

NOTICE

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2014 IL App (4th) 130216-U

NO. 4-13-0216

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED

October 7, 2014

Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Douglas County
LARRY A. DRIGGERS,)	No. 12CF17
Defendant-Appellant.)	
)	Honorable
)	Michael G. Carroll,
)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Presiding Justice Appleton and Justice Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* (1) The trial court committed no error in finding defendant possessed an unlawful "knuckle weapon" as set forth in section 24-1(a)(1) of the Criminal Code of 1961 (720 ILCS 5/24-1(a)(1) (West 2010)).

(2) Defendant failed to establish the Illinois unlawful weapons statute was unconstitutionally applied to him.

¶ 2 Following a bench trial, the trial court found defendant, Larry A. Driggers, guilty of unlawful possession of a weapon by a felon and sentenced him to 10 years in prison. Defendant appeals, arguing (1) the trial court erroneously concluded that he possessed a "knuckle weapon" and (2) the unlawful weapons statute was unconstitutionally applied to him because the weapon found in his possession is protected by the second amendment to the United States Constitution (U.S. Const., amend. II). We affirm.

¶ 3

I. BACKGROUND

¶ 4 On February 2, 2012, the State charged defendant with six counts of unlawful possession of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2010)). Ultimately, counts III through VI were dismissed and the matter proceeded to a bench trial on counts I and II, in which the State alleged defendant knowingly possessed "a knuckle weapon" on or about his person and had previously been convicted of the felony offenses of aggravated unlawful possession of a weapon by a felon (count I) and burglary (count II). Defendant was also tried for the offense of driving on a suspended or revoked license (625 ILCS 5/6-303 (West 2010)) (case No. 12-TR-185).

¶ 5 At trial, the evidence showed on January 25, 2012, police were called to the parking lot of a Dollar General store following a report of an individual passed out behind the wheel of a truck. Officer Michael Bradley was dispatched to the scene and found defendant "asleep or unconscious" in the driver's seat of his vehicle. Bradley woke defendant, who reported he had driven to the store because his girlfriend's driver's license was suspended.

¶ 6 Bradley testified he asked defendant to step out of the vehicle and, when defendant did so, Bradley noticed "a large knuckle[-]type weapon located on the floorboard of the driver's side [of the] vehicle." He described the weapon as having been within arm's reach of defendant and positioned immediately to the left of where defendant had been sitting, "on the floorboard," and "in the doorway well." Bradley identified the weapon in court. On cross-examination, Bradley described the weapon as "a knuckle-type weapon with approximately a nine[-]inch blade." He agreed the blade was sheathed when found and that defendant had neither threatened him nor taken any hostile actions toward him during their interaction.

¶ 7 Bradley was the only witness to testify at defendant's trial. Following his testimony, the trial court granted the State's request to admit into evidence (1) certified copies of defendant's previous felony convictions for aggravated unlawful use of a weapon and burglary, and (2) records from the Secretary of State showing defendant's driver's license had been revoked on January 25, 2012. The State rested and defendant presented no evidence.

¶ 8 With respect to the felony charges, the State argued Illinois law prohibits a person from possessing "metal knuckles or other knuckle weapon regardless of its composition." 720 ILCS 5/24-1(a)(1) (West 2010); See also 720 ILCS 5/24-1.1(a) (West 2010) (prohibiting a felon from possessing knuckle weapons). It noted that the relevant statutory provision, section 24-1(a)(1) of the Criminal Code of 1961 (Criminal Code) (720 ILCS 5/24-1(a)(1) (West 2008)), originally referred only to "metal knuckles," but was amended in January 2009 to include a "knuckle weapon regardless of its composition." The State then argued as follows: "And what we have here is definitely a knuckle weapon. The knife is made to wrap around the fingers, very heavy [*sic*] fortified item with metal in there, making it quite easy to inflict grievous damage on a person's face or body with this ***." It maintained that the fact that the weapon also had a nine-inch blade and, thus, a dual purpose, did not exclude it from the definition of a "knuckle weapon."

¶ 9 Defense counsel maintained the weapon at issue was a knife and not a knuckle weapon. He referenced legislative transcripts discussing the January 2009 amendment to section 24-1(a)(1), which he argued showed the purpose of amending the statute was not to expand the definition of a "knuckle weapon" but to include within the coverage of the statute knuckle weapons that were not made out of metal. Defense counsel also relied on *People v. Kohl*, 364 Ill.

App. 3d 495, 496-97, 847 N.E.2d 150, 151-52 (2006), a case in which the Second District considered the definition of "metal knuckles" and rejected an argument that a weapon "consisting of a 3 1/2-inch-long, 1 1/2-inch-wide knife blade, two metal finger loops, and additional smaller blades is a set of metal knuckles." Further, he maintained that the relevant statute should be narrowly interpreted and that the "primary design of [the weapon found in defendant's possession was] a knife."

¶ 10 After hearing the parties' arguments, the trial court determined the weapon at issue was a "knuckle weapon." It found the handle of the weapon met the definition of a "knuckle weapon," noting the handle was metal and hard wood and fell within the definition set forth in *Kohl*, in that it would enhance or increase the power or impact of a punch. The court distinguished the weapon found in defendant's possession from the weapon at issue in *Kohl*. It further stated as follows:

"I interpret [*Kohl*] to say the primary injury [from the weapon] would be caused by the knife. This court thinks there can be a dual purpose weapon, unlike [*Kohl*]. [*Kohl*] is a single purpose weapon. You could not hit somebody with [the weapon in *Kohl*] without burying a knife in them. That's the primary injury. This is a dual purpose weapon. I think you could have the primary injury being inflicted from a knife and I think you could have the primary injury being inflicted from the knuckle portion of it."

The trial court found defendant guilty of unlawful possession of a weapon by a felon pursuant to count I and dismissed count II.

¶ 11 On October 31, 2012, defendant filed a posttrial motion and asked the trial court to vacate its judgment in the case and grant him a new trial. On January 14, 2013, the court denied defendant's posttrial motion and sentenced him to 10 years in prison. Defendant then filed a motion to reconsider his sentence, which the court denied on March 7, 2013.

¶ 12 This appeal followed.

¶ 13 II. ANALYSIS

¶ 14 At issue on appeal is whether the weapon found in defendant's possession, which the parties describe in their briefs as a "trench knife," qualifies as a "knuckle weapon" pursuant to section 24-1(a)(1) of the Criminal Code. The weapon at issue consists of an approximately nine-inch knife blade and a handle with four finger holes. According to the parties' arguments at trial, the handle is composed of metal and wood. The record contains the following picture of the weapon found in defendant's possession:



¶ 15 On appeal, defendant argues the trial court erred in finding he possessed an illegal knuckle weapon. He contends the weapon in his possession was a knife, not a knuckle weapon, and the court's interpretation of section 24-1(a)(1) of the Criminal Code was overly broad. Defendant maintains that "possession of a knife does not amount to a criminal offense merely be-

cause it has the capacity to be used as an illegal knuckle weapon." He notes that *Kohl* defined "metal knuckles" as having the main purpose of increasing the power and impact of a punch and that essential to that definition is the "'one main purpose' element." Defendant asserts the "main purpose" of the weapon at issue was to cut and, thus, it cannot be defined as a knuckle weapon.

¶ 16 Conversely, the State maintains the weapon in defendant's possession was "constructed as metal knuckles and can be used exclusively for that purpose." It argues the nine-inch blade does not render the weapon ineffective as a knuckle weapon and, instead, adds a dual purpose to the weapon and increases its dangerousness. Ultimately, we agree with the State's position and the trial court's finding that the weapon in defendant's possession was a "knuckle weapon" within the meaning of section 24-1(a)(1) of the Criminal Code.

¶ 17 The issue presented for review concerns matters of statutory construction and is subject to *de novo* review. *People v. Gutman*, 2011 IL 110338, ¶ 12, 959 N.E.2d 621. "The primary objective of statutory construction is to ascertain and give effect to the legislature's intent" and "[t]he most reliable indicator of legislative intent is the language of the statute, given its plain and ordinary meaning." *Gutman*, 2011 IL 110338, ¶ 12, 959 N.E.2d 621. "[I]f the meaning of an enactment is unclear from the statutory language itself, the court may look beyond the language employed and consider the purpose behind the law and the evils the law was designed to remedy, as well as other sources such as legislative history." *Home Star Bank & Financial Services v. Emergency Care & Health Organization, Ltd.*, 2014 IL 115526, ¶ 24, 6 N.E.3d 128. Additionally, "[w]hen the statute contains undefined terms, it is entirely appropriate to employ a dictionary to ascertain the plain and ordinary meaning of those terms." *People v. Davison*, 233 Ill. 2d 30, 40, 906 N.E.2d 545, 551 (2009). "[U]nder the principle of lenity, we must construe

any ambiguity in a penal statute in favor of the accused." *Kohl*, 364 Ill. App. 3d at 499-500, 847 N.E.2d at 154.

¶ 18 Here, defendant was convicted of unlawful possession of a weapon by a felon pursuant to section 24-1.1(a) of the Criminal Code (720 ILCS 5/24-1.1(a) (West 2010)), which provides that "[i]t is unlawful for a person to knowingly possess *** any weapon prohibited under Section 24-1" of the Criminal Code. Section 24-1(a)(1) of the Criminal Code (720 ILCS 5/24-1(a)(1) (West 2010)) prohibits the possession of a "knuckle weapon." "Under section 24-1 of the [Criminal] Code, *** the possession of some items is considered *per se* unlawful—that is, their mere possession is illegal—whereas the possession of other items is considered illegal only if the possessor intends to use them unlawfully." *Kohl*, 364 Ill. App. 3d at 500, 847 N.E.2d at 154. Knuckles fall into the *per se* unlawful category, while most knives do not. *Kohl*, 364 Ill. App. 3d at 500, 847 N.E.2d at 154.

¶ 19 As the parties note, a previous version of section 24-1(a)(1) referred simply to a prohibition against "metal knuckles." 720 ILCS 5/24-1(a)(1) (West 2008). However, in 2009, that section was amended and now prohibits "metal knuckles or other knuckle weapon regardless of its composition." 720 ILCS 5/24-1(a)(1) (West 2010). The statute does not define the terms "metal knuckles" or "knuckle weapon."

¶ 20 Initially, defendant cites portions of legislative transcripts from debates in the House of Representatives concerning the 2009 amendment to section 24-1(a)(1). He maintains that, before the trial court, the State utilized the statutory amendment and the added language "regardless of its composition" to support its position that the statute prohibited any weapon which had "the capacity to be a knuckle weapon." However, defendant maintains that the legis-

lative history shows the 2009 amendment was intended to address concerns regarding knuckle weapons that were being made out of material other than metal and which would not have fit within the statutory proscription against "metal knuckles." Transcripts from the House debates support defendant's contentions, showing the sponsor of the bill amending the statute asserted the amendment did not change the law except to ensure that the statute "includes [knuckles] that are not made of metal." 95th Ill. Gen. Assem., House Proceedings, April 16, 2008, at 23-28 (Statements of Representative Crespo). We agree with defendant's position regarding the purpose of the 2009 amendment to section 24-1(a)(1), but do not find it determinative of the issue presented in this appeal.

¶ 21 In support of his contentions on appeal, defendant relies heavily on *Kohl*. There, the defendant appealed the trial court's determination that he possessed a set of metal knuckles and its subsequent finding that he was guilty of unlawful possession of a weapon by a felon. *Kohl*, 364 Ill. App. 3d at 498, 847 N.E.2d at 153. On review, the Second District described the weapon at issue as follows:

"[The weapon] consists of *** a grip on which the holder rests two fingers and from which two thin, pointed, two-inch metal projectiles extend at right angles; and two metal loops into which the holder inserts his or her middle and ring fingers, and from which extend at 45-degree angles two stubbier, half-inch metal projectiles, and from which also extends, straight out, a 3 1/2-inch-long, 1 1/2-inch-wide sharp pointed blade, shaped like an arrowhead." *Kohl*, 364 Ill. App. 3d at 498, 847 N.E.2d at 152-53.

The court included a picture of the weapon in its decision.

¶ 22 The Second District framed the question before it on review as whether the weapon at issue "amount[ed] to a set of metal knuckles simply because the item happens to be gripped by resting two fingers on the handle and inserting two fingers through metal loops, which, if the item were used against somebody, would not make contact with that person unless the 3 1/2-inch knife blade were already buried in his or her body." *Kohl*, 364 Ill. App. 3d at 498, 847 N.E.2d at 153. Ultimately, the court determined the object possessed by the defendant was not a set of metal knuckles and the trial court erred in finding him guilty of unlawful possession of a weapon by a felon based on his possession of a *per se* unlawful weapon. *Kohl*, 364 Ill. App. 3d at 503, 847 N.E.2d at 157.

¶ 23 In reaching its decision, the Second District considered various dictionary definitions of metal or brass knuckles. *Kohl*, 364 Ill. App. 3d at 500-01, 847 N.E.2d at 154-55. Each definition referenced by the court described metal or brass "knuckles" as having rings that fit over the fingers or which could be worn on the hand or fist. *Kohl*, 364 Ill. App. 3d at 500-01, 847 N.E.2d at 154-55. Additionally, the dictionary definitions noted the purpose of such objects was " 'to increase the impact of a blow with the fist' (American Heritage Dictionary ____ (4th ed. ____)," or to inflict " 'considerable damage' " when " 'hitting with the fist' (Black's Law Dictionary 188 (6th ed. 1990)." *Kohl*, 364 Ill. App. 3d at 500, 847 N.E.2d at 154-55. As a result, the court concluded that "metal knuckles are in a category of weapons primarily designed to inflict injury by strengthening the power of a punch." *Kohl*, 364 Ill. App. 3d at 502, 847 N.E.2d at 156.

¶ 24 In reversing the defendant's conviction, the Second District first concluded that

the object's appearance "undermine[d] the argument that it [was] a set of metal knuckles." *Kohl*, 364 Ill. App. 3d at 501, 847 N.E.2d at 155. It noted that although the item had two metal finger loops, it also had a long, thick knife blade which jutted forth from those loops. *Kohl*, 364 Ill. App. 3d at 501, 847 N.E.2d at 155. Further, the court stated as follows:

"If a person were to punch someone while wearing this item, the problem for the victim would not be that the metal loops would add to the impact of the assailant's fist. Indeed, the metal loops would not even make contact with the victim until a 3 1/2-inch-long, 1 1/2-inch-wide blade were buried in the victim's body. *** Moreover, contrary to the State's assertion, if the item were used offensively, it would not necessarily be used in a punching or jabbing manner. Rather, the item could be used in a slashing manner." *Kohl*, 364 Ill. App. 3d at 501, 847 N.E.2d at 155.

¶ 25 The Second District also concluded that it would be "unjust" to classify the item as metal knuckles "based solely on the way that the object is gripped" because, if used as a weapon, the object "would not inflict injury primarily because the grip would come into contact with the victim." *Kohl*, 364 Ill. App. 3d at 501, 847 N.E.2d at 155. Instead, the court stated the "primary injury would occur in some other way, for example, because a large knife blade would be driven into the victim." *Kohl*, 364 Ill. App. 3d at 501, 847 N.E.2d at 155. It also noted that the item found in the defendant's possession was "neither designed as a traditional set of metal knuckles nor used in the way metal knuckles are used." *Kohl*, 364 Ill. App. 3d at 501, 847 N.E.2d at 155.

¶ 26 We find *Kohl* distinguishable from the present case. There, although the object at issue could be gripped using finger holes similar to a knuckle weapon, it simply could not be used in the manner in which a knuckle weapon is designed to be used, *i.e.*, to increase the impact or power of a punch. As noted by the Second District, given the way the knife blade protruded from the object, there was no way in which it could be used as a weapon without "having a big blade buried in the victim's body." *Kohl*, 364 Ill. App. 3d at 502, 847 N.E.2d at 156. Conversely, the object at issue in this case consists of a knife blade and handle with four finger holes. As a weapon, it could be used in the manner in which a knife is typically be used, resulting in a victim being cut, slashed, or stabbed, *or* it could be used in the same manner as a knuckle weapon—to increase the impact or power of a punch—without having to use the knife blade at all.

¶ 27 Contrary to defendant's arguments, we do not read *Kohl* as excluding defendant's weapon from coverage of section 24-1(a)(1) simply because it could have a purpose other than increasing the impact or power of a punch. We acknowledge that, in *Kohl*, the Second District found that the "main injury" to a victim from the defendant's weapon would be from the blade; however, the basis for the court's finding was the fact that the weapon at issue before it could not be used solely as a knuckle weapon without the blade. The weapon at issue in this case is clearly different from the weapon in *Kohl*. It may be used either as a knife or as a knuckle weapon and its status as the latter renders it a *per se* unlawful weapon under section 24-1(a)(1).

¶ 28 Although we find no Illinois case that addresses an object like the one found in defendant's possession, the recent case of *Thompson v. United States*, 59 A.3d 961 (2013), from the District of Columbia court of appeals, discusses a similar object and supports our decision. In that case, the defendant challenged his conviction for attempted possession of a prohibited

weapon—"a knife with a metal knuckles handle"—and the court of appeals upheld his conviction. *Thompson*, 59 A.3d at 962. The relevant statute provided that " '[n]o person shall within the District of Columbia possess any machine gun, sawed-off shotgun, [or] knuckles.' " *Thompson*, 59 A.3d at 963, fn. 1 (quoting D.C.Code § 22-4514(a) (2008 Supp.)). Additionally, "knuckles" were defined by statute to mean "an object, whether made of metal, wood, plastic, or other similarly durable material that is constructed of one piece, the outside part of which is designed to fit over and cover the fingers on a hand and the inside part of which is designed to be gripped by the fist." *Thompson*, 59 A.3d at 964 (citing D.C.Code § 22-4501(3) (2008 Supp.)).

¶ 29 In *Thompson*, 59 A.3d at 964, the defendant acknowledged that his weapon was known as a "trench knife" and had a handle with knuckles; however, he maintained that the inclusion of a knife blade on his weapon removed it from coverage under the relevant statutory provisions. The court of appeals disagreed, stating "[t]he statutory definition aptly describes the handle of [the defendant's] weapon, which readily serves the same purpose as more traditional knuckles." *Thompson*, 59 A.3d at 965. The court concluded "[t]he handle of a trench knife is designed to enhance the force of a blow with a fist" (*Thompson*, 59 A.3d at 965) and noted as follows:

"The trench knife, also known as a 'knuckle knife,' 'combines the attributes of the dagger and the knuckle duster, having both a blade and a knuckle guard *with which to strike* [D]uring World War I the knuckle knife was adopted officially by the United States for trench fighting.' " *Thompson*, 59 A.3d at 965, fn. 7 (quoting Stephen Bull, Encyclopedia of Military Technology

and Innovation 145 (2004) (emphasis added)).

¶ 30 The District of Columbia court of appeals determined that excluding the defendant's weapon from inclusion within the relevant statutory provisions would lead to absurd results when the weapon was "designed to augment the impact of a punch and match[ed] the commonly understood description of knuckles." *Thompson*, 59 A.3d at 965. Further, it stated as follows:

"The addition of the blade makes the weapon more versatile and more lethal, combining the dangerous features of knuckles with those of knives designed for use in hand-to-hand combat. Exempting this weapon from the reach of [the relevant statute] would have the perverse effect of prohibiting possession of only the least dangerous versions of knuckles." *Thompson*, 59 A.3d at 965.

¶ 31 On appeal, the parties both identify the object found in defendant's possession as a "trench knife." We note the *Thompson* court provided a picture of the "trench knife" at issue in its decision and that weapon is similar in appearance to the weapon at issue in this appeal. Additionally, on appeal the State asserts "that the handle of the weapon found on defendant's person clearly meets the definition of 'metal knuckles' or 'knuckle weapon.'" Significantly, defendant does not dispute that contention. Instead, he makes arguments similar to those raised by the defendant in *Thompson* that the inclusion of the knife blade on the weapon excludes the object from being identified as a "knuckle weapon." For the same reasons set forth in *Thompson*, we reject defendant's claims in this case.

¶ 32 Additionally, we note that in support of his position on appeal defendant also cites *People v. Whitfield*, 8 Ill. App. 3d 210, 289 N.E.2d 667 (1972), a case relied upon by the Second

District in *Kohl* as supportive of its decision. In *Whitfield*, 8 Ill. App. 3d at 210, 289 N.E.2d at 668, the defendant "was convicted of possessing metal knuckles in violation of the unlawful use of weapons statute." The evidence against the defendant showed he "wore a spiked leather wrist band which *** he slipped down over his knuckles" and then "raised, or pointed, his clenched fist at several people." *Whitfield*, 8 Ill. App. 3d at 211, 289 N.E.2d at 668. The Fifth District reversed the defendant's conviction. *Whitfield*, 8 Ill. App. 3d at 212, 289 N.E.2d at 669. It also relied on dictionary definitions that defined metal or brass knuckles and concluded as follows:

"It is our opinion that brass knuckles or metal knuckles are clear and precise terms describing a particularly designed weapon the possession of which the legislature specifically intended to prohibit as contraband. The fact that defendant's wrist band could be held in a clenched fist, and could inflict serious injury if used for that purpose, does not make it metal knuckles any more than it would a number of other dangerous instruments that might be held in the fist. We therefore conclude that the wrist band carried by defendant did not prove him guilty of possessing contraband metal knuckles, and that, in the absence of proof that he intended to use the wrist band unlawfully against another, his conviction was not justified." *Whitfield*, 8 Ill. App. 3d at 211-12, 289 N.E.2d at 669.

¶ 33 We also find *Whitfield* distinguishable from the present case. Here, unlike *Whitfield*, defendant's weapon incorporates a knuckle weapon into its design and it may be used as such. Without the knife blade, the handle, by itself, is clearly identifiable as a knuckle weapon.

As asserted by the parties, defendant's weapon is commonly referred to as a "trench knife" and, as noted in *Thompson*, "[t]he handle of a trench knife is designed to enhance the force of a blow with a fist." *Thompson*, 59 A.3d at 965.

¶ 34 Under the circumstances presented, we conclude the object found in defendant's possession had a dual purpose, in that, when used as a weapon, injury could be inflicted on a victim by use of either the knife blade or use of the finger-fit handle to augment a punch. Because defendant's weapon incorporates a knuckle weapon into its design (unlike *Whitfield*) and that portion of the weapon can be used to inflict injury by increasing the power of a punch (unlike *Kohl*), section 24-1(a)(1) applies and renders the weapon *per se* unlawful. The trial court committed no error.

¶ 35 On appeal, defendant also argues the unlawful weapons statute was unconstitutionally applied to him. He contends "trench knives" are protected by the second amendment to the United States Constitution (U.S. Const., amend. II), which sets forth the right to keep and bear arms. Defendant maintains that knives are constitutionally protected arms under the second amendment and "the unlawful weapons statute cannot be applied to effectuate a complete prohibition on trench knives."

¶ 36 "Statutes are presumed constitutional, and the party challenging the constitutionality of a statute carries the burden of proving that the statute is unconstitutional." *People v. Aguilar*, 2013 IL 112116, ¶ 15, 2 N.E.3d 321. A reviewing court "has a duty to construe the statute in a manner that upholds the statute's validity and constitutionality, if it can reasonably be done." *Aguilar*, 2013 IL 112116, ¶ 15, 2 N.E.3d 321. The constitutionality of a statute presents a question of law and is subject to *de novo* review. *Aguilar*, 2013 IL 112116, ¶15, 2 N.E.3d 321.

¶ 37 To support his position, defendant primarily relies on *District of Columbia v. Heller*, 554 U.S. 570, 635 (2008), wherein the Supreme Court held a ban in the District of Columbia on handgun possession in the home violated the second amendment. He notes that, in so holding, the Supreme Court found the second amendment "guarantee[s] the individual right to possess and carry weapons in case of confrontation." *Heller*, 554 U.S. at 592. Defendant argues knives are constitutionally protected under *Heller*, and "because prohibitions on significantly more dangerous weapons are unconstitutional, it bears to reason that the unlawful weapon statute cannot be applied to effectuate a complete prohibition on trench knives."

¶ 38 However, as noted by the State, the Supreme Court also recognized that the right secured by the second amendment was not unlimited and "not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." *Heller*, 554 U.S. at 626. As an example of presumptively lawful regulatory measures, the Court stated that nothing in its opinion "should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms." *Heller*, 554 U.S. at 626-27. Additionally, the court "recognize[d] another important limitation on the right to keep and carry arms" was the "historical tradition of prohibiting the carrying of 'dangerous and unusual weapons.'" *Heller*, 554 U.S. at 627.

¶ 39 Here, defendant argues the weapon at issue is a constitutionally protected knife but ignores the features of his weapon which also make it a knuckle weapon. He contends "[a] knife cannot transform into an illegal knuckle weapon simply because it has the capacity to be used as such." However, the weapon found in his possession was not merely one that had the

"capacity" to be used as a knuckle weapon—it was also one that was designed for such use. That fact distinguishes defendant's weapon from other weapons he references and which he claims are also in danger of being included within the unlawful weapons statute, including "[e]very knife or sword *** produced with a hand guard or basket hilt." Notably, defendant does not argue that knuckle weapons are constitutionally protected weapons under the second amendment. Because defendant's weapon is a knuckle weapon and not merely a knife, we find he has failed to meet his burden of proving the unlawful weapons statute unconstitutional as applied to him. Additionally, we note defendant failed to address his status as a felon and, as set forth in *Heller*, presumptively lawful regulatory measures include those that prohibit possession of weapons by a felon.

¶ 40

III. CONCLUSION

¶ 41 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its \$75 statutory assessment against defendant as costs of this appeal. 55 ILCS 5/4-2002 (West 2012).

¶ 42 Affirmed.