

POINTS AND AUTHORITIES

I.	The People’s Evidence Was Sufficient Because a Rational Jury Could Accept Detective Dammon’s Testimony that the Latin Kings Are a Street Gang	9
	<i>In re Commitment of Fields</i> , 2014 IL 115542	10
	<i>Jackson v. Virginia</i> , 443 U.S. 307 (1979)	9
	<i>Musacchio v. United States</i> , 136 S. Ct. 709 (2016)	11
	<i>People v. Bush</i> , 214 Ill. 2d 318 (2005)	12
	<i>People v. Cooper</i> , 194 Ill. 2d 419 (2000).....	12
	<i>People v. Gonzalez</i> , 239 Ill. 2d 471 (2011)	9
	<i>People v. Hardman</i> , 2017 IL 121453	9
	<i>People v. Jackson</i> , 232 Ill. 2d 246 (2009).....	9
	<i>People v. Jamesson</i> , 329 Ill. App. 3d 446 (2d Dist. 2002)	12
	<i>People v. Lantz</i> , 186 Ill. 2d 243 (1999)	10
	<i>People v. Lozano</i> , 2017 IL App (1st) 142723	11
	<i>People v. Olivera</i> , 164 Ill. 2d 382 (1995).....	11
	<i>People v. Siguenza-Brito</i> , 235 Ill. 2d 213 (2009)	9
	<i>People v. Terrell</i> , 185 Ill. 2d 467 (1998).....	10
	<i>People v. Wheeler</i> , 226 Ill. 2d 92 (2007)	12
	720 ILCS 5/24-1.8(a)(1) (2012).....	10
II.	The People Need Not Present Evidence of Additional Crimes Committed by the Latin Kings	12
	<i>Land v. Bd. of Educ. of City of Chi.</i> , 202 Ill. 2d 414 (2002).....	15
	<i>Pension Ben. Guar. Corp. v. LTV Corp.</i> , 496 U.S. 633 (1990)	15

<i>People v. Carmichael</i> , 343 Ill. App. 3d 855 (1st Dist. 2003)	14
<i>People v. Davis</i> , 2016 IL App (1st) 142414.....	15
<i>People v. Hardman</i> , 2017 IL 121453	15
<i>People v. Newton</i> , 2018 IL 122958.....	15
<i>People v. Ortiz</i> , 2012 IL App (2d) 101261.....	15
<i>People v. Pikes</i> , 2013 IL 115171.....	16
<i>People v. Washington</i> , 2012 IL 107993.....	14
<i>People v. White</i> , 2015 IL App (1st) 131111.....	14
<i>People v. Wright</i> , 2017 IL 119561	14
720 ILCS 5/24-1.8(a) (2012)	13
740 ILCS 147/10 (2012).....	13
Pub. Act 87-932, Art. II, § 10 (eff. Jan. 1, 1993)	15
Sen. Transcript, 96th Gen. Assemb., 70th Legis. Day.....	15
Brotherton, David C., “The Almighty Latin King and Queen Nation (ALKQN),” <i>Encyclopedia of Gangs</i> (Greenwood Press 2008)	16
III. Even If Proof of Additional Crimes Were Required, Defendant’s Own Crimes Establish a Course or Pattern of Criminal Activity	17
740 ILCS 147/10 (2012).....	17, 18

NATURE OF THE CASE

Defendant was convicted of first degree murder, aggravated unlawful use of a weapon (AUUW), and unlawful possession of a firearm by a street gang member. R1705-06.¹ The appellate court affirmed, A19, and this Court allowed defendant's PLA challenging the sufficiency of the evidence supporting his unlawful possession of a firearm conviction. No question is raised on the pleadings.

ISSUE PRESENTED FOR REVIEW

Whether the People presented sufficient evidence that the Latin Kings are a street gang.

STATEMENT OF FACTS

In April 2013, Richard Herman was shot and killed in a gang fight at a Shell station in Belvidere, Illinois. A grand jury indicted Marco Hernandez and defendant in connection with Herman's murder. Defendant was charged with first degree murder, AUUW, and unlawful possession of a firearm by a street gang member. C153-54.

I. Defendant's Trial

A. Eyewitness Testimony

At defendant's trial, the People presented testimony from three eyewitnesses to the crime. First, Max Cox, a member of the Sureño 13 street

¹ Citations to the reports of proceeding appear as "R_"; the common law record as "C_"; the People's trial exhibits as "Peo. Exh. _"; defendant's brief and appendix as "Def. Br. __," and "A__," respectively, and the appellate court decision below as "App. Ct. _."

gang, testified that he drove to the Shell station around 6:30 p.m. with his friend Herman. R838-39, 842. They parked at a pump and went inside to pay for gas and buy beer. R842, 845. Inside, they encountered defendant and Hernandez. R843-44, 854. Cox knew defendant, who is black, from previous sales of marijuana. R847-48, 854 And Cox had seen Hernandez, who is Hispanic, around town. R843-44 A short time later, as Cox was pumping gas, Hernandez and defendant approached. R846-47. Defendant stood near the front of the car, and Hernandez stood ten to fifteen feet away. *Id.* Hernandez was yelling, and defendant asked Cox if he was “gang banging.” R848. When Cox said no, defendant accused him of lying and lifted his shirt to reveal a gun in his waistband. R848-49.

At that point, Hernandez stepped in front of defendant, facing away from Cox. R850, 852. When Hernandez turned away from defendant, Cox saw that Hernandez was holding defendant’s gun, which he placed behind his back. R850, 852-53. Hernandez and Herman began arguing loudly, despite Cox’s warning to Herman that Hernandez was now armed. R850-51. Hernandez then ran toward Herman, drew the gun from behind his back, and fired. *Id.* Herman fell to the ground. R853.

The People’s second eyewitness, Daniel Arevalo, was working as a cashier at the Shell station on the evening of the shooting. R897-98. Defendant and Hernandez came into the store to purchase beer, and Arevalo recognized both men from previous visits to the gas station. R903-05.

Shortly thereafter, Arevalo heard a commotion and turned to look out the window. R909-10. He saw Cox standing on the driver's side of a black car, pumping gas. R912-13. Defendant stood face-to-face with Cox, and Herman was standing five feet away, on the passenger side of the car. R913-14.

When Arevalo looked out the window a second time, a few seconds later, he saw Hernandez pull a gun from behind his back as he ran toward Herman. R914-17. When Arevalo saw Hernandez point the gun at Herman, he backed away from the window and then heard a shot. R917-18. After picking up the phone to call 911, Arevalo saw defendant and Hernandez flee. R918.

The People's third eyewitness, Gerald Keeney, testified that he was parked at the Shell station on the night of the shooting. R944-45. Keeney heard an argument followed by a gunshot. R947-48. He initially ducked down, and when he looked up a few seconds later, he saw a black man with a gun and a Hispanic man running away from the station. R948-50.

Herman was pronounced dead shortly after the shooting. R981-82. An autopsy concluded that Herman died as a result of the gunshot wound.

R1023.

B. The Search for Defendant

Police officers immediately identified defendant as a suspect.

Detective David Dammon of the Belvidere Police Department viewed surveillance video from the Shell station and recognized defendant. R1411.

And on the evening of the shooting, both Cox and Arevalo identified defendant in a photographic array. R1255-56, 1414-15.

Defendant evaded police in the weeks after the shooting. R765-66, 776-78, 789-96. Police executed a search warrant at the home of one of defendant's acquaintances, Anthony Perez, and found defendant's identification card, along with a Glock pistol and ammunition. R1427-31. Forensic testing matched the Glock to a fired cartridge recovered from the Shell station. R1500. Defendant was eventually apprehended in May 2013, when police went to the home of another of defendant's friends. R796-97, 1206-11. As police approached, defendant attempted to hide, but police arrested him and seized his cellphone. *Id.*

C. Gang Motive Evidence

To establish that defendant and Hernandez were members of the Latin Kings street gang and that gang rivalry provided a motive for the murder, Dammon testified as an expert on street gangs. R1397-98. Dammon described his twenty years of experience as a Belvidere police officer, serving as a member of the police department's street gang unit and conducting undercover narcotics and other felony investigations. R1383-86. He had been involved in hundreds of gang crime investigations and personally interviewed over one thousand gang members and others involved in gang crime. R1390-92. Dammon had conducted surveillance and interviewed gang members to learn how gangs operate in Belvidere and Boone County and the signs, signals, and slogans used by the gangs. R1392-95.

Dammon testified that he was familiar with the Latin Kings and Sureño 13 street gangs, "the two major groups of gangs in the Belvidere

area.” R1396-99. The two gangs are rivals. R1405. Dammon told the jury that the Latin Kings are “an organized street gang as defined by our state Street Gang Omnibus Act.” C1398. Both gangs have an established hierarchy. C1396-97.

Dammon described some of the hand signs and graffiti associated with the gangs. R1406-07. He noted that the Latin Kings are part of a group of gangs known as the People Nation. R1400. One symbol associated with the People Nation is a three- or five-pointed crown. R1402. Latin Kings use hand signals meant to look like three- and five-pointed crowns; the crowns also appear in gang graffiti. R1406-07. Gang members commonly have tattoos identifying their membership. R1404. The tattoos often designate a rank within the gang or memorialize a fellow gang member who was killed. *Id.* To demonstrate disrespect for a rival street gang, gang members may invert the rival’s symbols in graffiti or “throw down” the rival’s hand signal (i.e., make the signal with one’s hand pointed toward the ground). R1401-02, 1407. “Part of their signs and symbolism is the People Nation represents to the left, so you’d see left pant leg rolled. . . . Their gang tattoos are primarily on their left side. They tilt their hats to the left side.” R1405.

Dammon testified that he has handled “numerous” criminal investigations relating to the Latin Kings and Sureño 13 street gangs. R1405-06. He explained that drug sales are the street gangs’ “primary means

of income.” R1408. And “[t]he gangs need weapons to protect not only the drugs but the cash and themselves from other rival gangs.” *Id.*

Dammon identified defendant, Hernandez, and Perez as members of the Latin Kings street gang and Cox as a member of the Sureño 13 street gang. R1443-50. Dammon based these conclusions on law enforcement gang databases, his personal contact with the four men during previous gang investigations, and his observations of their clothing, tattoos, and behavior. *Id.*

The People also played for the jury two videos recovered from defendant’s cellphone. Peo. Exh. 8.² The videos, recorded about two hours before Herman’s murder, show defendant and Perez outside an apartment complex in a Belvidere neighborhood associated with the Sureño 13 gang. R1316-19, 1458. Defendant and Perez are seen “calling out for Sureño 13s and attempting to call out to instigate a fight.” R1317. Both defendant and Perez are making gang hand signs in the videos, and Perez calls out “King love,” “thirteen killer,” “Sureño killer,” and “where the Sureños at?” Peo. Exh. 8. In one video, Perez is seen urinating on the side of the building; Perez then walks over next to graffiti reading “13K” and says aloud “thirteen K.” *Id.* Dammon explained that the “13” stands for the Sureño 13 gang, and that the “K” was added to signify “13 Killer.” R1455-56. He also explained

² Peo. Exh. 8 is a CD-ROM labeled “Phone Reports for Deontae Murray.” The two videos that were played for the jury are .3gp files titled “VID_20130421_16131” and “VID_20130421_162414.”

that the graffiti would have been created by “somebody that didn’t get along with the 13s.” *Id.*

D. Defendant’s Testimony

Defendant took the stand in his own defense. He admitted that he was a member of the Latin Kings from the age of thirteen or fourteen until the time of the shooting. R1529-31, 1536. Defendant testified that it was Hernandez — and not he — who brought the gun to the Shell station. R1547. According to defendant, Hernandez pulled out the gun when he saw Herman. *Id.* But defendant took the gun away to prevent a confrontation. R1548. Defendant put the gun in his pocket and then walked over to talk with Cox — purportedly to forestall a fight. R1549-50. But as defendant spoke with Cox, Hernandez grabbed the gun out of defendant’s pants and shot Herman. R1552-53. Defendant and Hernandez then ran away. R1553.

E. Closing Arguments, Verdict, and Sentence

In closing, defense counsel began his argument by conceding that the People had proved defendant guilty of AUUW and unlawful possession of a firearm by a street gang member. R1637-38. He told the jury that “[t]rials are sort of like puzzles” in that jurors must sort out the facts and then apply them to the law. *Id.* And there was “no dispute that [defendant] was in possession of a firearm . . . [defendant] admitted that to you yesterday when he testified.” *Id.* As a result, “two of the puzzles are easily put together,” and the jury should focus on the third puzzle — whether the People had proved defendant guilty of murder.

After deliberating, the jury returned guilty verdicts on all three counts and found that defendant had been armed with a firearm during the commission of the offense of first degree murder. R1705. The circuit court sentenced defendant to fifty years for murder and a consecutive ten-year sentence for the unlawful possession conviction. R1742. For sentencing purposes, the AUUW conviction merged into the possession conviction. R1725.

II. Appeal

The appellate court affirmed, A19, and this Court allowed defendant's petition for leave to appeal challenging the sufficiency of the evidence supporting the possession conviction.

ARGUMENT

Defendant challenges his conviction for unlawful possession of a firearm by a street gang member, arguing that the People failed to establish that the Latin Kings — of which defendant testified he was a member — are a street gang. But as the appellate court correctly held, the People met their burden of proof by presenting expert testimony from Detective Dammon that the Latin Kings are “an organized street gang as defined by” Illinois law. R1398. There is no merit to defendant's suggestions that (1) the jury was incapable of considering this testimony because it was improperly instructed, and (2) the People were required to put forth evidence of specific crimes committed by the Latin Kings. And in any event, the People did present evidence of specific crimes committed by the Latin Kings; in particular, the

jury heard evidence (and convicted defendant based on the evidence) that defendant participated in a first degree murder and violated the AUUW statute.

I. The People’s Evidence Was Sufficient Because a Rational Jury Could Accept Detective Dammon’s Testimony that the Latin Kings Are a Street Gang.

In considering a sufficiency challenge, this Court employs the familiar standard established by *Jackson v. Virginia*, 443 U.S. 307 (1979), asking whether any rational trier of fact could have found the required elements of the crime beyond a reasonable doubt. *People v. Gonzalez*, 239 Ill. 2d 471, 478 (2011). In doing so, all reasonable inferences from the evidence must be drawn in the People’s favor. *Id.* The jury is the ultimate arbiter of issues of credibility or weight of the evidence. *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). And the testimony of a single witness, if positive and credible, is sufficient to convict. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). “This Court will not reverse a criminal conviction unless the evidence is so unreasonable, improbable, or so unsatisfactory as to justify a reasonable doubt of the defendant’s guilt.” *People v. Hardman*, 2017 IL 121453, ¶ 37 (internal quotations omitted).

There is nothing unreasonable, improbable, or unsatisfactory about Dammon’s testimony that the Latin Kings are a street gang.³ That testimony

³ Defendant does not challenge the People’s proof in any other respect. To prove unlawful possession of a firearm by a street gang member, the People were required to establish four elements: (1) defendant knowingly possessed a firearm and firearm ammunition on or about his person while on any land;

was based on his two decades of experience as a police officer in Belvidere, where the Latin Kings are one of two major street gangs. R1383-86, 1399. Dammon estimated that he had been involved in hundreds of gang crime investigations and that he had personally interviewed more than a thousand gang members and others involved in gang crime. R1390-92.

The appellate court correctly held that this testimony was proper and that the jury was entitled to credit it. App. Ct. 22-23. It is “well settled that a witness, whether expert or lay, may provide an opinion on the ultimate issue in a case.” *People v. Terrell*, 185 Ill. 2d 467, 496 (1998). And courts routinely find that such opinions satisfy the People’s burden of proof beyond a reasonable doubt. *See, e.g., People v. Lantz*, 186 Ill. 2d 243, 249, 261 (1999) (expert testimony that defendant was not insane at time of murder was sufficient to sustain People’s burden); *In re Commitment of Fields*, 2014 IL 115542, ¶¶ 20-27 (expert testimony that respondent suffered from mental disorders satisfies People’s burden in sexually violent person commitment proceeding). Here, Detective Dammon had extensive professional experience bearing on the ultimate issue: whether the Latin Kings are a street gang.

(2) defendant was not inside his own abode or fixed place of business; (3) defendant had not been issued a currently valid firearm owner’s identification card (FOID card); and (4) defendant was a member of a street gang. 720 ILCS 5/24-1.8(a)(1) (2012); *accord* R1678 (jury instruction). Defendant testified that he possessed the loaded pistol at the Shell station. R1548-49. And police confirmed that defendant had never been issued a FOID card. R1451. Defendant also concedes that the People presented evidence that he was a member of the Latin Kings. Def. Br. 12.

Defendant did not object to Dammon’s testimony on this point, did not cross-examine Dammon about the Latin Kings, and has not challenged the testimony’s admissibility on appeal.⁴

Relying on *People v. Lozano*, 2017 IL App (1st) 142723, defendant argues that Dammon’s testimony was insufficient to establish this element. Def. Br. 15-16. But *Lozano* is unpersuasive because its holding conflicts with precedent from this Court and the United States Supreme Court. There, although a police officer provided his expert opinion that Lozano was a member of a street gang, the appellate court held that the jury could not have properly considered this evidence because the trial court failed to give an instruction defining the term “street gang.” *Lozano*, 2017 IL App (1st) 142723, ¶ 43. But *Lozano* overlooked that “[a] reviewing court’s limited determination on sufficiency review . . . does not rest on how the jury was instructed.” *Musacchio v. United States*, 136 S. Ct. 709, 715 (2016) (erroneous jury instruction does not affect *Jackson* analysis). “All that a defendant is entitled to on a sufficiency challenge is for the court to make a ‘legal’ determination whether the evidence was strong enough to reach a jury at all.” *Id.* Moreover, a defendant may not recast a procedural objection — here, the lack of a jury instruction on the definition of street gang — as a

⁴ Even if the testimony had been erroneously admitted (and it was not), it must still be considered as evidence of guilt in the *Jackson* analysis. *People v. Olivera*, 164 Ill. 2d 382, 393 (1995) (“[A]ll evidence submitted at the original trial may be considered when determining the sufficiency of the evidence.”).

Jackson challenge. See *People v. Bush*, 214 Ill. 2d 318, 329-35 (2005) (rejecting defendant’s attempt to characterize objection to foundation for expert testimony as sufficiency challenge).⁵

And *People v. Jamesson*, which defendant also cites, similarly does not support his argument. See Def. Br. 16-17. *Jamesson* made clear that “[a]lthough [the People’s expert] did not testify as to specific dates or specific incidents, the trial court was free to accept or reject [his] opinions that the Latin Counts were a street gang that engaged in a course or pattern of criminal activity.” 329 Ill. App. 3d 446, 460 (2d Dist. 2002). Nor can *Jamesson* be distinguished on the ground that it involved a bench trial. See Def. Br. 17. This Court has repeatedly instructed that the same standard applies on sufficiency review “regardless of whether the defendant receives a bench or jury trial.” *People v. Wheeler*, 226 Ill. 2d 92, 114 (2007) (quoting *People v. Cooper*, 194 Ill. 2d 419, 431 (2000)) (internal citations and quotations omitted).

II. The People Need Not Present Evidence of Additional Crimes Committed by the Latin Kings.

The Court should reject defendant’s suggestion that the People must present evidence of specific crimes committed by the Latin Kings to establish

⁵ The Court should be especially wary of defendant’s claim because the decision not to seek a jury instruction defining street gang could have been strategic. In his closing argument, defense counsel made clear that he hoped to convince the jury to focus its attention on the murder charge by conceding that the People had proved their case on the unlawful possession and AUUW charges. R1637-38. Given that concession, a jury instruction defining street gang was unnecessary.

that the organization is a street gang. Nowhere in the Criminal Code or the Illinois Streetgang Terrorism Omnibus Prevention Act (Streetgang Act) does the legislature disapprove the use of expert testimony or otherwise dictate *how* the People must meet their burden. As with any criminal offense, the statute sets forth the elements of the crime, and *Jackson* provides the standard for assessing the sufficiency of the People's proof.

The elements of unlawful possession of a firearm by a street gang member are set out in § 24-1.8 of the Criminal Code. 720 ILCS 5/24-1.8(a). And the Code refers to § 10 of the Streetgang Act to define the term street gang as “any combination . . . of 3 or more persons with an established hierarchy that, through its membership or through the agency of any member engages in a course or pattern of criminal activity.” 740 ILCS 147/10 (2012). Course or pattern of criminal activity is defined in two ways: (1) “2 or more gang-related criminal offenses” committed in Illinois within a period of five years, where one of the offenses is a felony; or (2) “one or more acts of criminal defacement of property . . . if the defacement includes a sign or other symbol intended to identify the streetgang.” *Id.* To trigger liability for this offense, the defendant must be a member of a group that fits this definition. Defendant conceded that he was a member of the Latin Kings. And Detective Dammon testified unequivocally that the Latin Kings are a street gang within the meaning of the statute. Thus, the evidence sufficed to prove this element.

People v. Wright, 2017 IL 119561, is instructive. There, this Court rejected a sufficiency challenge to the People’s proof that the defendant was armed with a firearm. *Id.* ¶¶ 76-77. “Firearm” was defined by statute as “any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas’ but specifically excluding, among other items, any pneumatic gun, spring gun, paint ball gun, or BB gun.” *Id.* ¶ 71. The Court held that the jury was entitled to believe the testimony of lay witnesses who observed what appeared to be a firearm. *Id.* ¶¶ 76-77. The People were not required to present additional evidence that the firearm used in the crime met the technical statutory definition in all respects. *Id.* See also *People v. Washington*, 2012 IL 107993, ¶¶ 35-37 (witness’s testimony that assailant had gun was sufficient to prove assailant carried “dangerous weapon” within the meaning of the statute).

The other appellate court cases cited by defendant, Def. Br. 19, do not support his argument. In *People v. White*, 2015 IL App (1st) 131111, ¶¶ 28-33, and *People v. Carmichael*, 343 Ill. App. 3d 855, 859-61 (1st Dist. 2003), the appellate court simply interpreted § 2-8 of the Criminal Code to determine whether the offense of armed violence qualifies as a “forcible

felony.” In neither case did the court require the People to prove its case with a particular type of evidence.⁶

Defendant’s resort to legislative history is also unavailing. *See* Def. Br. 17-18. First, the Court should not consider legislative history at all because defendant identifies no ambiguity in the statute that would require statutory construction. *Land v. Bd. of Educ. of City of Chi.*, 202 Ill. 2d 414, 426 (2002) (“In the absence of ambiguity, we must rely on the plain and ordinary meaning of the words chosen by the legislature.”). And second, the two comments defendant pulls from a 2009 legislative debate do not illuminate anything about the legislative intent behind the Streetgang Act, which was adopted more than fifteen years earlier. *Compare* Sen. Transcript, 96th Gen. Assemb., 70th Legis. Day at 153-59, *with* Pub. Act 87-932, Art. II, § 10 (eff. Jan. 1, 1993). Such “subsequent legislative history is a hazardous basis for inferring the intent of an earlier [legislature].” *Pension Ben. Guar. Corp. v. LTV Corp.*, 496 U.S. 633, 650 (1990) (internal quotations omitted).

The irony of defendant’s argument — that the People should have presented evidence of crimes committed by the Latin Kings — is that his

⁶ Defendant also relies on language in *Hardman*, 2017 IL 121453, ¶ 31; *People v. Ortiz*, 2012 IL App (2d) 101261, ¶ 11; and *People v. Davis*, 2016 IL App (1st) 142414, ¶¶ 9-16, for the proposition that, in a prosecution for delivery of a controlled substance within 1000 feet of a church, the People must present evidence that the church is “used primarily for worship.” Def. Br. 19. But after defendant submitted his brief, the Court issued its opinion in *People v. Newton*, holding that a jury can infer that a church is used for worship without the People presenting particularized evidence to that effect. 2018 IL 122958, ¶¶ 17-20.

proposed rule would invite and even require the introduction of highly prejudicial evidence in future prosecutions. The Latin Kings are a long-standing, widespread, and well-known street gang. “U.S. law enforcement almost without exception considers the group one of the most ‘dangerous’ in the nation and labels it a criminal organization.” Brotherton, David C., “The Almighty Latin King and Queen Nation (ALKQN),” in *Encyclopedia of Gangs*, at 6 (Greenwood Press 2008). A Westlaw search for the term “Latin Kings” within Illinois criminal cases decided since 1993 (the effective date of the Streetgang Act) returns hundreds of results.⁷ This Court has recognized the prejudice inherent in evidence of gang-related activity and has instructed trial courts to use caution in admitting it. *People v. Pikes*, 2013 IL 115171, ¶ 25. Defendant’s own trial attorney filed a pre-trial motion to limit references to defendant’s gang affiliation. C421-22. Especially in cases like this one, where there can be no legitimate dispute that the Latin Kings are a street gang, the Court should not require evidence of additional gang-related crimes in lieu of expert testimony. Such a requirement would only redound to the detriment of criminal defendants.

⁷ On October 24, 2018, counsel searched for the term “Latin Kings” within Westlaw’s database of Illinois cases (which includes Illinois Supreme Court and Illinois Appellate Court cases) and then narrowed the results by Topic to Criminal cases and by Date to cases decided after January 1, 1993. This search returned 297 results.

III. Even If Proof of Additional Crimes Were Required, Defendant's Own Crimes Establish a Course or Pattern of Criminal Activity.

Even assuming that Detective Dammon's testimony alone was insufficient to establish that the Latin Kings are a street gang, defendant's argument fails because the People presented evidence of a course or pattern of criminal activity in two ways. First, the jury heard evidence of two or more gang-related offenses occurring on the day of the murder. Defendant was convicted of first degree murder and AUUW. R1705. He does not challenge the sufficiency of the evidence to prove those crimes. And of course, the evidence showing that Hernandez was the shooter also established that Hernandez committed first degree murder. All of those crimes were "gang-related" as defined by the statute. 740 ILCS 147/10. That is, the evidence showed both that (1) the crimes were "directed by, ordered by, authorized by, consented to, agreed to, requested by, acquiesced in, or ratified by" someone of authority within the gang, and (2) the crimes were committed "with the intent to increase the gang's . . . prestige, dominance, or control in any geographical area; or . . . with the intent to exact revenge or retribution for the gang." *Id.* Dammon testified that the Latin Kings enforce a strict hierarchy among their members, R1462-65; that Hernandez, a Latin King who had recently arrived in Belvidere, would have needed permission from gang leaders to accompany defendant, a more senior Latin King, to the Shell station, *id.*; and that defendant would have been permitted to carry a firearm only if it had been "issued to [him] by somebody in the gang with more rank

in the structure,” R1464-65. Defendant’s cellphone videos demonstrated that on the day of the shooting, defendant was calling out for members of the Sureño 13 gang in an attempt to provoke a fight. Peo. Exh. 8. And when defendant later saw Cox, a Sureño 13, at the Shell station, defendant demanded to know whether Cox was “gang banging” and threatened him with his firearm. R848-49.

Second, the People also established a course or pattern of criminal activity by presenting evidence of “one or more acts of criminal defacement of property . . . [that] include[ed] a sign or other symbol intended to identify the streetgang.” 740 ILCS 147/10. The cellphone video showed defendant and Perez standing in front of gang graffiti reading “13K.” As Dammon explained, these characters stand for “Sureño 13 Killer” and were meant to disparage the Sureño 13 street gang. R1455-56. The jury could have inferred that Perez and defendant created the graffiti as part of their efforts to “instigate a fight” that day. R1317.

This evidence of a course or pattern of criminal activity was more than sufficient to satisfy the People’s burden to prove that the Latin Kings are street gang, even apart from Dammon’s expert testimony. Accordingly, this Court should affirm defendant’s conviction.

CONCLUSION

This Court should affirm the judgment of the appellate court.

October 24, 2018

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RULE 341(c) CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rule 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 nineteen pages.

/s/ Jason F. Krigel
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PROOF OF 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. On October 24, 2018, the **Brief of Plaintiff-Appellee People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, which provided notice to the following registered parties:

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Additionally, upon its acceptance by the court's electronic filing system, the undersigned will mail 12 copies of the brief to the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701.

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