

No. 125621

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**IN THE SUPREME COURT OF ILLINOIS**


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CHARLES PALMER,	)	Appeal from the Appellate
	)	Court, Fourth District,
Petitioner-Appellant,	)	No. 4-19-0148
	)	
	)	There on appeal from the Circuit
v.	)	Court of Macon County, Illinois
	)	No. 99 CF 139
	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Defendant-Appellee.	)	

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**BRIEF OF EXONEREES AS *AMICI CURIAE*  
IN SUPPORT OF PLAINTIFF-APPELLANT CHARLES PALMER**

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‘Dixmoor 5’ Sue Over Wrongful Rape, Murder Convictions, CBS Chicago (October 17, 2012), <a href="https://chicago.cbslocal.com/2012/10/17/dixmoor-5-sue-over-wrongful-rape-murder-convictions/">https://chicago.cbslocal.com/2012/10/17/dixmoor-5-sue-over-wrongful-rape-murder-convictions/</a> .....	14
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**INTEREST OF *AMICI CURIAE***

*Amici curiae* are five exonerees who have cumulatively spent over 80 years in prison after being wrongfully convicted by the State of Illinois. They have all obtained Certificates of Innocence. They have had first-hand experiences with the challenges exonerees face following release from prison and how Certificates of Innocence are critical for exonerees' reintegration into society.

**Jonathan Barr** spent fourteen years in prison for a crime he did not commit. Mr. Barr obtained a Certificate of Innocence after his exoneration.

**Christopher L. Coleman** spent nineteen years in prison for a crime he did not commit. Despite the State of Illinois' opposition, Mr. Coleman obtained a Certificate of Innocence after his exoneration.

**Jacques Rivera** spent twenty years in prison for a crime he did not commit. Despite the State of Illinois' opposition, Mr. Rivera obtained a Certificate of Innocence after his exoneration.

**Jason Strong** spent fifteen years in prison for a crime he did not commit. He obtained a Certificate of Innocence after his exoneration.

**Robert Taylor** spent fourteen years in prison for a crime he did not commit. Mr. Taylor obtained a Certificate of Innocence after his exoneration.

As exonerees who spent decades in prison for crimes they did not commit, *amici* have an abiding interest in ensuring that the State of Illinois does not delay and obstruct the ability of former exonerees to obtain Certificates of Innocence. In addition, as recipients of Certificates of Innocence, *amici* can provide this Court with important insight about how its decision will affect the lives of exonerees during their reintegration into society. In so doing, *amici* offer a perspective not presented by the parties.

## ARGUMENT

### **I. Illinois' Certificate of Innocence Statute Was Enacted As Part of a National Movement to Remedy the Injustices Stemming from Wrongful Convictions.**

Illinois enacted the Certificate of Innocence (COI) statute, 735 ILCS 5/2-702, as part of a growing nationwide trend to right the grave injustices that stem from wrongful convictions. The Illinois legislature intended the COI to facilitate—and not to continue to obstruct—an exoneree's ability to seek justice. In light of its historical backdrop and evident statutory purpose, the statute should not be interpreted to permit the State to conjure novel theories of guilt to impose further roadblocks on the path to justice for those who have already had to endure the incalculable harms of wrongful conviction.

#### **A. States Have Enacted Compensation Statutes Nationwide as Exonerations Have Surged.**

##### **1. Recent Decades Have Seen an Explosion of Criminal Exonerations and Increased Societal Attention to Wrongful Convictions.**

Exonerations in criminal cases have become increasingly common in recent decades. There were 143 exonerations in 2019 compared to 47 exonerations in 1996—a 304% increase. Emily Barone, *The Wrongly Convicted: Why More Falsely Accused People are Being Exonerated Today than Ever Before*, Time, <http://time.com/wrongly-convicted/> (last visited July 6, 2020) (noting 47 criminal exonerations in 1996); Exonerations in 2019, Nat'l Registry of Exonerations Annual Report (Mar. 31, 2020), [http://www.law.umich.edu/special/exoneration/Documents/Exonerations\\_in\\_2019.pdf](http://www.law.umich.edu/special/exoneration/Documents/Exonerations_in_2019.pdf) (noting 143 criminal exonerations in 2019) [hereinafter, 2019 Exoneration Report]. This increase has largely been due to advances in DNA technology, heightened scrutiny on false confessions and mistaken witness identifications, and increased willingness by prosecutors' offices to review potential official misconduct. Emily Barone, *The Wrongly*



*Convicted: Why More Falsely Accused People are Being Exonerated Today than Ever Before*, Time, <http://time.com/wrongly-convicted/> (last visited July 6, 2020); *see also* 2019 Exoneration Report at 2 (noting that in 2019, 65% of exonerations involved official misconduct, 33.6% involved mistaken witness identification, and 16.8% involved false confessions). According to the National Registry of Exonerations, exonerees spend an average of nine years in prison for crimes that they did not commit. 2019 Exoneration Report at 7. However, many exonerees, including *amici*, have spent significantly more time in prison before their convictions were overturned.

Wrongful convictions continue to plague exonerees long after they are released from prison. Once freed, exonerees often lack work experience, education, money, and even social ties to help them adjust to life outside of prison. Erik Encarnacion, *Backpay for Exonerees*, 29 Yale J.L. & Human., Vol. 29, No. 2, 245, 248 (2017). Perversely, exonerees may have fewer resources available to help them in their return to society than those on parole after serving sentences for crimes they *did* commit—even though the exonerees have done nothing wrong. *Id.*

The stigma of their convictions continues to follow exonerees well after their release from prison. Wrongful convictions can appear during routine traffic stops and other interactions with police, leading to tense situations for both exonerees and police officers. *See* Jack Healy, *Wrongfully Convicted Often Find Their Record, Unexpunged, Haunts Them*, N.Y. Times (May 5, 2013), <https://www.nytimes.com/2013/05/06/us/wrongfully-convicted-find-their-record-haunts-them.html> (reporting that exoneree had overturned murder conviction appear on background check during routine traffic stop, causing him to be detained in police vehicle for thirty minutes). Further, wrongful

convictions can frequently arise during employee background checks, making it more difficult for exonerees to obtain jobs and live normal lives. *See id.* (reporting that exoneree was unable to get work in restaurants or retail stores and failed background check to purchase shotgun due to conviction that remained on record).

2. Against this Backdrop, a Growing Number of States Have Enacted Compensation Statutes for the Wrongfully Convicted.

The damage wrongful convictions cause is impossible to quantify. Despite this difficulty, a growing number of states have acknowledged these injustices, enacting a broad array of compensation statutes aimed at providing some relief to the wrongfully convicted. These statutes reflect a widespread recognition of the need to address the injustice of wrongful convictions.

The history of compensation statutes for exonerees dates back to the early 1900s. *See Michael Leo Owens & Elizabeth Griffiths, Uneven Reparations for Wrongful Convictions: Examining the State Politics of Statutory Compensation Legislation, 75 Alb. L. Rev. 1283, 1286 (2012).* But until the 1980s, only a handful of states had compensation statutes. *Id.* Since the 1980s, and especially since the turn of the century, a surge of states have enacted compensation statutes. *Id.* (noting seventy-year period of relative stability regarding wrongful conviction compensation statutes). Out of the thirty-five states that currently have compensation statutes, more than half adopted them between 2000 and 2018. Addison K. Watson, *Wrongful Convictions: Life Liberty, and the Pursuit of Compensation, 87 Miss. L.J. 887 (2018).*<sup>1</sup> Moreover, more than twenty states

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<sup>1</sup> Statutes enacted since 2000 include the following: Ala. Code § 29-2-150 (2017); Colo. Rev. Stat. § 13-65-101 (2013); Conn. Gen. Stat. § 54-102uu (2016); Fla. Stat. Ann. § 961.02 (West 2017); Haw. Rev. Stat. Ann. § 661B-1 (2017); 735 Ill. Comp. Stat. 5/2-702 (2014); La. Stat. Ann. § 15:572.8 (2012); Mass. Gen. Laws. Ann. ch. 258D, § 1 (West 2004); Mich. Comp. Laws. Ann. § 691.1752 (West 2017); Minn. Stat. Ann. § 590.01

have either enacted or amended compensation statutes within the last ten years, and thirty-one have done so within the last twenty years. *See Compensation Statutes: A National Overview* (2018), [https://www.law.umich.edu/special/exoneration/Documents/CompensationByState\\_InnocenceProject.pdf](https://www.law.umich.edu/special/exoneration/Documents/CompensationByState_InnocenceProject.pdf) (last visited July 6, 2020).

These compensation statutes have been enacted in response to the difficult and inadequate mechanisms otherwise available to exonerees to pursue justice for their wrongful conviction. Encarnacion, *supra*, at 249. Generally, these statutes reflect two goals: (1) providing a limited amount of quick compensation for exonerees; and (2) guaranteeing a limited amount of compensation without requiring proof of official misconduct. *Id.* To accomplish these goals, the statutes tend to provide monetary payouts<sup>2</sup> in addition to other services, such as job searching, housing, counseling, and tuition assistance to exonerees.<sup>3</sup> As states have enacted more robust compensation

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(West 2005); Miss. Code Ann. § 11-44-1 (West 2009); Mo. Rev. Stat. § 650.058 (2016); Mont. Code Ann. § 53-1-214 (2003); Neb. Rev. Stat. § 29-4602 (2009); Utah Code Ann. § 78B-9-405 (West 2012); Vt. Stat. Ann. tit. 13, § 5572 (2016); Va. Code Ann. § 8.01-195.10 (West 2010); Wash. Rev. Code § 4.100.010 (2013).

<sup>2</sup> The majority of states offer compensation in excess of \$50,000 per year of incarceration. *See* Ala. Code § 29-2-150 (2017); Cal. Penal Code §§ 4900–4906 (2017); Colo. Rev. Stat. § 13-65-101 (2013); Conn. Gen. Stat. Ann. § 54-102uu (2016); D.C. Stat. § 2-421 (1981); Fla. Stat. Ann. § 961.02 (West 2017); Haw. Rev. Stat. Ann. § 661B-1 (2017); Ind. Code Ann. § 5-2-23 (West); Kan. Stat. Ann. § 60-5004 (2018); Minn. Stat. Ann. § 590.01 (West 2005); Miss. Code Ann. § 11-44-1 (West 2009); N.C. Gen. Stat. §§ 148-82–148-84 (2008); N.J. Stat. Ann. §§ 52:4C-1–4C-7 (2013); Nev. Rev. Stat. Ann. § 176.0912 (West); Ohio Rev. Code Ann. §§ 2305.02 & 2743.48; Tex. Code Ann. § 103 (West); Vt. Stat. Ann. Tit. 13, § 5574 (West); Wash. Rev. Code Ann. § 4.100 (West).

<sup>3</sup> The majority of states also offer these additional services. *See* Cal. Penal Code §§ 4900–4906 (2017); Colo. Rev. Stat. § 13-65-101 (2013); Conn. Gen. Stat. Ann. § 54-102uu (2016); Fla. Stat. Ann. § 961.02 (West 2017); 735 Ill. Comp. Stat. Ann. 5/2-702; Ind. Code Ann. § 5-2-23 (West); Kan. Stat. Ann. § 60-5004 (2018); La. Stat. Ann. § 15:572.8 (2012); Md. Code Ann., State Fin. & Proc. § 10-501 (West); Minn. Stat. Ann. § 590.01 (West 2005); Mont. Code Ann. § 53-1-214 (2003); N.C. Gen. Stat. §§ 148-82–148-84 (2008); N.J. Stat. Ann. §§ 52:4C-1–4C-7 (2013); Nev. Rev. Stat. Ann. § 176.0912

schemes, more exonerees have been able to obtain greater relief from their wrongful convictions.

These trends in both the increasing number and strength of compensation statutes, and in the number of successful exonerations, reflect a widespread and growing commitment to providing broad remedies to address the plight of the wrongfully convicted. These compensation statutes also reflect an implicit acknowledgement of the difficult and unreliable mechanisms previously available to exonerees, as states have provided more robust relief. *See Encarnacion, supra*, at 249.

**B. This Court Should Interpret the Illinois Certificate of Innocence Statute Liberally in Light of Its Enactment As Part of a Nationwide Movement to Provide Greater Relief to the Wrongfully Convicted.**

It is within the context of this national movement to clear the path for exonerees to seek remedies for their wrongful convictions that Illinois enacted its Certificate of Innocence (COI) statute in 2009. This Court has recognized consistently and in a wide range of contexts that remedial statutes should be broadly construed to effectuate their purposes. *See Price v. Philip Morris, Inc.*, 219 Ill. 2d 182, 234 (2005) (noting that remedial statute should “be liberally construed to effectuate [its] purpose); *Flynn v. Indus. Comm’n*, 211 Ill. 2d 546, 556 (2004) (remedial statute should “be liberally construed to accomplish” its purpose); *Sawyer Realty Grp., Inc. v. Jarvis Corp.*, 89 Ill. 2d 379, 390 (1982) (explaining statute “is a remedial one, and it should be broadly construed”). The need to do so here is all the more pressing in light of the injustices sought to be addressed by the national movement in favor of relief for exonerees.

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(West); Tex. Code Ann. § 103 (West); Va. Code Ann. § 8.01-195.10 (West 2010); Vt. Stat. Ann. Tit. 13, § 5574 (West); Wash. Rev. Code Ann. § 4.100 (West).

Putting forward a new theory of the case to contest a Certificate of Innocence petition, as the State attempts to do here, creates the type of obstacle that the Illinois General Assembly aimed to prevent. Before Illinois enacted the COI statute, the only way for exonerees in Illinois to receive any formal declaration of innocence, expungement, and compensation for their time spent in prison for a crime they did not commit was to obtain a pardon from the Illinois Governor. Scott Neuman, *When Pardons Become Political Dynamite*, NPR (Jan 13, 2012), <https://www.npr.org/2012/01/13/145179319/when-pardons-become-political-dynamite>. The pardon process can take years from start to finish—often governors do not issue pardons until leaving office—and a decision to pardon an individual comes with serious political considerations for a sitting governor, creating artificial barriers to obtaining justice for the wrongfully convicted. *See id.*

The Illinois COI statute was enacted to remove such roadblocks for exonerated individuals. “In determining the General Assembly’s intent, [courts] may properly consider not only the language of the statute, but also the purpose and necessity for the law, the evils sought to be remedied, and the goals to be achieved.” *Brucker v. Mercola*, 227 Ill. 2d 502, 514 (2007); *see also In re Marriage of Logston*, 103 Ill. 2d 266, 279 (1984) (“The legislative history of the statute in question of course is relevant. The reason for enactment, the circumstances that led to adoption, and the end to be achieved are all properly considered.”) (internal citations omitted). It is widely acknowledged that the COI statute was designed to “streamline the process for exonerated individuals to seek reparations for a conviction that is later reversed, dismissed, or set aside.” Hugh M. Mundy, *Free, but Still Behind Bars: Reading the Illinois Post-Conviction Hearing Act to*

*Allow Any Person Convicted of A Crime to Raise A Claim of Actual Innocence*, 35 B.C.J.L. & Soc. Just. Vol. 35, Iss. 1, at 29 (2015).

In fact, the statute's purpose statement *expressly* confirms that the statute was enacted to help "innocent persons who have been wrongfully convicted of crimes in Illinois and subsequently imprisoned hav[ing] been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law." 735 ILCS § 5/2-702 (a). The State's attempt to posit a new theory of the case in order to deny Mr. Palmer vindication for his wrongful conviction is exactly the type of substantive obstacle that the COI statute condemns.

Further, the COI statute's legislative history supports a broad reading of the statute. For example, during Illinois General Assembly debates on the COI statute, Representative Mary Flowers detailed the difficulties exonerees face after released from prison. House Transcript of the Debate on S.B. 230, 95th Gen. Assemb., at 7 (2007) (statement of Rep. Flowers); *see also* Mundy, *supra*, at 29. She noted that exonerees, even after they have walked out of the prison gates, are "technically . . . still incarcerated because their name is not cleared." *Id.* This legislative history further supports what is already clear from the text and historical context of the COI statute: an exoneree's ability to achieve a declaration of innocence was central to the COI statute's enactment.

Permitting a new theory of the case during a COI proceeding would allow the State to assess the failed prosecutions of any exoneree and cherry-pick what it believes are the best facts and strategy to further delay and deny justice. This is especially problematic given Illinois' track record. Illinois has been a hotbed for wrongful conviction, as reflected by the fact that it led the country in exonerations in 2019 and

2018 after placing second in 2017. Matt Masterson, *Report: Illinois Again Leads Nation in Exonerations*, WTTW (March 31, 2020), <https://news.wttw.com/2020/03/31/report-illinois-again-leads-nation-exonerations> (last visited July 6, 2020); Andy Grimm, *Nearly 50 people in Illinois were exonerated in 2018, top in U.S.*, Chicago Sun-Times (April 9, 2019), <https://chicago.suntimes.com/2019/4/9/18316111/nearly-50-people-in-illinois-were-exonerated-of-crimes-in-2018-top-in-us> (last visited July 6, 2020); Exonerations in 2017, Nat'l Registry of Exonerations (Mar. 14, 2018), <http://www.law.umich.edu/special/exoneration/Documents/ExonerationsIn2017.pdf> (last visited July 6, 2020). The State's desired interpretation of the COI statute would obstruct, rather than facilitate, the ability of the country's largest share of exonerees to live a normal life—in conflict with the COI's statute's purpose and history.

## **II. The First-Hand Experiences of Illinois *Amici* Demonstrate Why a Certificate of Innocence is So Critical for the Wrongfully Convicted**

*Amici* Jason Strong, Christopher Coleman, Jacques Rivera, Robert Taylor, and Jonathan Barr are all exonerees who were wrongfully convicted by the State of Illinois. Cumulatively, they spent over 80 years in prison for crimes they did not commit. Certificates of Innocence were crucial for *Amici* to get back on their feet and reintegrate into society following their release. Their experiences highlight why this Court must not interpret the COI statute to allow the State to put forward a new, untested theory of the case for the first time at a COI proceeding.

### **A. Jason Strong**

Vindication. For Jason Strong, that is why obtaining a Certificate of Innocence was so important. Mr. Strong spent over 15 years in prison for a crime he did not commit. In 1999, when he was 24 years old, he became the subject of a criminal investigation

relating to the murder of a woman found in a forest in Lake County, Illinois. Emily K. Coleman, *He spent 15 years in prison for a Lake Co. murder he didn't commit. Now he has finally settled for \$9M*, Chi. Trib. (Oct 12, 2017), <https://www.chicagotribune.com/suburbs/lake-county-news-sun/ct-lns-jason-strong-settlement-st-1012-20171011-story.html>. The investigation was a textbook case of poor police practices: police coerced Mr. Strong into a confession, threatened a witness to fabricate testimony, and elicited false information from other witnesses and alleged accomplices in order to build the case against Mr. Strong. *Id.*

The vacatur of Mr. Strong's conviction solved only part of his problem. The wrongful conviction did not just take away Mr. Strong's freedom—it destroyed his reputation. It tarnished his name and his record, making it more difficult for him to obtain a job and return to a normal life. A Certificate of Innocence was necessary to remedy these additional harms stemming from a wrongful conviction and clear Mr. Strong's reputation.

A Certificate of Innocence restored Mr. Strong's ability to participate fully in society. It made it easier for him to secure employment, join civic groups, obtain bank loans, travel abroad, and more. It quelled Mr. Strong's anxiety during routine traffic stops and other interactions with police by expunging all records of his arrest, charge, and conviction for murder.

And the Certificate of Innocence eased the difficult period after Mr. Strong's release from prison by providing him with monetary compensation. People who are released from prison, especially those incarcerated for long periods of time, often have no financial means to get back on their feet. *See Encarnacion, supra*, at 248. Mr. Strong was



no different. When he was released from prison, Mr. Strong lived in an area with no public transportation. To add insult to injury, Mr. Strong had medical needs after his prison release, and his student loan debt had ballooned over the 15 years that he was imprisoned. But he did not have the money to pay for his healthcare or student debt. Nor did he have enough money to buy a car—plunging Mr. Strong into a vicious cycle: he could not afford a car; without a car, he could not obtain and keep employment where he lived; and without a job, he could not save up to afford a car and pay his expenses. The compensation from the Certificate of Innocence was critical in breaking this cycle.

Mr. Strong believes that Certificates of Innocence are crucial to the exonerated. He believes that awarding a Certificate of Innocence is the right, fair, and honorable thing to do when the state has wrongfully destroyed the life of an exoneree. Denying a Certificate of Innocence, in his view, would sidestep the state's responsibility for its actions and leave justice incomplete. Importantly, Strong's Certificate of Innocence acknowledged his complete and factual innocence of the crime of which he was accused—finally giving him the vindication he deserved.

#### **B. Christopher Coleman**

Christopher Coleman also believes a Certificate of Innocence is critical because it provides vindication. Mr. Coleman was charged with multiple crimes, including sexual assault, robbery, and unlawful entry, all committed by a group of individuals in 1994.

*Christopher L. Coleman*, Nat'l Registry of Exonerations (May 30, 2019),

<https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=4398>. Mr.

Coleman, who was 20 years old when the crimes were committed, was wrongfully convicted and sentenced to 60 years in prison. The court sentenced Mr. Coleman despite explicit testimony by the perpetrators showing he was innocent. He suffered in prison for

19 years until this Court reversed and remanded his conviction due to compelling evidence of his innocence.

Even after release, Mr. Coleman continued to live under the shadow of his conviction and the senseless loss of nearly half his life to wrongful incarceration. However, Mr. Coleman was able to receive his Certificate of Innocence in 2015, finally giving him both closure and compensation for the wrongs he suffered. *Id.* The Certificate of Innocence and associated compensation gave Mr. Coleman a new chance at life, allowing him to be seen as truly innocent by his community and to rebuild his life. In fact, The Certificate of Innocence allowed Mr. Coleman to do something that he always wanted to do—buy his mom a house.

Mr. Coleman believes that most people in our society look at their fellow humans as suspects first: they would rather believe that someone committed a crime than believe that they are innocent. Even after his exoneration, Mr. Coleman felt that people who heard about his wrongful conviction still had doubts about his innocence. His Certificate of Innocence helped to lay these doubts to rest.

### **C. Jacques Rivera**

Jacques Rivera was shocked when he learned that the State of Illinois would contest his petition for a Certificate of Innocence, especially when they decided not to pursue his case again after his conviction was overturned. The State's actions showed Mr. Rivera that the State would not accept the truth: he was innocent of the crime for which he spent 20 years in prison. That is what Mr. Rivera's Certificate of Innocence showed—the truth.

On August 27, 1988, Felix Valentin was shot multiple times in his car in an alley on the West Side of Chicago. *Rivera v. Guevara*, 319 F. Supp. 3d 1004, 1015 (N.D. Ill.

2018). He died from his wounds 18 days later. *Jacques Rivera*, Nat'l Registry of Exonerations (Dec. 31, 2019), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3815>. The only witness to the shooting was an 11-year-old boy who was walking down the alley as Valentin was shot. *Id.* The boy described the shooter as dressed in black with a gold ponytail—the colors of a local gang, Latin Kings—and told the police he recognized the shooter from playing baseball in Humboldt Park in Chicago. *Id.* The police showed the boy photos of suspected Latin Kings gang members, and the boy selected a photo of then-23-year-old Jacques Rivera and later identified Mr. Rivera out of a lineup. Based on this evidence and this evidence alone, Mr. Rivera was sentenced to 80 years in prison. *Id.*

Mr. Rivera then spent 20 years in prison for a crime he did not commit—almost all of these years at Stateville Correctional Center, a maximum-security prison known as “Hotel Hell.” Alison Flowers, *Exoneree Diaries: Jacques Rivera*, WBEZ (Sept. 16, 2013), <https://www.wbez.org/stories/exoneree-diaries-jacques-rivera/f79306df-0f92-4327-93a9-6547fb2e5653>. However, in January 2010, Mr. Rivera obtained a sworn affidavit from the only eyewitness in his case, then-11-year-old Orlando Lopez. *Jacques Rivera*, Nat'l Registry of Exonerations (Dec. 31, 2019), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3815>. The affidavit stated that Lopez tried to tell police and prosecutors that he had misidentified Rivera and had later seen the actual shooter. A year and a half later, a court ordered a new trial based on this affidavit and prosecutors dismissed all charges against Mr. Rivera. Mr. Rivera walked out of prison later that day. *Id.*

Despite his swift release after the witness' new testimony, the state continued to oppose granting the newly exonerated Mr. Rivera a Certificate of Innocence. Meanwhile, Mr. Rivera struggled with transitioning into daily life in Chicago. Even with family support, he was not ready to work immediately after his release due to the trauma of serving two decades in prison—he still suffered from Post-Traumatic Stress Disorder and paranoia stemming from his incarceration. He had to learn how to use technology now taken for granted—television remote controls, cell phones, and computers.

Nearly a year after his release, Mr. Rivera was granted a Certificate of Innocence in 2012. The compensation that Mr. Rivera received with his Certificate of Innocence made all the difference in easing his transition into society. He was able to buy a car, repay family members for assistance they provided during his release, and pay for medical care and therapy to help him cope with the difficult work of reintegrating into public life.

#### **D. Robert Taylor and Jonathan Barr**

Robert Taylor and Jonathan Barr each served 14 years in prison as two members of the “Dixmoor Five,” a group of five African American men who were wrongfully convicted for the 1991 kidnapping, rape, and murder of a 14-year-old girl. *‘Dixmoor 5’ Sue Over Wrongful Rape, Murder Convictions*, CBS Chi. (Oct. 17, 2012), <https://chicago.cbslocal.com/2012/10/17/dixmoor-5-sue-over-wrongful-rape-murder-convictions/>. Mr. Taylor and Mr. Barr were able to use the Certificates of Innocence that they received to support their family members who helped them when they were incarcerated and help themselves get back on their feet.

On December 8, 1991, the 14-year-old victim's body was discovered along Interstate 57 in Dixmoor, Illinois. *Robert Taylor*, Innocence Project, <https://www.innocenceproject.org/people/robert-taylor>.

[innocenceproject.org/cases/robert-taylor](https://innocenceproject.org/cases/robert-taylor) (last visited July 6, 2020). She had been shot at close range with a .25-caliber pistol and sexually assaulted; seminal fluid was recovered from her body. *Id.* It took police 10 months to identify a suspect. *Id.* Eventually, through a convoluted chain of witnesses and finger-pointing, the police arrested teenagers Robert Taylor, Jonathan Barr, and three others. *Id.*

The police were able to obtain confessions from three of the Dixmoor Five. Steve Mills, *\$40M for five wrongly convicted of Dixmoor rape, murder*, Chi. Trib. (June 25, 2014), <https://www.chicagotribune.com/news/ct-xpm-2014-06-25-chi-isp-agrees-to-pay-40m-to-five-wrongly-convicted-of-dixmoor-rape-murder-20140624-story.html>. However, all of the signed confessions contradicted one another on the basic facts of the case.

*Robert Taylor*, Innocence Project, <https://www.innocenceproject.org/cases/robert-taylor> (last visited July 6, 2020). Further, based on the semen collected from the scene, all of the suspects implicated in the confessions were excluded as the perpetrator, even before trial. *Id.* In 2011—nearly 20 years after the murder—DNA testing of the semen at the scene matched the profile of Willie Randolph, an adult violent serial offender with no connection to any of the Five. *Id.* Based on the DNA evidence, the Dixmoor Five had their convictions vacated and their charges dismissed. *Id.*

While Mr. Taylor was wrongfully incarcerated for 14 years, his parents had been fighting tirelessly to secure his release. Mr. Taylor was eventually granted a Certificate of Innocence and \$208,800 in compensation from the State of Illinois for this time spent in prison as an innocent man. *Robert Taylor*, Center on Wrongful Convictions, <https://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/il/robert-taylor.html> (last visited July 6, 2020). He used this money to support his retired parents,

who were facing financial hardship after years of fighting for his freedom, often foregoing purchasing medicine to send him money in prison. Steve Mills, *Exonerated, freed and facing a new life*, Chi. Trib. (Nov. 25, 2011), <https://www.chicagotribune.com/news/ct-xpm-2011-11-25-ct-met-dna-freedom-20111127-story.html>. The Certificate of Innocence has allowed him to support his aging parents in retirement, even as he struggles with the pressures of reintegration and finding employment. *Id.* The Certificate of Innocence award has taken one thing off of Mr. Taylor's plate as he faces an uphill battle to achieve the kind of everyday freedom that most Illinoisans take for granted.

For Mr. Barr, the compensation that he received his Certificate of Innocence helped him adjust to returning to society after being incarcerated for 20 years. It allowed him to pay for food, housing, and transportation. Mr. Barr also used the money that he received from the Certificate of Innocence to start a trucking company with his brother and a fellow Dixmoor Five exoneree. The Certificate of Innocence was critical in helping Mr. Barr get back on his feet.

\* \* \*

For these exonerees and others, a COI provided vindication, a clear name, and the means to land on their feet with grace after being wrongfully imprisoned for most of their adult lives. Mr. Palmer and other exonerees who come after him deserve the same.

### CONCLUSION

*Amici* request that this Court hold that the State is prevented from putting forward a new theory of the case for the first time at a Certificate of Innocence proceeding. Mr. Palmer is entitled a Certificate of Innocence under that standard. For all of the foregoing reasons, this Court should reverse the judgment of the appellate court and remand the case for further proceedings.

RESPECTFULLY SUBMITTED,

DATED: July 7, 2020

Jonathan Barr, Christopher L. Coleman,  
Jacques Rivera, Jason Strong, Robert Taylor

By: /s/ Orlando Cosme Jr  
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**IN THE SUPREME COURT OF ILLINOIS**


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CHARLES PALMER,	)	Appeal from the Appellate
	)	Court, Fourth District,
Petitioner-Appellant,	)	No. 4-19-0148
	)	
	)	There on appeal from the Circuit
v.	)	Court of Macon County, Illinois
	)	No. 99 CF 139
	)	
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Defendant-Appellee.	)	

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**CERTIFICATE OF COMPLIANCE**

I, Orlando Cosme Jr, an attorney, hereby certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 17 pages.

Under penalties 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.

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PLEASE TAKE NOTICE that on July 7, 2020, the undersigned served and filed by electronic means the foregoing BRIEF OF EXONEREES AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF-APPELLANT CHARLES PALMER with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701.

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