conflict must yield.

CONCLUSION

This Court should affirm the appellate court's judgment.

October 26, 2022

Respectfully submitted,

KWAME RAOUL
Attorney General of Illinois

JANE ELINOR NOTZ
Solicitor General

KATHERINE M. DOERSCH
Criminal Appeals Division Chief

GARSON S. FISCHER
Assistant Attorney General
100 West Randolph Street, 12th Floor
Chicago, Illinois 60601
(773) 590-6911
eserve.criminalappeals@ilag.gov

*Attorneys for Plaintiff-Appellee
People of the State of Illinois*

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) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 22 pages.

/s/ Garson S. Fischer
GARSON S. FISCHER
Assistant Attorney General

PROOF OF FILING AND SERVICE

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct. On October 26, 2022, the foregoing **Brief of Plaintiff-Appellee People of the State of Illinois** was electronically filed with the Clerk, Illinois Supreme Court, and served upon the following by way of this Court's Odyssey e-filing system:

Zachary Wallace
Office of the State Appellate Defender
One Douglas Avenue, Second Floor
Elgin, IL 60120
(847) 782-3654
4thdistrict.eserve@osad.state.il.us

*Counsel for Defendant-Appellant
Gary Mayfield*

/s/ Garson S. Fischer
*Counsel for Plaintiff-Appellee
People of the State of Illinois*