Nos. 122951 and 122952
(Consolidated)

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellant, v. RONALD GRECO and ISIAH WEBB, Defendants-Appellees.	)))))))))))	On Direct Appeal from the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois Nos. 16 CM 2509 & 16 CM 637 Hon. Alexander F. McGimpsey *Judge Presiding*

BRIEF OF DEFENDANTS-APPELLEES

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E-FILED
10/31/2018 12:14 PM
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ORAL ARGUMENT REQUESTED

POINTS AND AUTHORITIES

Page(s)

NATURE OF THE ACTION

In this direct appeal, the State concedes that the unlawful use of a weapon ("UUW") statute, 720 ILCS 5/24-1(a)(4), would be unconstitutional on its face as applied to stun guns and tasers if it operates as a complete ban on carriage of those weapons. The State argues that it is *not* a complete ban because the Firearm Concealed Carry Act, 430 ILCS 66/5 *et seq*., which expressly *excludes* stun guns and tasers, should be interpreted as providing a way for Illinois residents to lawfully carry a stun gun or taser. The circuit court properly rejected that argument because the statutes at issue here cannot be reasonably read as allowing Illinois residents who happen to have a license to carry a concealed handgun to also carry concealed stun guns or tasers.

ISSUE PRESENTED

Whether the unlawful use of a weapon statute, 720 ILCS 5-24-1(a)(4), constitutes a comprehensive ban on the carriage of stun guns and tasers and therefore is unconstitutional on its face under the Second Amendment to the United States Constitution.

STATEMENT OF FACTS

In 2012, the Seventh Circuit held that the Class 4 form of section 24-1.6(a)(1), (a)(3)(A), (d) of Illinois' aggravated unlawful use of a weapons ("AUUW") statute violated the right to keep and bear arms guaranteed by the Second Amendment and was therefore unconstitutional on its face because it categorically prohibited the possession of a ready-to-use handgun outside the home. *Moore v. Madigan*, 702 F.3d 933, 940 (7th Cir. 2012). Nine months later, this Court agreed with the Seventh Circuit's analysis in *People v. Aguilar*, 2013 IL 112116, ¶ 20.

The State chose not to seek review of the Seventh Circuit's decision in *Moore* in the United States Supreme Court. *Aguilar*, 2013 IL 112116, ¶ 19 n.2. Instead, the General Assembly sought to cure the defect identified in *Moore* by enacting the Firearm Concealed Carry Act (the "CCA") and amending the AUUW statute to allow for a "limited right to carry certain firearms in public." *Id.* ¶ 22 n.4 (citing Pub. Act 98-0063, effective July 9, 2013). The CCA was and is limited to handguns, which was the type of weapon at issue in both *Moore* and *Aguilar*. Section 5 of the CCA, 430 ILCS 66/5, defines a "concealed firearm" to mean a "loaded or unloaded *handgun* carried on or about a person completely or mostly concealed from view of the public or on or about a person within a vehicle." A.26 (emphasis added). A handgun is defined, in turn, as "any device which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas that is designed to be held and fired by the use of a single hand." *Id.* The CCA provides that a "[h]andgun does not include: (1) a stun gun or taser, (2) a machine gun . . . (3) a short-barreled rifle or shotgun . . . (4) any pneumatic gun, spring gun, paint-ball gun or BB-gun." *Id.*[1]

The CCA establishes standards for obtaining a license to carry a "concealed firearm" (defined to mean a handgun) and a process that is designed to ensure that the applicant "does not pose a danger to himself, herself, or others, or a threat to public safety." 430 ILCS 66/10(a)(4), A.28; *see also* A.28-39. Among other things, the applicant must complete at least 16 hours of firearms training, which includes firearm safety, how

[1] A bill had been introduced in the General Assembly a year earlier to permit concealed carry of stun guns and tasers. But that bill (HB 5649) died after being referred back to committee in March 2012. *See* http://www.ilga.gov/legislation/BillStatus.asp?DocNum=5649&GAID=11&DocTypeID =HB&LegId=66121&SessionID=84&GA=97.

to care for, load, and unload a "concealable firearm," applicable state and federal laws regarding ownership, storage, carry and transportation of a firearm, and "appropriate and lawful interaction with law enforcement while transporting or carrying a concealed firearm." 430 ILCS 66/75(b), A.46. In addition, the applicant must obtain certification by a certified instructor that he or she passed a "live fire exercise" with a "concealable firearm" by hitting a target with 70% of the rounds fired. 430 ILCS 66/75(c), (e)(3), A.46-47.

The CCA also includes standards of conduct that licensees must meet in order to retain their concealed carry license. Section 65 of the Act lists prohibited areas where a licensee may not knowingly carry a "firearm." 430 ILCS 66/65, A.40-43. That includes private property posted with an approved symbol prohibiting guns on the premises—the ubiquitous black handgun on a white background overlaid with a red circle and slash.[2] Section 70 details additional prohibitions, such as "carry[ing] a concealed firearm" while under the influence of alcohol or other intoxicating substances, and provides for suspension or revocation of concealed-carry licenses as well as criminal liability in the event of certain violations. 430 ILCS 66/70, A.44-45.

In addition to adopting the CCA, Public Act 98-0063 amended the AUUW statute that had been found unconstitutional in *Moore*. Then, as now, the AUUW provided that a person committed the offense of aggravated unlawful use of a weapon if (i) he or she carried or concealed "any pistol, revolver, stun gun or taser or other firearm" in public and (ii) one or more aggravating factors was present. Pub. Act. 98-0063, 720 ILCS 5/24-1.6(a). Before the 2013 amendment, one of the aggravating factors was that the "firearm

[2] *See* http://www.isp.state.il.us/media/pressdetails.cfm?ID=762 (announcing signage approved by the Department of State Police pursuant to 430 ILCS 66/65(d), A.43).

possessed was uncased, loaded and immediately accessible at the time of the offense"—creating, as the Seventh Circuit found in *Moore*, a "flat ban" on carrying "ready-to-use" guns in public. 702 F.3d at 940. In Public Act 98-0063, the General Assembly continued to treat possession of an accessible and ready-to-use firearm "other than a pistol, revolver, or handgun"—which would include a stun gun or taser—as an aggravating factor. 720 ILCS 5/24.1.6(a)(3)(A) and (B). The law was changed only with respect to a "pistol, revolver, or handgun." The 2013 amendment provided that possessing an accessible and ready-to-use pistol, revolver, or handgun would be an aggravating factor only if the person possessing the weapon "has not been issued a currently valid license under the Firearm Concealed Carry Act." 720 ILCS 5/24.1.6(a)(3)(A-5) and (B-5).

Public Act 98-0063 also created an exemption to liability under the UUW statute, providing that the subsection at issue here—section 24-1(a)(4)—"do[es] not apply to or affect any person carrying a concealed pistol, revolver, or handgun and the person has been issued a currently valid license under the Firearm Concealed Carry Act at the time of the commission of the offense." 720 ILCS 5/24-2(a-5).

Two years later, the General Assembly amended section 24-1(a)(4) of the UUW to include the provision the State relies upon here. Public Act 99-0029, which was signed into law on July 10, 2015, amended a number of a statutes dealing with weapons, including the Firearms Owners Identification Card Act, 430 ILCS 65/1 *et seq.*,[3] the Firearm Concealed Carry Act, and the UUW statute. The UUW statute had long provided that it was an offense to carry or conceal "any pistol, revolver, stun gun or taser or other

[3] In 2005, eight years before the CCA was enacted, the Firearms Owners Identification Card Act was amended to require anyone who acquires or possesses a stun gun or taser to have a FOID card. *See* State Br. at 13.

firearm" in public, with the proviso that "this subsection (a)(4) does not apply to or affect transportation of weapons that meet one of the following conditions." Originally, those conditions included only that the weapon was "broken down in a non-functioning state" or was "not immediately accessible" or was "unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person" with a valid FOID card. The 2015 Act added a fourth exception for weapons that "are carried or possessed in accordance with the Firearm Concealed Carry Act by a person who has been issued a currently valid license under the Firearms Concealed Carry Act." 720 ILCS 5/24-1(a)(4)(iv).

Notably, in 2015 a bill was introduced in the General Assembly (SB 0711) to add an exemption to 720 ILCS 5/24-2 to allow individuals holding concealed-carry licenses for handguns to carry stun guns, tasers, and switchblades as well. That bill died in committee.[4] As a result, section 24-2 continues to provide an exemption from UUW only for individuals "carrying a concealed pistol, revolver, or handgun" who have a valid concealed-carry license. 720 ILCS 5/24-2(a-5).

At the time the General Assembly enacted the CCA and the 2013 and 2015 amendments described above, there had not yet been a definitive ruling as to whether stun guns and tasers were eligible for Second Amendment protection. In fact, in March 2015, the Massachusetts Supreme Judicial Court upheld a state statute banning the possession of stun guns on the ground that they were not in common use at the time the Second Amendment was enacted, fell within the category of "dangerous and unusual" weapons that the Supreme Court had said could be banned in *District of Columbia v.*

[4] *See* http://www.ilga.gov/legislation/BillStatus.asp?DocNum=711&GAID=13&DocTypeID=SB&LegId =85799&SessionID=88&GA=99.

Heller, 554 U.S. 570, 627 (2008), and were not readily adaptable for use in the military. *Commonwealth v. Caetano*, 470 Mass. 774, 26 N.E.3d 688 (2015). The Supreme Court overturned that decision in 2016 in *Caetano v. Massachusetts*, 136 S.Ct. 1027 (2016) (*per curiam*), unanimously concluding that stun guns do fall within the category of "bearable arms" protected by the Second Amendment. The General Assembly took no action to change Illinois' concealed carry or unlawful use of a weapon laws in the wake of *Caetano*.

In this case, the defendants were both charged with misdemeanor unlawful use of a weapon for carrying stun guns in a public place—Greco allegedly had a stun gun in a backpack at a forest preserve, while Webb was charged in a separate incident with allegedly carrying a stun gun in his jacket pocket while in public. C13, C14. Both moved to dismiss the charges on the ground that the UUW statute is unconstitutional on its face because the exemption for weapons for which a person has a concealed carry license does not apply to stun guns or tasers and therefore the statute acts as a "flat ban" on carriage of stun guns or tasers. The circuit court agreed, dismissing the charges against the defendants in two identical orders issued on October 27, 2017. A.15-24. This appeal followed.

STANDARD OF REVIEW

Defendants agree that this Court reviews the circuit court's decisions *de novo.*

ARGUMENT

The State makes two key concessions in its brief. First, it acknowledges, as it must in light of *Caetano*, that the possession and use of stun guns and tasers is protected by the Second Amendment. State Br. at 7. Second, it also agrees, as it must in light of

Moore and *Aguilar*, that the UUW statute would be facially unconstitutional if it effectively imposes a complete ban on carriage of ready-to-use and accessible stun guns and tasers. *Id.* Thus, it is undisputed that the UUW statute is unconstitutional as applied to stun guns and tasers if the CCA does not permit concealed carry of those weapons.

The State argues that the 2015 amendment to the UUW statute saves it from being a complete ban (and hence unconstitutional) because it permits a person to carry a concealed stun gun or taser so long as he or she has a license to carry a concealed *handgun* and abides by the "same rules" the CCA imposes for carrying handguns. *Id.* at 10. That argument is flatly inconsistent with the plain language of the CCA, which defines the kind of "concealed firearm" that can be carried by a license holder as a "handgun" and specifically *excludes* a "stun gun or taser" from the definition of a "handgun." 430 ILCS 66/5. Thus, the CCA on its face does not permit a licensee to carry a stun gun or taser. Contrary to the State's arguments, the 2015 amendment to the UUW statute cannot be read as a *sub silentio* amendment of the CCA. Particularly when the *entire* statutory scheme is considered, it becomes apparent that the General Assembly has permitted the concealed carry *only* of handguns.

The State's policy arguments for why stun guns and tasers *should* or *could* be regulated in the same way as handguns are wholly beside the point inasmuch as the General Assembly has not decided to permit any type of concealed carry of stun guns and tasers. In any event, its arguments defy common sense. As the circuit court noted, the CCA requires license holders to be trained in using handguns and to achieve a certain level of proficiency. None of that has any applicability to a stun gun or taser. The State argues that stun guns and tasers can be lethal if not properly used and that users too often

treat such weapons carelessly. Assuming the State is right, that serves only to emphasize the need for any regulation of the right to carry stun guns and tasers to apply specifically to that unique type of weapon.

I. The Plain Language And History Of The Relevant Statutes Is Dispositive.

The State begins (at 6) with the undisputed proposition that a statute must be afforded a presumption of constitutionality and should be construed "so as to affirm its constitutionality, *if reasonably possible.*" *In re Lakisha M.*, 227 Ill.2d 259, 263 (2008) (emphasis added). It is well-settled, however, that "[t]here is no rule of statutory construction that authorizes a court to declare that the legislature did not mean what the plain language of the statute says." *Ultsch v. Illinois Municipal Retirement* Fund, 226 Ill.2d 169, 184 (2007).

As in any case, the Court's "primary objective" in construing the statute at issue here must be to "ascertain and give effect to legislative intent." *People v. Howard*, 233 Ill.2d 213, 218 (2009). "[T]he surest and most reliable indicator of [legislative intent] is the statutory language itself, given its plain and ordinary meaning. In determining the plain meaning of statutory terms, this court will consider the statute in its entirety, keeping in mind the subject it addresses and the apparent intent of the legislature in enacting it." *Id.* (citations omitted). When these fundamental principles are applied here, it becomes apparent that the circuit court's decision should be affirmed.

The State does not contend that the CCA provides a licensing regime for or regulates the concealed carry of stun guns and tasers. Nor could it: the CCA could not be clearer in carving out stun guns and tasers from the definition of "concealed firearms." As a result, Illinois issues concealed carry licenses only for handguns and regulates the

behavior of individuals licensed under the CCA only with respect to handguns. The CCA plainly does *not* permit the issuance of licenses to carry concealed stun guns or tasers.

Furthermore, when the General Assembly amended the AUUW statute to cure the constitutional flaw identified in *Moore*, it carefully distinguished between (i) a "pistol, revolver, or handgun," which could now be legally carried with a concealed-carry license, and (ii) a "firearm, *other than* a pistol, revolver, or handgun," which could not. 720 ILCS 5/24-1.6 (a)(3) (emphasis added). Stun guns and tasers, which are explicitly covered by the AUUW statute, fall into the second category. Thus, under the plain language of the AUUW, carrying an accessible, ready-to-use stun gun or taser in public remains an aggravating factor. By contrast, carrying an accessible, ready-to-use handgun is *not* an aggravating factor so long as the person carrying the handgun has a concealed carry permit.

Similarly, the 2013 amendments added an exemption to the UUW statute to reflect the fact that the CCA now allowed concealed carry of handguns. Consistent with the changes to the AUUW statute, the new exemption was limited to "any person carrying a concealed pistol, revolver, or handgun" who has a currently valid license under the CCA. 720 ILCS 5/24-2(a-5). There was—and is—no exemption for a person carrying a concealed stun gun or taser.

This result is no accident: in 2013 the General Assembly crafted the narrowest possible legislation to remedy the constitutional flaws the Seventh Circuit had identified in *Moore*. As the court noted in *Moore*, before the CCA was enacted, Illinois was the "*only* state that maintain[ed] a flat ban on carrying ready-to-use guns outside the home." 702 F.3d at 940. The fact that the CCA and the corresponding changes to the AUUW and

UUW statutes were limited to handguns reflects the General Assembly's desire not to expand concealed-carry beyond the type of weapon it *knew* was protected by the Second Amendment—handguns. In 2013, there was no definitive ruling, either by this Court or the U.S. Supreme Court, that stun guns and tasers were eligible for Second Amendment protection.[5] Under those circumstances, the General Assembly chose not to amend the provisions of the unlawful use statutes relating to stun guns and tasers, thus leaving in place their "categorical prohibition of the possession and use of an operable [stun gun or taser] for self-defense outside the home." *Aguilar*, 2013 IL 112116, ¶ 21.

In 2015, the General Assembly amended section 24-1(a)(4) of the UUW statute to make clear that it did not apply to "weapons" that "are carried or possessed in accordance with the Firearm Concealed Carry Act by a person" with a currently valid license under the CCA. 720 ILCS 5/24-1(a)(4)(iv). Although that legislation also made some changes to the CCA, it did not alter the CCA to include stun guns or tasers. Nor did it alter the AUUW statute or the exemptions to the UUW in section 24-2, which still provide exceptions for carrying *only* a concealed "pistol, revolver, or handgun" with a valid concealed-carry license and thus effectively ban the carriage of ready-to-use stun guns and tasers.

The State argues that the 2015 amendment was intended to allow an individual to lawfully carry a stun gun or taser outside the home so long as he or she happened to have a concealed-carry license for a handgun. But this ignores the rest of the statutory scheme—even though the State concedes that the Court "must give effect to the *entire*

[5] By that point, Michigan's intermediate appellate court had concluded that stun guns were protected by the Second Amendment and so struck down a Michigan statute prohibiting the possession of stun guns. *See People v. Yanna,* 824 N.W.2d 241 (Mich. Ct. App. 2012). But that was hardly definitive.

statutory scheme." State Br. at 9 (emphasis added) (citing *Krautsack v. Anderson*, 223 Ill.2d 541, 553 (2006)). Here, the entire statutory scheme demonstrates that in 2015 the General Assembly chose to continue the existing prohibition of concealed carry of stun guns and tasers in the CCA, the AUUW statute, and the exemptions to the UUW statute. That is hardly surprising: the General Assembly still had no reason to believe that it was constitutionally required to permit the concealed carry of stun guns and tasers. In fact, as noted above, Massachusetts' highest court had just upheld a ban on stun guns on the theory that they were *not* protected by the Second Amendment.

Under those circumstances, it is apparent that the amendment the State relies upon was merely intended to clean up section 24-1 of the UUW to make it *consistent* with the existing statutory framework—not to adopt a completely different regulatory scheme for stun guns and tasers. Indeed, it would be absurd to conclude that the General Assembly intended to protect individuals with concealed carry-licenses from *misdemeanor* unlawful use of a weapon under section 24-1 for carrying a stun gun or taser, even though they could still be convicted of a Class 4 *felony* for the very same conduct under the AUUW statute, 720 ILCS 5/24-1.6.

Contrary to the State's argument, the plain language of the 2015 amendment fully supports this conclusion. Section 24-1(a)(4) establishes the general rule that it is unlawful to knowingly carry an accessible and ready-to-use "pistol, revolver, stun gun or taser or other firearm" in a vehicle or concealed on one's person in a public place. The 2015 amendment created an exception to that rule by providing that subsection (a)(4) "does not apply to or affect transportation of *weapons* that * * * are carried or possessed in accordance with" the CCA "by a person who has been issued a currently valid license

under the" CCA (emphasis added). The State argues that the word "weapons" as used in the proviso necessarily encompasses all of the types of weapons listed in subsection (a)(4)—that is, a "pistol, revolver, stun gun or taser or other firearm." But the most natural reading of the UUW statute is that "weapons that . . . are carried or possessed in accordance with" the CCA means weapons that *can* be carried or possessed in accordance with the CCA and that *can* be the subject of a valid concealed-carry license. The CCA itself explicitly excludes a stun gun or taser from the licensing scheme created by the Act, which is expressly limited to handguns. Thus, the plain language of the 2015 amendment confirms that the exception applies only to concealed carry of the type of weapon that can be lawfully carried under the CCA—a handgun.

The State cites *ejusdem generis* in support of its argument that the General Assembly intended to include all of the various types of firearms listed in subsection (4)(a) within the exception for "weapons" carried or possessed by a person with a concealed-carry license—even though the CCA expressly limits that license to "handguns." But no canon of construction can be used to rewrite the plain language of the relevant statutes. Moreover, the *ejusdem generis* canon is used to limit the reach of general phrases—like "other firearms"—to objects that are like the specific items enumerated in the statute (pistols, revolvers, stun guns and tasers). *People v. Davis*, 199 Ill.2d 130, 138 (2002). As *People v. Davis* recognized, that canon would counsel against including in the definition of "other firearms" weapons like BB guns, pellet guns, and paint ball guns that are not firearms but are "of like nature" to firearms. *Id.* But it provides no assistance whatsoever in deciding what the word "weapons" means in the exception to the rule. For that purpose, the "weapons" that are exempt from the statute

are "weapons" that are carried or possessed in accordance with the CCA. Because the CCA includes only handguns, no other "weapons" can be lawfully carried outside the home.

In sum, the plain language of the relevant statutes and the history of the CCA-related amendments demonstrates that the General Assembly did not intend its 2015 amendment of the UUW statute to provide Illinois residents with a way to carry stun guns and tasers in their cars or concealed on their persons in public places. Instead, the General Assembly retained the prohibition on concealed carry of stun guns and tasers because the Supreme Court had not yet concluded that those weapons were entitled to Second Amendment protection. Just as Illinois' prohibition of concealed carry rendered the unlawful use statutes unconstitutional as applied to handguns following *Heller* and *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010), *Caetano* rendered the UUW statute unconstitutional as applied to stun guns and tasers.

II. The State's Arguments Should Be Rejected.

The State argues (at 9) that anyone who "carries a stun gun or taser as he would legally carry a handgun—with a valid CCA, fully or partially concealed, not in the prohibited areas listed in section 65 of the CCA—is not guilty of UUW." The State recognizes that this position is in "tension" with the explicit language of the CCA excluding guns and tasers from the licensing and regulatory provisions of the CCA (*id.*), but argues that it is nevertheless somehow mandated by the plain language of the UUW. This argument fails because the CCA expressly excludes stun guns and tasers from the definition of "handguns" that can be lawfully carried. But it also fails because it assumes that the General Assembly (i) affirmatively decided to allow anyone who has a concealed-carry license for a handgun to carry a concealed stun gun or taser as well, but

then (ii) implemented that decision through the curious route of changing only section 24-1 of the UUW statute and not the AUUW statute, the exemptions to the UUW statute in section 24-2, or the CCA itself.

The fact that the UUW statute provides an exception to CCA license holders only if they carry or possess the weapon at issue "in accordance with" the CCA makes the State's interpretation even more implausible. The State assumes that a licensee carrying a concealed stun gun or taser would have to comply with the same limitations on carriage in particular locations that apply to concealed handguns. But why? The CCA prohibits a licensee from knowingly carrying a "firearm" on or into 23 different kinds of locations, including private property where the owner has an approved sign banning guns. 430 ILCS 66/65, A.40-43. Since the CCA provides for the issuance of a license only to "carry a concealed firearm," which is defined to mean a handgun and *not* a stun gun or taser, the kind of "firearm" covered by section 65's prohibitions is necessarily limited to handguns. Indeed, the *ejusdem generis* canon the State relies on its brief compels that result, limiting the general term "firearms" to the only specific kind of firearm the Act purports to regulate—handguns. Thus, there is *no* limitation in the CCA on the locations where stun guns and tasers can be carried.

Even if the term "firearms" in section 65 of the CCA could somehow be construed to include weapons that are expressly excluded from the Act (which it cannot), the State's interpretation still poses insuperable problems. For example, is a licensee prohibited from taking a concealed stun gun or taser onto private property in the face of a sign that prohibits only handguns? Or would property owners be required to post separate signs specifically prohibiting stun guns and tasers?

Another question is whether a licensee would be violating the CCA by carrying a concealed stun gun or taser while under the influence of alcohol or other intoxicants. Section 70(d) of the CCA prohibits a licensee from carrying "a concealed firearm," which is a defined term meaning a handgun and *not* a stun gun or taser, when under the influence. 430 ILCS 66/70(d), A.44. That section makes carrying a handgun while under the influence a Class A misdemeanor for a first or second violation, a Class 4 felony for a third violation, and grounds for suspension of the license the second time and revocation the third. *Id.* Under section 70(f), these penalties apply rather than the penalties under the UUW statute. Inasmuch as section 70(d) plainly prohibits carrying *only* a handgun—and not a stun gun or taser—while intoxicated, a licensee could not be found guilty of violating the CCA by carrying a stun gun while under the influence. Thus, there would be no grounds for criminally charging such a licensee under section 70(d) or for seeking to suspend or revoke his or her license. And because it is not a violation of the CCA, it is hard to see how carrying a concealed stun gun or taser while under the influence could forfeit the exemption the State claims the UUW statute provides for licensees who carry or possess weapons "in accordance" with the CCA. 720 ILCS 5/24-1(a)(4)(iv).

As the circuit court pointed out, the training provisions of the CCA also make it abundantly clear that the CCA was never intended to apply to stun guns and tasers, but rather is limited, as it explicitly provides, to handguns. A.17-18. The CCA requires every applicant to receive 16 hours of firearms training and to pass a "live fire" exercise with a handgun to show that the applicant can competently use that particular kind of weapon. 430 ILCS 66/75(b) & (c), A.46-47; *Berron v. Illinois Concealed Carry Licensing Review Board*, 825 F.3d 843, 847 (7th Cir. 2016) ("Illinois requires all applicants for a

concealed-carry license to complete a *firearms-training* course tailored to situations that those who carry *guns* in public may encounter.") (emphasis added). Since stun guns and tasers are expressly excluded from the CCA, the Act does not require the applicant to receive any training in how to properly use a stun gun or taser.

As the State itself suggests (at 14), such training would be beneficial because "many assume that 'less lethal than a handgun' means" stun guns and tasers are "'not dangerous at all,' resulting in misuse and overuse of the weapon." Teaching marksmanship to an applicant who may not even want to carry a handgun would do nothing to enlighten that person with respect to the dangers of stun guns and tasers and how best to use them. Because the CCA's regulatory scheme makes no sense when applied to stun guns and tasers, the purported exemption in the UUW statute would not be an appropriate regulation of stun guns and tasers even if the exemption could be read as broadly as the State suggests (which it cannot).[6]

These problems illustrate why the CCA, which was expressly designed *not* to apply to stun guns and tasers, cannot be pressed into service to avoid the Second Amendment problem created by *Caetano*. Whatever the General Assembly *could have done* to provide a properly regulated right to "bear" stun guns and tasers is beside the point. The fact is that the General Assembly did not even attempt to provide such a right but instead has maintained its flat prohibition on carrying accessible, ready-to-use stun guns and tasers. As the State concedes and this Court has already ruled in *Alvarez*, that

[6] The 2012 bill that would have allowed concealed carry of stun guns and tasers (HB 5649) would have imposed training requirements that were specific to stun guns and tasers for anyone who wished to obtain a license.

blanket prohibition renders the UUW statute unconstitutional on its face as applied to stun guns and tasers.

It is not for this Court to rewrite the relevant statutes to do something they explicitly forbid. Instead, it should be up to the General Assembly to decide whether and how this unconstitutional statute should be amended to comply with the Second Amendment.

CONCLUSION

For the foregoing reasons, the circuit court's orders should be affirmed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) 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.

s/ Michele Odorizzi

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PEOPLE OF THE STATE OF ILLINOIS,	)	On Direct Appeal from the
	)	Circuit Court of the Eighteenth
Plaintiff-Appellant,	)	Judicial Circuit,
	)	DuPage County, Illinois
	)	
v.	)	Nos. 16 CM 2509 & 16 CM 637
	)	
RONALD GRECO and	)	Hon. Alexander F. McGimpsey
ISIAH WEBB,	)	*Judge Presiding*
	)	
Defendants-Appellees.	)	

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PLEASE TAKE NOTICE that on October 31, 2018, we electronically filed the foregoing Brief of Defendants-Appellees with the Clerk of the Illinois Supreme Court, copies of which are hereby served upon you via email at the addresses listed above.

Dated: October 31, 2018

s/ Michele Odorizzi
One of the attorneys for Defendants-Appellees

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PROOF OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. The undersigned certifies and states that on October 31, 2018 she caused the foregoing Brief of Defendants-Appellees to be filed electronically with the Clerk of the Illinois Supreme Court and to be served on all counsel of record by emailing said copies to counsel of record at the email addresses listed above.

s/ Michele Odorizzi
One of the attorneys for Defendants-Appellees