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2018 WINTER ISSUE CRIMINAL JUSTICE PUBLICATION DIGEST

(A COMPLETE LISTING OF ALL OCT-DEC 2017 CASES ANALYZED IN THE IPS WINTER 2018 QUARTERLIES)

A. CONFESSIONS AND ADMISSIONS

WINTER – 2018

IN THIS ISSUE

1. **People v. Gregory Sandifer, 2017 IL APP (1st) 142740, (1st Dist., December 14, 2017) First-Degree Murder, Attempt First-Degree Murder, Aggravated Criminal Sexual Assault, and Aggravated Domestic Battery - - Affirmed in Part; Vacated in Part. **ISSUE:** Did the pain the defendant was suffering and the medication he was taking prevent his statements from being voluntarily given? (Yes).**
2. **People v. William L. Beck, 2017 IL APP (4th) 160654, (4th Dist., November 30, 2017) Aggravated DUI - - Affirmed. **ISSUE:** Did the police violate this defendant's *Miranda* rights by improperly conducting a custodial interrogation? (No).**

B. CRIMINAL CASE LAW QUARTERLY

WINTER – 2018

1. **People v. Michael Fein, 2017 IL APP (1st) 152091, (1st Dist., December 19, 2017) Theft from the Person - - Affirmed. **ISSUE: REASONABLE DOUBT (Theft):** Did the People introduce sufficient evidence to support this defendant's theft conviction? (Yes).**
2. **People v. Marek P. Gaciarz, 2017 IL APP (2nd) 161102, (2nd Dist., December 19, 2017) Involuntary Sexual Servitude of a Minor; Traveling to meet a Minor and Grooming - - Affirmed. **ISSUE: REASONABLE DOUBT (Involuntary Sexual Servitude of a Minor, Grooming and Traveling to meet a Minor):** Did the People introduce sufficient evidence to support this defendant's convictions? (Yes).**
3. **People v. Daniel J. Olaska, 2017 IL APP (2nd) 150567, (2nd Dist., December 19, 2017) First-Degree Murder - - Affirmed. **ISSUE: REASONABLE DOUBT (First-Degree Murder):** Did the People introduce sufficient evidence to support this defendant's murder convictions? (Yes).**

4. **People v. Gregory Sandifer, 2017 IL APP (1st) 142740, (1st Dist., December 14, 2017)** First-Degree Murder, Attempt First-Degree Murder, Aggravated Criminal Sexual Assault, and Aggravated Domestic Battery - - Affirmed in Part; Vacated in Part. **ISSUE: OFFENSES (One Act – One Offense)**: Could the defendant properly be convicted of both Attempted First-Degree Murder and Aggravated Criminal Sexual Assault? (No).

5. **People v. Deotae X. Murray, 2017 IL APP (2nd) 150599, (2nd Dist., December 13, 2017)** First-Degree Murder and Unlawful Possession of a Firearm by a Street Gang Member - - Affirmed. **ISSUE: REASONABLE DOUBT (Accountability)**: Did the People introduce sufficient evidence to support this defendant's conviction for First-Degree Murder based upon accountability? (Yes).

6. **People v. Marcelus Witherspoon, 2017 IL App (4th) 150512, (4th Dist., December 6, 2017)** Home Invasion - - Reversed. **ISSUE: REASONABLE DOUBT (Home Invasion)**: Did the consent of the occupant of the home give the defendant the authority to enter the home despite the defendant's bond condition that he not enter the home? (Yes).

7. **People v. Fernando Casas, Jr., 2017 IL 120797, (Ill. Sup. Ct., December 5, 2017)** Dismissal of Charge - - Appellate Decision Reversed and Remanded. **ISSUE: STATUTORY CONSTRUCTION (Violation of Bail Bond)**: Is the violation of a bail bond an ongoing offense for purposes of the statute of limitations? (Yes).

8. **People v. Antoine Harman, 2017 IL 121453, (Ill. Sup. Ct., November 30, 2017)** Possession of a Controlled Substance with the Intent to Deliver - - Affirmed. **ISSUE: STATUTORY CONSTRUCTION (Possession of a Controlled Substance with the Intent to Deliver)**: Are the People required to prove that the building in question was operating as a school when his offense was committed? (No).

9. **People v. Kevin Hunter and Drashun Wilson, 2017 IL 121306, (Ill. Sup. Ct., November 30, 2017)** Aggravated Vehicular Hijacking and Aggravated Battery with a Firearm - - Affirmed. **ISSUE: STATUTORY CONSTRUCTION (Juvenile Law Amendments)**: Should the changes to the Juvenile Court Act be applied retroactively to these defendants? (No).

10. **People v. Walter Relerford, 2017 IL 121094, (Ill. Sup. Ct., November 30, 2017)** Stalking and Cyberstalking - - Reversed. **ISSUE: CONSTITUTIONALITY OF STATUTE (Stalking and Cyberstalking)**: Were portions of these offenses unconstitutionally overbroad? (Yes).

11. **People v. Zachary Scott, 2017 IL App (4th) 150529, (4th Dist., November 30, 2017)** Failure to Register as a Sex Offender - - Affirmed in part as modified and vacated in part. **ISSUE: REASONABLE DOUBT (Failure to Register as a Sex Offender)**: Did the People fail to present sufficient evidence to prove that the defendant lacked a fixed residence? (No).

12. **People v. Michael Escort, 2017 IL APP (1st) 151247, (1st Dist., November 22, 2017)** First-Degree Murder - - Reversed. **ISSUE: REASONABLE DOUBT (First-Degree Murder)**: Did the People introduce sufficient evidence to support this defendant's First-Degree Murder conviction? (No).

13. **People v. Albert Davis, 2017 IL APP (1st) 142263, (1st Dist., November 20, 2017)** Residential Burglary and UUWF - - Affirmed in Part; Reversed in Part. **ISSUES: 1) REASONABLE DOUBT (Residential Burglary)**: Did the People introduce sufficient evidence to support this defendant's Residential Burglary conviction? (No); **2) REASONABLE DOUBT (UUWF)**: Did the People present sufficient evidence to support this defendant's weapons offense? (Yes).

14. **People v. Alexander Wood, 2017 IL App (1st) 143135, (1st Dist., November 20, 2017)** Threatening a Public Official - - Reversed. **ISSUE: REASONABLE DOUBT (Threatening a Public Official)**: Did the defendant commit the offense of Threatening a Public Official when he left an irate message for a public defender wherein he stated that he hoped for a judge's death? (No).

15. **In re T.J.D., 2017 IL App (5th) 170133, (1st Dist., November 16, 2017)** Denial of Petition to Terminate Sex Offender Registration - - Affirmed. **ISSUES: 1) STATUTORY CONSTRUCTION (Petition to Terminate Sex**

Offender Registration): Does the “no-risk” requirement of the statute authorizing the termination of sex offender status create an impossible burden? **(No); 2) SEX OFFENDER STATUS (Termination):** Did the trial court abuse its discretion in denying this defendant’s petition to terminate his sex offender status? **(No).**

16. People v. Elisabeth M. Clark, 2017 IL App (3rd) 140987, (3rd Dist., November 1, 2017) Escape - - Reversed. **ISSUE: STATUTORY CONSTRUCTION (Escape): Could this defendant be convicted of escape when she failed to abide by the terms of her bond by failing to return to the County Jail? **(No).****

17. People v. Jimmy Lee, 2017 IL App (1st) 151652, (1st Dist., October 31, 2017) Aggravated Battery of a Nurse - - Reversed. **ISSUE: REASONABLE DOUBT (Armed Robbery): Did the People fail to present sufficient evidence to support this defendant’s conviction for Aggravated Battery of a Nurse? **(Yes).****

18. People v. Tythia Thigpen, 2017 IL App (1st) 153151, (1st Dist., October 31, 2017) Aggravated Battery of a Peace Officer - - Affirmed. **ISSUE: REASONABLE DOUBT (Aggravated Battery): Did the People fail to present sufficient evidence to support this defendant’s conviction for Aggravated Battery of a Peace Officer? **(No).****

19. In re Omar F., 2017 IL App (1st) 171073, (1st Dist., October 25, 2017) Adjudication of Delinquency - - Affirmed in Part; Reversed and Remanded in Part. **ISSUE: REASONABLE DOUBT (Armed Robbery): Did the People fail to present sufficient evidence to support this defendant’s adjudication of delinquency based upon Armed Robbery? **(No).****

20. People v. Steve Smith, 2017 IL App. (1st) 151312, (1st Dist., October 17, 2017) Robbery and Aggravated Battery of a Senior Citizen - - Affirmed in Part; Vacated in Part. **ISSUE: OFFENSES (One Act – One Crime): Could this defendant properly be convicted both of Robbery and Aggravated Battery of a Senior Citizen? **(No).****

21. People v. Randall W. Parrott, 2017 IL App (3rd) 150545, (3rd Dist., October 5, 2017) Domestic Battery - - Affirmed. **ISSUE: REASONABLE DOUBT (Affirmative Defense): Did the People prove that the defendant did not reasonably discipline his child with a belt? **(Yes).****

22. People v. Joseph Lane Heitmann, 2017 IL App (3rd) 160527, (3rd Dist., October 2, 2017) Dismissal of Petition for Judicial Review - - Affirmed. **ISSUE: STATUTORY CONSTRUCTION (FOID): Was this defendant ineligible to receive a FOID card under Federal Law? **(Yes).****

23. People v. Zachary Smith, 2017 IL App. (1st) 151643, (1st Dist., September 29, 2016) Armed Habitual Criminal and UUWF - - Affirmed in Part; Vacated in Part. **ISSUE: REASONABLE DOUBT (Armed Habitual Criminal and UUWF): Could the defendant’s prior felony convictions be used to convict this defendant of being an Armed Habitual Criminal and of being a Felon in Possession of a Weapon? **(Yes); 2) OFFENSES (One Act – One Crime):** Could this defendant properly be convicted both of being an Armed Habitual Criminal and UUWF? **(No).****

C. EVIDENCE CASE LAW

WINTER - 2018

1. People v. Brandon Matthews, 2017 IL App (4th) 150911, (4th Dist., December 19, 2017) Unlawful Delivery of a Controlled Substance - - Affirmed in Part; Vacated in Part. **ISSUES: 1) EVIDENCE (Hearsay): Did the trial court err in allowing hearsay evidence to be used against this defendant? **(Perhaps, but it was not plain error.); 2) EVIDENCE (Confidential Source):** Did the trial court err in refusing to allow the defense counsel to enquire concerning the identity of a confidential source? **(No).****

2. People v. Marek P. Gaciarz, 2017 IL APP (2nd) 161102, (2nd Dist., December 19, 2017) Involuntary Sexual Servitude of a Minor; Traveling to meet a Minor and Grooming - - Affirmed. **ISSUE: EVIDENCE (Video Recording): Did the trial court err in allowing an incomplete recording to be introduced against the defendant? **(Perhaps, but any error war harmless).****

3. **People v. Deotae X. Murray, 2017 IL APP (2nd) 150599, (2nd Dist., December 13, 2017)** First-Degree Murder and Unlawful Possession of a Firearm by a Street Gang Member - - Affirmed. **ISSUE: EVIDENCE (Prior Inconsistent Statement)**: Did the trial court err in allowing the People to introduce a prior inconsistent statement of the defendant's girlfriend into evidence? (Perhaps, but any error was harmless).
4. **People v. Alex Horine, 2017 IL App (4th) 170128, (4th Dist., December 5, 2017)** Grant of Motion to Rescind Summary Suspension - - Affirmed. **ISSUE: EVIDENCE (Hearsay)**: Did the trial court properly find that the Officer's testimony concerning what a witness told him was hearsay evidence? (No).
5. **People v. Mitchell Barnes, 2017 IL App (1st) 143902, (1st Dist., November 30, 2017)** Home Invasion and Robbery - - Affirmed. **ISSUE: EVIDENCE (Victim's Criminal History)**: Did the trial court err in refusing to allow the defendant to introduce the victim's prior criminal history? (No).
6. **People v. William L. Beck, 2017 IL APP (4th) 160654, (4th Dist., November 30, 2017)** Aggravated DUI - - Affirmed. **ISSUES: 1) EVIDENCE (Hospital Blood Draw)**: Did the People fail to provide a proper foundation for the introduction of this evidence? (No); **2) EVIDENCE (Police Blood Draw)**: Did the Officer have the authority to demand this blood draw? (Yes); **3) EVIDENCE (Retrograde Extrapolation)**: Did the trial court err in allowing this evidence to be introduced? (No); **4) EVIDENCE (Medical Records)**: Did the trial court err in granting the People access to the defendant's medical records? (No); **5) EVIDENCE (Use of Seatbelt)**: Did the trial court err in refusing to allow the defendant to introduce evidence that his victim was not wearing a seatbelt at the time of the accident? (No).
7. **People v. Albert Davis, 2017 IL APP (1st) 142263, (1st Dist., November 20, 2017)** Residential Burglary and UUWF - - Affirmed in Part; Reversed in Part. **ISSUE: EVIDENCE (Hearsay)**: Did the trial court err in allowing hearsay evidence to be used by the People against the defendant? (Perhaps, but any error was harmless).
8. **People v. Brian D. Patterson, 2017 IL App (3rd) 150062, (3rd Dist., ~~September 6, 2017~~)** Burglary - - Affirmed. (MODIFIED UPON DENIAL OF REHEARING: October 27, 2017) **ISSUE: EVIDENCE (Hearsay)**: Did the trial court err in refusing to allow the defendant to introduce hearsay evidence? (No).
9. **People v. Randall W. Parrott, 2017 IL App (3rd) 150545, (3rd Dist., October 5, 2017)** Domestic Battery - - Affirmed. **ISSUE: EVIDENCE (Confrontation)**: Was the defendant denied his right to confront the victim during his trial? (No).
10. **People v. Hiram Dabney, Sr., 2017 IL App (3rd) 140915, (3rd Dist., October 2, 2017)** Aggravated Criminal Sexual Assault - - Affirmed. **ISSUE: EVIDENCE (Hearsay)**: Did the trial court err in allowing the People to introduce a videotape statement of the victim? (No).

D. JUVENILE JUSTICE/WELFARE CASE LAW QUARTERLY

PART A - JUVENILE JUSTICE

WINTER - 2017

1. **In re D.L., 2017 IL App (1st) 171764, (1st Dist., December 14, 2017)** Denial Motion to Suppress - - Reversed and Remanded. **ISSUE: SEARCH AND SEIZURE (Reasonable Suspicion)**: Did the Officers had sufficient reasonable suspicion to justify their detention and frisk of this juvenile after they saw him walking away from an area where shots had been fired and fled when they approached? (No).
2. **In re Jarrell C., 2017 IL App (1st) 170932, (1st Dist., December 11, 2017)** Denial Motion to Suppress - - Reversed and Remanded. **ISSUE: SEARCH AND SEIZURE (Attenuation)**: Did the existence of a warrant for this defendant's arrest remove the taint of the defendant's illegal detention which lacked reasonable suspicion where the police did not learn of the warrant until after the defendant had been stopped, arrested and searched? (No).

3. **People v. Kevin Hunter and Drashun Wilson**, 2017 IL 121306, (Ill. Sup. Ct., November 30, 2017) Aggravated Vehicular Hijacking and Aggravated Battery with a Firearm - - Affirmed. **ISSUE: STATUTORY CONSTRUCTION (Juvenile Law Amendments):** Should the changes to the Juvenile Court Act be applied retroactively to these defendants? (No).

4. **In re T.J.D.**, 2017 IL App (5th) 170133, (1st Dist., November 16, 2017) Denial of Petition to Terminate Sex Offender Registration - - Affirmed. **ISSUES: STATUTORY CONSTRUCTION (Petition to Terminate Sex Offender Registration):** Does the “no-risk” requirement of the statute authorizing the termination of sex offender status create an impossible burden? (No); 2) **SEX OFFENDER STATUS (Termination):** Did the trial court abuse its discretion in denying this defendant’s petition to terminate his sex offender status? (No).

5. **In re Jarquan B.**, 2017 IL 121483, (Ill. Sup. Ct., November 8, 2017) Criminal Trespass to a Motor Vehicle - - Affirmed. **ISSUE: JUVENILE LAW (Sentences):** Was this defendant properly sentenced to the DJJ as the result of the revocation of his probation for a misdemeanor offense? (Yes).

6. **In re Omar F.**, 2017 IL App (1st) 171073, (1st Dist., October 25, 2017) Adjudication of Delinquency - - Affirmed in Part; Reversed and Remanded in Part. **ISSUES: 1) REASONABLE DOUBT (Armed Robbery):** Did the People fail to present sufficient evidence to support this defendant’s adjudication of delinquency based upon Armed Robbery? (No); 2) **SENTENCES (Over Broad):** Were the conditions placed upon this juvenile’s probation overbroad? (Yes).

PART B - JUVENILE WELFARE

WINTER - 2018

1. **In re AL P.**, 2017 IL App (4th) 170435, (4th Dist., November 1, 2017) Termination of Parental Rights - - Affirmed. **ISSUE: JUVENILE LAW (Termination of Parental Rights):** Did the trial court err in finding that the mother of this juvenile was unfit and ordering her parental rights terminated? (No).

2. **People v. Randall W. Parrott**, 2017 IL App (3rd) 150545, (3rd Dist., October 5, 2017) Domestic Battery - - Affirmed. **ISSUES: 1) REASONABLE DOUBT (Affirmative Defense):** Did the People prove that the defendant did not reasonably discipline his child with a belt? (Yes); 2) **EVIDENCE (Confrontation):** Was the defendant denied his right to confront the victim during his trial? (No).

E. SEARCH AND SEIZURE QUARTERLY

WINTER – 2018

1. **People v. Ralph Eubanks**, 2017 IL APP (1st) 142817, (1st Dist., December 26, 2017) First-Degree Murder, Aggravated DUI and Failure to Report an Accident - - Reversed and Remanded. **ISSUE:** Was the statute that authorizes warrantless, non-consensual blood and urine testing unconstitutional? (Yes).

2. **People v. James A. Ross and Ryan A. Schriefer**, 2017 IL APP (4th) 170120, (4th Dist., December 19, 2017) Suppression of Evidence - - Reversed and Remanded. **ISSUE:** Was the warrant used to search this defendant’s property defective? (Yes, but not so defective so as to render the search invalid.).

3. **In re D.L.**, 2017 IL App (1st) 171764, (1st Dist., December 14, 2017) Denial Motion to Suppress - - Reversed and Remanded. **ISSUE:** Did the Officers had sufficient reasonable suspicion to justify their detention and frisk of this juvenile after they saw him walking away from an area where shots had been fired? (No).

4. **Burrell v. Village of Sauk Village, 2017 IL App (1st) 163392, (1st Dist., December 13, 2017)** Grant of Summary Judgment - - Affirmed. **ISSUE:** Did the Officers have sufficient probable cause to justify their arrest of this defendant for First-Degree Murder? (Yes).

5. **In re Jarrell C., 2017 IL App (1st) 170932, (1st Dist., December 11, 2017)** Denial Motion to Suppress - - Reversed and Remanded. **ISSUE:** Did the existence of a warrant for this defendant’s arrest remove the taint of the defendant’s illegal detention which lacked reasonable suspicion where the police did not learn of the warrant until after the defendant had been stopped, arrested and searched? (No).

6. **People v. Michael Brooks, 2017 IL 121413, (Ill. Sup. Ct., November 30, 2017)** Grant of Motion to Suppress - - Reversed and Remanded. **ISSUE:** Was a blood draw taken at a hospital following an accident “state action” for purposes of the Fourth Amendment? (No).

7. **People v. Derek J. Paddy, et al., 2017 IL App (2nd) 160395, (2nd Dist., October 17, 2017)** Suppression of Evidence - - Affirmed. **ISSUE:** Did the conduct of the police unreasonably extend the duration of this defendant’s detention? (Yes).

8. **People v. Jorge Manzo, Jr., 2017 IL App (3rd) 150264, (3rd Dist., October 6, 2017)** Denial of a Motion to Suppress - - Affirmed. **ISSUE:** Did the police have sufficient probable cause to believe that Monzo’s home contained evidence of illegal drug activity? (Yes).

F. SEX OFFENSES AND OFFENDER QUARTERLY

WINTER – 2018

1. **People v. Gregory Sandifer, 2017 IL APP (1st) 142740, (1st Dist., December 14, 2017)** First-Degree Murder, Attempt First-Degree Murder, Aggravated Criminal Sexual Assault, and Aggravated Domestic Battery - - Affirmed in Part; Vacated in Part. **ISSUE: SENTENCES (Mitigation):** Was this defendant’s 29-year sentence improper because the trial court failed to consider all of the factors in mitigation? (No).

2. **People v. Zachary Scott, 2017 IL App (4th) 150529, (4th Dist., November 30, 2017)** Failure to Register as a Sex Offender - - Affirmed in part as modified and vacated in part. **ISSUES: 1) REASONABLE DOUBT (Failure to Register as a Sex Offender):** Did the People fail to present sufficient evidence to prove that the defendant lacked a fixed residence? (No); **2) JURY INSTRUCTIONS (Failure to Register as a Sex Offender):** Did the jury instructions in this case fail to properly define his offenses? (No); **3) COUNSEL (Effectiveness):** Did the defendant’s attorney provide ineffective assistance by failing to ensure that the defendant’s jury was properly instructed? (No); **4) FEES AND FINES (Authority):** Did the circuit clerk improperly impose fines upon this defendant? (Yes).

3. **People v. Aaron Rios-Salazar, 2017 IL App (3rd) 150524, (3rd Dist., November 20, 2017)** Predatory Criminal Sexual Assault of a Child - - Affirmed. **FACTS: Rios-Salazar, after being sentenced to 24 years for predatory criminal sexual assault of a child (720 ILCS 5/12–14.1(a)(1) (West 2010)), argued only that his defense counsel was ineffective for failing to object to \$57 in fines.**

4. **People v. Hiram Dabney, Sr., 2017 IL App (3rd) 140915, (3rd Dist., October 2, 2017)** Aggravated Criminal Sexual Assault - - Affirmed. **ISSUE: EVIDENCE (Hearsay):** Did the trial court err in allowing the People to introduce a videotape statement of the victim? (No).

5. **People v. David D. Kimble, 2017 IL App (2nd) 160087, (2nd Dist., September 25, 2017)** Aggravated Criminal Sexual Abuse - - Reversed. **ISSUE: TRIAL PROCEDURE (Mistrial):** Was a retrial of this defendant barred on double jeopardy grounds? (Yes).

G. VEHICLE CODE CASE LAW QUARTERLY

WINTER - 2018

1. **People v. Ralph Eubanks**, 2017 IL APP (1st) 142817, (1st Dist., December 26, 2017) First-Degree Murder, Aggravated DUI and Failure to Report an Accident - - Reversed and Remanded. **ISSUES:** 1) **JURY INSTRUCTIONS (Lesser Included)**: Did the trial court err in refusing to instruct this defendant's jury concerning Reckless Homicide as a lesser included offense of First-Degree Murder? (Yes); 2) **REASONABLE DOUBT (Failure to Report an Accident)**: Did the People fail to prove that this defendant failed to report an accident where the People were unable to use the defendant's post-arrest silence against him? (Yes); 3) **CONSTITUTIONALITY OF STATUTE (Non-consensual Blood Draws)**: Was the statute that authorizes warrantless, non-consensual blood and urine testing unconstitutional? (Yes).

2. **People v. Alex Horine**, 2017 IL App (4th) 170128, (4th Dist., December 5, 2017) Grant of Motion to Rescind Summary Suspension - - Affirmed. **ISSUE: EVIDENCE (Hearsay)**: Did the trial court properly find that the Officer's testimony concerning what a witness told him was hearsay evidence? (Yes).

3. **People v. William L. Beck**, 2017 IL APP (4th) 160654, (4th Dist., November 30, 2017) Aggravated DUI - - Affirmed. **ISSUES:** 1) **CONFESSIONS AND ADMISSIONS (Miranda)**: Did the police violate this defendant's Miranda rights by improperly conducting a custodial interrogation? (No); 2) **EVIDENCE (Hospital Blood Draw)**: Did the People fail to provide a proper foundation for the introduction of this evidence? (No); 3) **EVIDENCE (Police Blood Draw)**: Did the Officer have the authority to demand this blood draw? (Yes); 4) **EVIDENCE (Retrograde Extrapolation)**: Did the trial court err in allowing this evidence to be introduced? (No); 5) **EVIDENCE (Medical Records)**: Did the trial court err in granting the People access to the defendant's medical records? (No); 6) **EVIDENCE (Use of Seatbelt)**: Did the trial court err in refusing to allow the defendant to introduce evidence that his victim was not wearing a seatbelt at the time of the accident? (No).

4. **People v. Turmond D. Durden**, 2017 IL App (3rd) 160409, (3rd Dist., November 1, 2017) Denial of Petition to Rescind Summary Suspension - - Affirmed. **ISSUES:** 1) **SUMMARY SUSPENSION (Reasonable Suspicion)**: Did the arresting Officer properly ask the defendant to provide a blood or urine sample following his breath test? (Yes); 2) **SUMMARY SUSPENSION (Procedure)**: Was the Officer required to read the defendant the warning to motorists a second time before asking him to provide a blood or urine sample? (No).

5. **People v. George Grigorov**, 2017 IL App (1st) 143274, (1st Dist., ~~June 27~~, 2017) Aggravated DUI - - Conviction Affirmed; Case Remanded with Directions. (MODIFIED UPON DENIAL OF REHEARING – October 10, 2017.) **ISSUES:** 1) **FEES AND FINES (Credit)**: Was this defendant entitled to additional pre-sentencing credit? (Yes). 2) **APPELLATE JURISDICTION (Fees and Fines)**: Did the appellate court have the authority to consider this defendant's complaint about the propriety of the fees and fines levied against him? (No).

H. LAW ENFORCEMENT LIABILITY

WINTER - 2018

UNITED STATES SUPREME COURT DECISIONS

1. **Carmen Consolino v. Brian Towne, et al.**, No. 16-3681, 872 F.3d 825, October 2, 2017. **ISSUE:** Did the Officer's supervisors retaliate against him for engaging in speech protected by the First Amendment?

2. **Ronald Fogue, v. City of Chicago, et al.**, No. 16-2857, 873 F.3d 962, October 17, 2017. **ISSUE:** Did the Officer properly allege a violation of his First Amendment rights?

3. Michael A. White, et al., v. Steven L. Hefel, et al., No. 16-1051, 875 F.3d 350, November 7, 2017. **ISSUE:** Were these Officers liable for the damage they cause during their warrantless entry into the White household?

4. Michael Collins, v. Village of Palatine, No. 16-3395, 875 F.3d 839, November 16, 2017. **ISSUE:** Were the Village liable for improperly revealing information about Collins?

5. David A. Bertha, v. Michael Sullivan, et al., No. 16-3916, December 11, 2017. **ISSUE:** Were the Officers liable for Bertha's arrest and prosecution?

I. PROFESSIONAL RESPONSIBILITY QUARTERLY

WINTER – 2018

1. People v. Daniel J. Olaska, 2017 IL APP (2nd) 150567, (2nd Dist., December 19, 2017) First-Degree Murder - - Affirmed. **ISSUE: Post-Arrest Silence:** Did the prosecutor improperly question a police officer concerning the defendant's silence during his questioning? (**Perhaps, but any error was harmless.**)

2. People v. Deotae X. Murray, 2017 IL APP (2nd) 150599, (2nd Dist., December 13, 2017) First-Degree Murder and Unlawful Possession of a Firearm by a Street Gang Member - - Affirmed. **ISSUE: Rebuttal Argument:** Did the prosecutor err in referring to the prior inconsistent statements of a witness during rebuttal argument? (**Perhaps, but any error was harmless.**)

3. People v. John Edward Trice, 2017 IL App (4th) 150429, (4th Dist., November 1, 2017) Delivery of a Controlled Substance - - Affirmed. **ISSUE: Closing Argument:** Did the prosecutor's cross-examination of a defendant witness and his comments in closing argument deprive this defendant of a fair trial? (**No.**)

J. POST-CONVICTION PETITION LAW QUARTERLY

WINTER - 2018

1. People v. Leonardo Huerta-Perez, 2017 IL App (2nd) 161104, (2nd Dist., December 20, 2017) Dismissal of PCP - - Affirmed. **ISSUES: POST-CONVICTION PETITION (Dismissal):** Did the trial err in dismissing this defendant's PCP because the defendant was not imprisoned? (**No.**)

2. People v. Garnell Generally, 2017 IL App (5th) 140489, (5th Dist., December 12, 2017) Denial of Permission to File a Successive PCP - - Affirmed. **ISSUES: POST-CONVICTION PETITION (Successive Petitions):** Did the trial err in denying this juvenile defendant's request to file a successive PCP after the defendant argued that sentence to his natural life in prison was illegal? (**No.**)

3. People v. Corey D. Phillips, 2017 IL App (4th) 160557, (4th Dist., December 5, 2017) Denial of PCP - - Affirmed. **ISSUES: POST-CONVICTION PETITION (Admonitions):** Did the trial err in denying the relief requested in this defendant's PCP? (**No.**)

4. People v. Charles Strickland, 2017 IL App (4th) 150714, (4th Dist., December 1, 2017) Dismissal of PCP - - Reversed and Remanded. **ISSUES: POST-CONVICTION PETITION (Admonitions):** Should the trial have admonished this defendant concerning its recharacterization of the defendant's motions? (**Yes.**)

5. People v. Sylwester Gawlak, 2017 IL App (3rd) 150861, (3rd Dist., November 20, 2017) Denial of PCP - - Reversed and Remanded. **ISSUES: POST-CONVICTION PETITION (DNA Testing):** Did the trial err in denying this defendant's request DNA testing? (**Yes.**)

6. **People v. Pernell Brown**, 2017 IL App (1st) 150132, (3rd Dist., November 16, 2017) Denial of Permission to File a Successive PCP - - Affirmed. **ISSUES: POST-CONVICTION PETITION (Successive Petitions):** Did the trial err in denying this defendant's request to file a successive PCP after the defendant argued that the affidavits he produced supported his argument of actual innocence? (No).

7. **People v. Jennifer Del Prete**, 2017 IL App (3rd) 160535, (3rd Dist., November 8, 2017) Grant of Permission to File a Successive PCP - - Affirmed. **ISSUES: POST-CONVICTION PETITION (Successive Petitions):** Did the trial err in granting this defendant's request to file a successive PCP after the defendant argued that the People had improperly withheld from the defendant a letter written by the lead detective of his case? (No).

8. **People v. William S. Thomas**, 2017 IL App (3rd) 150542, (3rd Dist., October 31, 2017) Denial of Petition Seeking Forensic Testing - - Affirmed. **ISSUE: POST-CONVICTION PETITION (Forensic Testing):** Did the trial court improperly deny this defendant's petition seeking forensic testing of evidence used in his case? (No).

9. **People v. Micah Upshaw**, 2017 IL App (1st) 151405, (1st Dist., October 30, 2017) Dismissal of PCP - - Reversed and Remanded. **ISSUE: POST-CONVICTION PETITION (Dismissal):** Did the trial court err in dismissing this defendant's post-conviction petition after the defendant made a substantial showing of a constitutional violation? (Yes).

10. **People v. Dennis L. Bailey**, 2017 IL 121450, (Ill. Sup. Ct., October 5, 2017) Denial of Permission to File Successive PCP - - Affirmed. **ISSUE: POST CONVICTION PETITION (Procedure):** Did the trial court err in allowing the People to argue against the defendant's request for permission to file a successive PCP? (Yes, but any error was harmless.).

11. **People v. Derek I. Sweet**, 2017 IL App (4th) 150527, (4th Dist., October 2, 2017) Denial of PCP Relief - - Reversed and Remanded. **ISSUE: POST CONVICTION PETITION (Dismissal):** Did the trial court err in dismissing this defendant's petition for post-conviction relief from a judgment without giving the defendant notice or an opportunity to respond? (Yes).

K. CRIMINAL TRIAL PROCEDURE QUARTERLY

WINTER – 2018

1. **People v. Brandon Matthews**, 2017 IL App (4th) 150911, (4th Dist., December 19, 2017) Unlawful Delivery of a Controlled Substance - - Affirmed in Part; Vacated in Part. **ISSUE: TRIAL PROCEDURE (Jury Deliberations):** Did the trial court err in allowing the defendant's jury to view a video-tape in the courtroom during their deliberations? (Perhaps, but it was not plain error.).

2. **People v. Daniel Ramirez**, 2017 IL App (1st) 130022-B, (1st Dist., December 19, 2017) Attempted First-Degree Murder - - Affirmed. **ISSUE: COUNSEL (Effectiveness):** Did the appellate court err in declining to consider the defendant's complaint about the conduct of his attorney on this direct appeal? (No).

3. **People v. Michael Fein**, 2017 IL APP (1st) 152091, (1st Dist., December 19, 2017) Theft from the Person - - Affirmed. **ISSUE: COUNSEL (Krankel Hearing):** Did the trial court fail to hold a proper hearing into the defendant's complaint against the conduct of his attorney? (Yes).

4. **People v. Marek P. Gaciarz**, 2017 IL APP (2nd) 161102, (2nd Dist., December 19, 2017) Involuntary Sexual Servitude of a Minor, Traveling to meet a Minor and Grooming - - Affirmed. **ISSUE: COUNSEL (Effectiveness):** Did the defendant's attorney provide ineffective assistance by failing to properly inspect the video-recording equipment? (No).

5. **People v. Daniel J. Olaska**, 2017 IL APP (2nd) 150567, (2nd Dist., December 19, 2017) First-Degree Murder - - Affirmed. **ISSUE: JURY INSTRUCTIONS (Aggravated Battery):** Did the trial court err in providing the defendant's jury with instructions concerning Aggravated Battery? (No).

6. **People v. Ryishie Robinson, 2017 IL APP (1st) 161595, (1st Dist., December 14, 2017)** Residential Burglary and Aggravated Battery - - Affirmed as Modified. **ISSUE: COUNSEL (Krankel Hearing)**: Did the trial court fail to hold a proper hearing into the defendant's complaint against the conduct of his attorney? (No).
7. **People v. Deotae X. Murray, 2017 IL APP (2nd) 150599, (2nd Dist., December 13, 2017)** First-Degree Murder and Unlawful Possession of a Firearm by a Street Gang Member - - Affirmed. **ISSUE: COUNSEL (Effectiveness)**: Did the defendant's attorney provide ineffective assistance by introducing the defendant's prior convictions into evidence? (No).
8. **People v. Angelo Bennett, 2017 IL App (1st) 151619, (1st Dist., December 11, 2017)** First-Degree Murder and Attempted First-Degree Murder - - Affirmed. **ISSUE: COUNSEL (Effectiveness)**: Did the defendant's attorney provide ineffective assistance by failing to argue for either the affirmative defense of self-defense or the presence of mitigating circumstances? (No).
9. **People v. Staten D. Taylor, 2017 IL APP (4th) 140060, (4th Dist., December 1, 2017)** Failure to Rule on Ineffective Assistance Claim - - Affirmed. **ISSUE: COUNSEL (Effectiveness)**: Did the appellate court properly decline to rule on this defendant's ineffective assistance claim? (Yes).
10. **People v. Jared M. Staake, 2017 IL 121755, (Ill. Sup. Ct., November 30, 2017)** Second-Degree Murder - - Affirmed. **ISSUE: TRIAL PROCEDURE (Offer of Proof)**: Did the trial court err in refusing to allow the defendant to argue causation without first making an offer of proof? (No).
11. **In re Benny M., 2017 IL 120133, (Ill. Sup. Ct., November 30, 2017)** Grant of Petition to Involuntarily Administer Psychotropic Medication - - Affirmed. **ISSUE: TRIAL PROCEDURE (Shackles)**: Should the trial court have stated why Benny M. should remain shackled during his hearing? (Yes).
12. **People v. Eric Smith, 2017 IL App (1st) 143728, (1st Dist., November 30, 2017)** First-Degree Murder and Attempt First-Degree Murder - - Reversed and Remanded. **ISSUE: TRIAL PROCEDURE (Due Process)**: Did the cumulative effect of multiple trial errors in this case deny this defendant a fair trial? (Yes).
13. **People v. Aaron D. Henderson, 2017 IL App (3rd) 150550, (3rd Dist., November 30, 2017)** First-Degree Murder - - Reversed and Remanded. **ISSUE: TRIAL PROCEDURE (Jury Deliberations)**: Did the trial court err in allowing the defendant's jury to observe audio and video evidence in the courtroom during their deliberations? (Yes).
14. **People v. Zachary Scott, 2017 IL App (4th) 150529, (4th Dist., November 30, 2017)** Failure to Register as a Sex Offender - - Affirmed in part as modified and vacated in part. **ISSUE: COUNSEL (Effectiveness)**: Did the defendant's attorney provide ineffective assistance by failing to ensure that the defendant's jury was properly instructed? (No).
15. **People v. Cassian T. Coleman, 2017 IL App (1st) 160770, (1st Dist., November 27, 2017)** Delivery of a Controlled Substance - - Appeal Dismissed. **ISSUE: APPELLATE JURISDICTION (Timeliness)**: Did the appellate court have the authority to consider this defendant's appeal after he failed to file a timely notice of appeal? (No).
16. **People v. Nathan Grant, 2017 IL App (4th) 150636, (4th Dist., November 27, 2017)** Possession of a Controlled Substance - - Appeal Dismissed. **ISSUE: APPELLATE JURISDICTION (Timeliness)**: Did the appellate court have the authority to consider this defendant's appeal where no final order was appealed? (No).
17. **People v. Ronald Palmer, 2017 IL App (1st) 151253, (1st Dist., November 21, 2017)** Possession of a Controlled Substance with the Intent to Deliver - - Reversed and Remanded. **ISSUE: SUPPRESSION OF EVIDENCE (Surveillance Location)**: Did the trial court err in refusing to order the police to reveal their surveillance location in this case? (Yes).
18. **People v. Robert Hudson, 2017 IL App (3rd) 160225, (3rd Dist., November 21, 2017)** Rejection of Plea Agreement - - Reversed and Remanded. **ISSUE: TRIAL PROCEDURE (Plea Agreement)**: Did the trial court err in rejecting a plea agreement accepted by the defendant? (Yes).

19. **People v. Albert Davis**, 2017 IL APP (1st) 142263, (1st Dist., November 20, 2017) Residential Burglary and UUWF - - Affirmed in Part; Reversed in Part. **ISSUE: COUNSEL (Effectiveness)**: Did the defense counsel provide ineffective assistance by revealing his past criminal convictions to the jury? (No).
20. **People v. Aaron Rios-Salazar**, 2017 IL App (3rd) 150524, (3rd Dist., November 20, 2017) Predatory Criminal Sexual Assault of a Child - - Affirmed. **ISSUE: COUNSEL (Effectiveness)**: Did the defendant's counsel provide ineffective assistance by failing to object to \$57 in fines? (No).
21. **People v. Arlandus Jackson**, 2017 IL App (1st) 151779, (1st Dist., November 16, 2017) Possession of a Controlled Substance with the Intent to Deliver - - Reversed and Remanded. **ISSUE: SUPPRESSION OF EVIDENCE (Surveillance Location)**: Did the trial court err in refusing to order the police to reveal their surveillance location in this case and then erred again in interviewing the arresting officer in camera? (Yes).
22. **People v. John Edward Trice**, 2017 IL App (4th) 150429, (4th Dist., November 1, 2017) Delivery of a Controlled Substance - - Affirmed. **ISSUE: COUNSEL (Effectiveness)**: Was this defendant's counsel ineffective for failing to request that this defendant's jury receive a limiting instruction on paid informants? (No).
23. **People v. James R. Henson**, 2017 IL App (2nd) 150594, (2nd Dist., October 31, 2017) Burglary - - Reversed and Remanded. **ISSUES: JURY INSTRUCTIONS (Lesser Included Offense)**: Did the trial court err in refusing to instruct the defendant's jury concerning Theft as a lesser included offense of Burglary? (Yes).
24. **People v. Kenwaun A. Murray**, 2017 IL App (3rd) 150586, (3rd Dist., October 31, 2017) Denial of Motion to Withdraw Plea - - Order vacated and case remanded. **ISSUES: 1) APPELLATE PROCEDURE (Rule 604(d) Certificate)**: Did the defense counsel file a proper Rule 604(d) certificate in this case? (No); **2) COUNSEL (Appointment)**: Did the trial court err in refusing to appoint this defendant counsel concerning his complaint concerning the conduct of his trial counsel? (Yes).
25. **People v. Octavius Lorenzo Johnson**, 2017 IL App (4th) 160920, (4th Dist., October 31, 2017) Unlawful Delivery of a Controlled Substance - - Reversed; Case Remanded with Instructions. **ISSUE: GUILTY PLEA (Appeal)**: Could this defendant appeal his sentence following his guilty plea without first moving to withdraw his plea? (Yes).
26. **People v. Brian D. Patterson**, 2017 IL App (3rd) 150062, (3rd Dist., ~~September 6, 2017~~) Burglary - - Affirmed. (MODIFIED UPON DENIAL OF REHEARING: October 27, 2017). **ISSUES: 1) TRIAL PROCEDURE (Continuance)**: Did the trial court properly deny this defendant's motion for a continuance? (Yes); **2) JURY INSTRUCTIONS (Prior Inconsistent Statements)**: Did the trial court err in instructing the defendant's jury concerning the use of prior inconsistent statements? (No).
27. **People v. Edmond Tate**, 2017 IL App (1st) 140598, (1st Dist., October 18, 2017) Aggravated Robbery - - Reversed and Remanded. **ISSUE: TRIAL PROCEDURE (Mistrial)**: Did the trial court err in denying this defendant's motion for substitution of judge? (Yes).
28. **People v. Edward Gibson**, 2017 IL App (1st) 143566, (1st Dist., October 10, 2017) First-Degree Murder and Concealment of a Homicidal Death - - Affirmed. **ISSUES: 1) COUNSEL (Appointment)**: Did the trial court err in refusing to appoint a public defender to represent this defendant? (No); **2) COUNSEL (Absentia)**: Did the trial court improperly failed to appoint counsel before trying the defendant in absentia? (No).
29. **People v. Andre Bridges**, 2017 IL App (2nd) 150718, (2nd Dist., October 6, 2017) Denial of Motion to withdraw plea - - Order vacated and case remanded. **ISSUE: APPELLATE PROCEDURE (Rule 604(d) Certificate)**: Did the defense counsel file a proper Rule 604(d) certificate in this case? (No).

L. SENTENCES AND SENTENCING QUARTERLY

WINTER – 2018

1. **People v. Brandon Matthews, 2017 IL App (4th) 150911, (4th Dist., December 19, 2017)** Unlawful Delivery of a Controlled Substance - - Affirmed in Part; Vacated in Part. **ISSUES: FEES AND FINES (Authority):** Did the circuit clerk have the authority to impose fines upon this defendant? (No).
2. **People v. Michael Fein, 2017 IL APP (1st) 152091, (1st Dist., December 19, 2017)** Theft from the Person - - Affirmed. **ISSUE: MITTIMUS (Correction):** Should the defendant's mittimus be corrected to show the proper conviction and felony classification? (Yes).
3. **People v. Gregory Sandifer, 2017 IL APP (1st) 142740, (1st Dist., December 14, 2017)** First-Degree Murder, Attempt First-Degree Murder, Aggravated Criminal Sexual Assault, and Aggravated Domestic Battery - - Affirmed in Part; Vacated in Part. **ISSUE: SENTENCES (Excessive):** Was this defendant's natural life sentence excessive? (No).
4. **People v. Deotae X. Murray, 2017 IL APP (2nd) 150599, (2nd Dist., December 13, 2017)** First-Degree Murder and Unlawful Possession of a Firearm by a Street Gang Member - - Affirmed. **ISSUES: 1) SENTENCES (Excessive):** Was this defendant's 60-year sentence excessive? (No); **2) SENTENCES (Credit):** Was this defendant entitled to two additional days of sentence credit? (Yes).
5. **People v. Frank Allen, 2017 IL App (1st) 151540, (1st Dist., December 12, 2017)** Burglary - - Sentence Vacated. **ISSUE: SENTENCES (Excessive):** Was this defendant's 10½-year sentence for Burglary excessive? (According to a majority of this appellate court panel, it was.).
6. **People v. Angelo Bennett, 2017 IL App (1st) 151619, (1st Dist., December 11, 2017)** First-Degree Murder and Attempted First-Degree Murder - - Affirmed. **ISSUE: SENTENCES (Mitigation):** Did the trial court err in failing to reduce this defendant's sentence based upon mitigating circumstances? (No).
7. **People v. Antoine Harman, 2017 IL 121453, (Ill. Sup. Ct., November 30, 2017)** Possession of a Controlled Substance with the Intent to Deliver - - Affirmed. **ISSUE: FEES AND FINES (Public Defender Fee):** Did the trial court fail to hold a proper hearing on his ability to pay for his attorney? (Yes).
8. **People v. Mitchell Barnes, 2017 IL App (1st) 143902, (1st Dist., November 30, 2017)** Home Invasion and Robbery - - Affirmed. **ISSUES: 1) SENTENCES (Aggravating Factor):** Did the trial court consider an aggravating factor not considered by the jury? (No); **2) SENTENCES (Excessive):** Was this defendant's 23-year sentence excessive? (No).
9. **People v. Zachary Scott, 2017 IL App (4th) 150529, (4th Dist., November 30, 2017)** Failure to Register as a Sex Offender - - Affirmed in part as modified and vacated in part. **ISSUE: FEES AND FINES (Authority):** Did the circuit clerk improperly impose fines upon this defendant? (Yes).
10. **People v. Cody R. McGuire, 2017 IL App (4th) 150695, (4th Dist., November 22, 2017)** Second-Degree Murder & Aggravated Battery with a Firearm - - Affirmed in Part and Vacated in Part. **ISSUES: 1) SENTENCES (Excessive):** Was this defendant's 17-year prison sentence excessive? (No); **2) FEES AND FINES (Authority):** Did the Circuit Clerk improperly impose fines in this case? (Yes).
11. **People v. Reginald Scott, 2017 IL App (4th) 150761, (4th Dist., November 7, 2017)** Denial of Motion to Withdraw Plea - - Order vacated and case remanded. **ISSUE: FEES AND FINES (Credit):** Did the trial court err in refusing to credit this defendant for the time he served in pre-trial custody? (Yes).
12. **People v. Octavius Lorenzo Johnson, 2017 IL App (4th) 160920, (4th Dist., October 31, 2017)** Unlawful Delivery of a Controlled Substance - - Reversed; Case Remanded with Instructions. **ISSUE: SENTENCES (Aggravation):** Did the trial court improperly consider two factors in aggravation in this case? (Yes).

13. **People v. Brian D. Patterson**, 2017 IL App (3rd) 150062, (3rd Dist., ~~September 6, 2017~~) Burglary - - Affirmed. (MODIFIED UPON DENIAL OF REHEARING: October 27, 2017) **ISSUE: SENTENCES (Excessive)**: Was this defendant's 21-years sentence excessive? (No).

14. **In re Omar F.**, 2017 IL App (1st) 171073, (1st Dist., October 25, 2017) Adjudication of Delinquency - - Affirmed in Part; Reversed and Remanded in Part. **ISSUE: SENTENCES (Over Broad)**: Were the conditions placed upon this juvenile's probation overbroad? (Yes).

15. **People v. Keith R. Gullens**, 2017 IL App (3rd) 160668, (3rd Dist., October 24, 2017) Revocation of Conditional Discharge - - Reversed. **ISSUE: SENTENCING (Revocation of Conditional Discharge)**: Did the trial court improperly revoke this defendant's sentence of conditional discharge after the defendant returned a stolen firearm to a gun dealer? (Yes).

16. **People v. Marcus A. Johnson**, 2017 IL App (4th) 160853, (4th Dist., October 19, 2017) Aggravated Robbery - - Affirmed. **ISSUE: SENTENCING (Aggravating Factors)**: Did the trial court improperly consider the fact that the defendant was armed with a firearm as an aggravating factor in sentencing the defendant following his conviction for Aggravated Robbery? (No).

17. **People v. George Grigorov**, 2017 IL App (1st) 143274, (1st Dist., ~~June 27, 2017~~) Aggravated DUI - - Conviction Affirmed; Case Remanded with Directions. (MODIFIED UPON DENIAL OF REHEARING – October 10, 2017.) **ISSUE: FEES AND FINES (Credit)**: Was this defendant entitled to additional pre-sentencing credit? (Yes).



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