

IN THE APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

PEOPLE OF THE STATE OF ILLINOIS,
Plaintiff-Appellee,

v.

EHAB ALLABABIDI,
Defendant-Appellant, Pro Se.

APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

Appeal No. **2-26-0352**

Appeal from the Circuit Court of
Lake County, No. **23 CF 1146**

The Honorable Christopher R. Stride,
Judge Presiding

**EMERGENCY OMNIBUS MOTION OF DEFENDANT-APPELLANT FOR A STAY
OF SENTENCE AND ADMISSION TO BAIL, FOR A STAY OF THE WARRANT
OF MAY 28, 2026, FOR VACATUR OF THE APPOINTMENT OF COUNSEL AND
OF THE DIRECTION BARRING APPELLANT FROM FILING, AND FOR LEAVE
TO FILE THIS MOTION**

*EMERGENCY MOTION — BAIL MOTION SO DESIGNATED, Ill. S. Ct. R. 361(g) · Rules 13(c)(2), 361(a), 361(b)(1),
361(b)(2), 361(b)(3), 361(d), 366(a)(5), 607(a), 607(b), 607(c), 609(a), 610(a) · Second District Local Rule 109 · 28 U.S.C.
§ 2254(b)(1)(B)(ii)*

APPELLANT ASKS THIS COURT TO ACT ON OR BEFORE 9:00 A.M. ON THURSDAY, AUGUST 6, 2026.

Action requested by	9:00 a.m. on Thursday, August 6, 2026 — the hour at which the cause is called in the circuit court and at which the 180-day term is said to begin.
Nature of the emergency	Appointed counsel telephoned at approximately 4:37 p.m. on Monday, August 3, 2026 and wrote at 5:56 p.m. the same day (Exhibit OO), stating that the Office would move to stay the sentence but that this “would not affect the arrest warrant,” and that the Office had been informed of its appointment only that day. No motion has been filed. Two business days remain, and the warrant is the instrument that produces custody on August 6.
Relief, in one line	A stay and admission to bail under Rule 609(a); a stay of the warrant of May 28, 2026 under Rules 609(a) and 366(a)(5); vacatur of the appointment of counsel and of the direction that appellant file nothing further.
Supporting record	Fourth Supplemental Supporting Record under Rule 328, Exhibits MM through QQ, filed herewith. Exhibit OO is appointed counsel’s own written account of the call, which appellant adopts.

Defendant-Appellant EHAB ALLABABIDI, self-represented, moves this Court under Illinois Supreme Court Rules 609(a), 366(a)(5), 361(g) and 610(a) for a stay of sentence and admission to bail; under Rules 609(a) and 366(a)(5) for a stay of the execution of the warrant entered May 28, 2026 in Lake County No. 23 CF 1146; under Rules 607(a) and 13(c)(2) for vacatur of the appointment of the Office of the State Appellate Defender entered July 31, 2026 and for leave for that Office to withdraw; for vacatur of the direction in the same order that appellant file nothing further; and, to the extent that direction reaches this motion, for leave to file it instanter. **This motion is designated a motion regarding bail in a criminal case and is therefore an**

emergency motion under Rule 361(g). In support, appellant states:

I. The nature of the emergency, and the hour at which it arose

1. The order of July 31, 2026 appointed the Office of the State Appellate Defender and denied appellant's remaining requests "without prejudice to any motion filed by his counsel, including a motion to stay," adding a parenthetical advising counsel of appellant's position that the jail term begins August 6, 2026. Six days separated that order from the term.
2. On Monday, August 3, 2026, at approximately 4:37 p.m., appellant received a telephone call from (847) 695-8822, the published main telephone number of the Office of the State Appellate Defender, Second Judicial District, One Douglas Avenue, Second Floor, Elgin, Illinois 60120. The caller was a supervising attorney of that office. Appellant does not name her; nothing in this motion turns on her identity.
3. As of the filing of this motion, no motion of any kind has been filed in this Court by counsel. The term is said to begin at 9:00 a.m. on Thursday, August 6, 2026. The interval between the call and that hour is 64 hours and 23 minutes, of which two business days fall on a day this Court is open.

II. A federal court directed appellant to bring these questions to this Court first

On May 29, 2026, in *Allababidi v. Junkin*, No. 1:26-cv-01077 (N.D. Ill.), the Honorable John Robert Blakey entered an order at Dkt. 25 which states:

If Petitioner has legitimate concerns about the state case he must raise them with the state court in the first instance.

Order, Allababidi v. Junkin, No. 1:26-cv-01077 (N.D. Ill. May 29, 2026), Dkt. 25.

Appellant took that direction at its word, and this motion is what came of it. He raises the custody question here, in the reviewing court, under the rule that commits it to a reviewing court, and he asks no federal court to reach it while it is pending before this one. He states this so that the Court understands why a litigant with matters pending elsewhere is standing in front of this Court three days before a custodial term rather than somewhere else: **because a federal judge told him that this is the court that hears it first.**

III. Why this motion is presented by appellant and not by counsel

The order of July 31, 2026 contains the following direction:

Now having been appointed counsel, appellant himself shall file nothing further with this court and shall not communicate by any means with appellee's counsel.

Order, People v. Allababidi, No. 2-26-0352 (Ill. App. Ct., 2d Dist., July 31, 2026).

Appellant reads that direction as written and does not evade it. Three things follow, and each is on the face of the order or of a rule.

4. **The direction is expressly conditioned on the appointment.** Its first clause — "Now having been appointed counsel" — states the premise on which the bar rests. This motion asks this Court to vacate that appointment. A direction whose stated premise is the appointment cannot bar the one application that asks the Court to revisit the appointment, because so construed it would make the appointment unreviewable by the only person adverse to it.

5. **Rule 361(a) supplies no other vehicle.** “Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion.” There is no other form. Rule 13(c)(2) requires “leave of court” for withdrawal, which requires that something be presented to the court.
6. **The appointment itself obliges the clerk to receive this motion.** Rule 607(c): “If the defendant is represented by court-appointed counsel, the clerk of the reviewing court shall docket the appeal and accept documents for filing without the payment of fees.” Until the appointment is vacated, that sentence governs the clerk’s intake in this appeal.
7. **Appointed counsel directed appellant, in writing, to make this application.** “[Y]ou would need to tell the appellate court that you no longer want the Office of the State Appellate Defender appointed to your case.” Exhibit OO. Appellant is doing what his appointed counsel told him to do, in the forum she named, in the only form Rule 361(a) provides.
8. **Leave is requested in the alternative.** If this Court reads the direction to reach this motion, appellant asks leave to file it instantler, and states that he has filed nothing in this Court since July 31, 2026 and will file nothing further pending disposition of this motion except a reply if one is ordered.

IV. What appointed counsel communicated on August 3, 2026, in her own words

Appellant does not ask this Court to take his account of the telephone call. At 5:56 p.m. on August 3, 2026, appointed counsel — **Jaime L. Montgomery, Assistant Deputy Defender, Office of the State Appellate Defender, Second Judicial District** — wrote to appellant setting out her own account of it. It is Exhibit OO. **Appellant adopts it, relies on it, and does not dispute any statement of fact in it.** Every proposition in this Part is quoted from it.

I called you at **4:37 p.m.** in response to the email you sent my office on **July 31, 2026 at 9:07 p.m.** I advised you that your email was forwarded to me because **Deputy Defender Christopher McCoy is out of the office this week.** I explained that our office was informed **earlier today** that the appellate court appointed the Office of the State Appellate Defender to represent you on appeal number 2-26-0352.

Exhibit OO, first paragraph.

Counsel then states what she had done before she called, what she would file, and what she would not:

I stated that I have reviewed the documents you sent in your email, as well as the docket entries from the Lake County circuit court clerk’s online portal. I said that I planned to file a motion asking the appellate court to stay the circuit court order dated June 17, 2026 lifting the stay on your 180-day jail sentence. I then said that, unfortunately, **that would not affect the arrest warrant.**

Exhibit OO, first paragraph.

Three facts of record follow from those two passages, and appellant asks this Court to note that he asserts nothing beyond them.

6. **The Office did not learn of its appointment until August 3, 2026.** The order was entered July 31, 2026. Counsel telephoned within hours of her Office’s notice, having already read the transmitted drafts and the circuit court docket.

- 1 7. **The Office will seek a stay of the sentence and will not seek relief reaching the warrant.** That is
2 stated twice in Exhibit OO and repeated in its closing paragraphs.
- 3 8. **The Deputy Defender assigned to the Second District is out of the office this week,** which is the
4 week the term is scheduled to begin.

5 Counsel’s account of what appellant said is also accurate and he adopts it: that he believed this Court
6 could stay the warrant, that a stay of the sentence without relief from the warrant does not address the custody
7 he faces on August 6, and that he asked the Office to withdraw. Counsel then wrote what she told him to do
8 about it, and it is the reason this motion exists:

9 I then stated that because my Office was appointed at your request, **you would need to tell the**
10 **appellate court that you no longer want the Office of the State Appellate Defender appointed**
11 **to your case.**

12 *Exhibit OO, first paragraph.*

13 **This motion is that.** It is filed at the express written direction of appointed counsel, and Part III should be
14 read with that sentence in front of it.

15 **V. The second representation is answered by the text of Rule 609(a)**

16 Rule 609(a) provides, in its first sentence:

17 If an appeal is taken from a judgment following which the defendant is sentenced to imprisonment
18 or periodic imprisonment, or to probation or conditional discharge conditioned upon periodic
19 imprisonment, or from an order revoking or modifying the conditions attached to a sentence of
20 probation or conditional discharge and imposing a sentence of imprisonment or periodic
21 imprisonment, **the defendant may be admitted to bail and the sentence or condition of**
22 **imprisonment or periodic imprisonment stayed, with or without bond, by a judge of the trial**
23 **or reviewing court.**

24 *Ill. S. Ct. R. 609(a), first sentence.*

25 The rule confers two powers, not one. It authorizes a stay of the sentence, and it authorizes **admission to**
26 **bail.** It confers both on “a judge of the trial or reviewing court,” in the disjunctive, and it attaches no condition
27 to either. The phrase “good cause” appears once in the rule, in the sentence that follows, and governs a motion
28 to *revoke* a stay already entered. No such motion is before this Court.

29 The warrant entered May 28, 2026 commands custody without bail. An order of this Court admitting
30 appellant to bail in the same cause is repugnant to it and displaces it for the period of the stay. Appellant does
31 not ask this Court to quash a warrant of the circuit court. He asks this Court to do what the first sentence of Rule
32 609(a) says it may do — admit him to bail and stay the custodial consequence pending appeal — and to say so
33 in terms that the sheriff and the clerk can read. Rule 366(a)(5) supplies the form:

34 [E]nter any judgment and make any order that ought to have been given or made, and make **any**
35 **other and further orders and grant any relief ...** that the case may require.

36 *Ill. S. Ct. R. 366(a)(5).*

37 The question is not novel in this cause and it is not unreserved. The minute sheet of June 17, 2026
38 records “WARRANT WILL NOT BE QUASHED.” The circuit court has ruled. Rule 366(b)(1)(i) makes “[a]ny

error of law affecting the judgment or order appealed from” reviewable here, and Rule 361(g) makes a motion regarding bail an emergency motion when the movant so designates it. Appellant has so designated it.

VI. The reason counsel gave, taken on its own terms

Exhibit OO states the Office’s legal position, and appellant sets it out in full rather than in summary because he agrees with the first half of it:

In Illinois, a motion to quash or recall a warrant for failing to appear for a court date must be filed with the local circuit clerk and ruled on by the judge in the originating courtroom. **The appellate court may review a circuit court’s ruling on a motion to quash a warrant**, but it does not directly rule on such a motion. By law, (725 ILCS 105/1 et seq.), the Office of the State Appellate Defender is authorized to represent people **on appeal**, meaning before the appellate and supreme courts. We are not appointed to represent people before the circuit courts and we do not file documents on our clients’ behalf in the circuit courts.

Exhibit OO, second paragraph.

Counsel is right about a motion to quash, and appellant does not ask this Court to entertain one. A motion to quash or recall a warrant is circuit court practice; the Office of the State Appellate Defender does not appear in the circuit courts; and section 10(a) of the State Appellate Defender Act confines the Office to representation “on appeal.” No part of this motion asks this Court to quash anything, and appellant does not ask the Office to file anything in Lake County.

The relief sought is different in kind, and it is the relief the quoted passage does not reach. Rule 609(a) does not commit a motion to quash to the reviewing court. It commits **admission to bail** to the reviewing court, in the disjunctive, in the same sentence that commits a stay of sentence: the defendant “may be admitted to bail **and** the sentence ... stayed, with or without bond, by a judge of the trial **or reviewing** court.” Admission to bail by a reviewing court is appellate relief. It is not a motion to quash, it is not circuit court practice, and it is squarely within section 10(a). Exhibit OO does not address that clause of the rule.

Counsel’s own sentence supplies the second half of the answer. She writes that “[t]he appellate court **may review** a circuit court’s ruling on a motion to quash a warrant.” **The circuit court has ruled.** The minute sheet of June 17, 2026 records “WARRANT WILL NOT BE QUASHED.” There is therefore a ruling of the circuit court available for the review counsel describes, and conducting that review is appellate work within the Office’s mandate as counsel herself states it. Rule 366(b)(1)(i) makes any error of law affecting the order appealed from reviewable here, and Rule 366(a)(5) supplies the form of the order.

Appellant offers this Part as a disagreement about the reach of one rule and asks this Court to treat it as nothing else. Counsel gave a reasoned answer, gave it in writing within ninety minutes of the call, and closed by stating that she “remain[s] willing to file a motion to stay.” Appellant asks that the stay be entered on this motion, and, if the appointment stands, that counsel’s offer be accepted by this Court as an alternative basis for entering it.

VII. The record of the interval, hour by hour

The following is drawn from the docket of this appeal, from the order of July 31, 2026, and from appellant’s own transmissions. The right column states what remained when each event occurred.

Date and time	Event of record	Remaining before 9:00 a.m. on Thursday, August 6, 2026
July 23, 2026	Notice of appeal file-stamped in the circuit court. A Rule 609(a) motion for a stay and a Rule 607 motion are file-stamped the same day in the circuit court. Neither has been ruled on to this hour.	14 days
July 30, 2026	The People file a nine-page Objection, verified under 735 ILCS 5/1-109, to appellant's emergency request to stay the sentence — a request appellant made himself, and which this Court had accepted for filing.	7 days
July 31, 2026 (Friday)	This Court appoints the Office of the State Appellate Defender; denies the Rule 607(a) indigency determination and the report of proceedings; denies the remaining relief “without prejudice to any motion filed by his counsel, including a motion to stay”; and directs that appellant file nothing further. The appointee is not notified.	6 days
July 31, 2026, 9:07 p.m.	Exhibit MM. Appellant transmits to the Office's published address, 2ndDistrict@osad.state.il.us, under the subject line “TIME-SENSITIVE — People v. Allababidi, No. 2-26-0352 — Rule 609(a) Stay Required Before August 6,” five attachments: the transmittal letter (Exhibit NN) and four completed instruments in editable Word format — a drafted Rule 609(a) emergency motion for a stay, a proposed order carrying an administrative-stay paragraph in the alternative, a Rule 607(a) motion, and a proposed order on it. The message asks that the stay motion be filed “ on or before Monday, August 3, 2026 , or promptly advise me if counsel does not intend to seek that relief,” and asks counsel to “confirm receipt of all five attachments and advise ... no later than August 3. ”	5 days, 21 hours
July 31 – August 3, 2026	The interval in which no one could act. Appellant is directed to file nothing. The Office of the State Appellate Defender has not been told it is appointed — “our office was informed earlier today that the appellate court appointed” it (Exhibit OO, August 3). August 1 and 2 are a Saturday and a Sunday.	3 of the 6 days
August 3, 2026, approximately 4:37 p.m.	The telephone call. Counsel calls within hours of her Office's notice, having read the drafts and the circuit court docket. She states that the Office will move to stay the sentence and that this “would not affect the arrest warrant.” Exhibit OO.	64 hours and 23 minutes
August 3, 2026, 5:56 p.m.	Counsel confirms the call in writing (Exhibit OO), states the Office's legal position on the warrant, states that she “ remain[s] willing to file a motion to stay, ” and directs appellant to “tell the appellate court” if he does not want the appointment. No motion has been filed.	63 hours, 4 minutes
August 4 and August 5, 2026	The only days remaining on which this Court is open.	two business days
Thursday, August 6, 2026, 9:00 a.m.	The cause is called in the circuit court. Appellant's position, of which this Court advised counsel in the order of July 31, 2026, is that the 180-day term begins that day. On its face that term runs to February 2, 2027.	—

No part of that interval is attributable to appointed counsel, and appellant asks this Court to find that it is not. Exhibit OO establishes that the Office of the State Appellate Defender learned of its appointment on August 3, 2026 — three days after the order and three days before the term. Counsel telephoned the same day, having already read the transmitted instruments and the circuit court docket, and wrote within ninety minutes of the call. Appellant states this plainly because it is true, and because a motion that blames the wrong person deserves what it gets.

The middle row of that table is the emergency, and it is not anyone’s fault but it is nobody else’s to fix. **For three of the six days between the appointment and the term, no person was able to move: appellant had been directed to file nothing, and the Office that had been appointed in his place did not know it had been appointed.** An order that transfers the power to file from a litigant to an appointee, on a Friday, three court days before a custodial term, and that reaches the appointee on the last business day but one, leaves the interval unattended by operation of the order itself.

What remains is the content of the answer. When counsel telephoned, a finished Rule 609(a) motion, a proposed order carrying an alternative administrative-stay paragraph, and a written statement that the strategy was counsel’s alone (Exhibit NN) were already in the Office’s hands. Nothing further was needed in order to file. **The answer was that the Office would address the sentence and would not address the warrant — and the warrant is the instrument that produces custody on August 6. A stay of a sentence does not recall a warrant that commands arrest without bail.** Part VI takes the reason counsel gave, on its own terms.

VIII. The appointment rests on findings Rule 607(a) requires and no court has made

Rule 607(a) is the only rule authorizing the appointment of counsel for a criminal appellant:

Upon the filing of a notice of appeal in any case ... in which a sentence of probation or conditional discharge has been revoked or the conditions attached to such a sentence modified and a sentence of imprisonment or periodic imprisonment imposed ... **the circuit court** shall determine whether the defendant is represented by counsel on appeal.

If not so represented, and the court determines that the defendant is **indigent and desires counsel on appeal**, the court shall appoint counsel on appeal.

Ill. S. Ct. R. 607(a).

The rule conditions appointment on two findings and assigns the determination to a particular court. The following states each condition against the record.

What Rule 607 requires	What the record shows
The determination is committed to the circuit court .	The circuit court has made no determination. A Rule 607 motion was file-stamped there July 23, 2026 and has not been ruled on. The appointment was entered by this Court.
The court must determine that the defendant is indigent .	No court has entered that finding. The order of July 31, 2026 denied the request for a Rule 607(a) indigency determination in the same order that made the appointment.
The court must determine that the defendant desires counsel on appeal .	No court has entered that finding, and no filing of appellant’s supplies it. Part III of appellant’s omnibus motion asked this Court to direct a Rule 607(a) determination and to appoint counsel on that finding . The request was conditional. The condition was denied and the consequence entered anyway. The Office understands otherwise — “my Office was appointed at your request” (Exhibit OO) — which is the natural reading of an order that says nothing of the condition, and is why the misunderstanding is the order’s and not counsel’s.

What Rule 607 requires	What the record shows
Rule 607(b): “ Upon finding by the court that the defendant is indigent , the court reporting personnel ... shall transcribe, certify, and file the report of proceedings.”	There is no indigency finding, therefore no transcription obligation, therefore no report of proceedings. Rule 651(c) obliges appointed counsel to examine the record of the proceedings. Counsel has been appointed to examine a record the same order declined to cause to exist.

Appellant states the consequence in one sentence and does not embellish it. **An appointment entered without either finding the rule requires, in an order that expressly denied the first of them, produces counsel who cannot obtain a transcript, for a client who did not ask for counsel, and a direction that bars the client from acting for himself.** That is not a criticism of the Office of the State Appellate Defender. It is a description of an order.

IX. Martinez does not reach this motion, and appellant states its holding in full

Appellant anticipates the answer that there is no right to self-representation on appeal, and he states the authority for it himself rather than waiting to be met with it. In *Martinez v. Court of Appeal of California, Fourth Appellate District*, 528 U.S. 152 (2000), the Supreme Court held that “[n]either the holding nor the reasoning in *Faretta* requires California to recognize a constitutional right to self-representation on direct appeal from a criminal conviction.” Appellant does not assert such a right and does not rely on *Faretta* in this Court.

The same opinion states the limits of what it decided:

Our holding is, of course, narrow. It does not preclude the States from recognizing such a right under their own constitutions.

Martinez v. Court of Appeal of Cal., Fourth App. Dist., 528 U.S. 152 (2000).

Martinez decides whether a State **must** permit self-representation on appeal. It does not decide, and does not address, whether a reviewing court may direct that a represented appellant file nothing — including a motion asking to be relieved of the counsel whose appointment produced the direction. Rule 13(c)(2) presupposes the contrary, and no rule of this Court supplies such a bar.

This Court’s discretion has already been exercised in this appeal, and in appellant’s favor. The caption of this cause on this Court’s own docket reads *Defendant-Appellant, Pro Se*. Between July 23 and July 31, 2026 this Court accepted appellant’s filings, the People answered one of them with a nine-page verified Objection, and this Court ruled on them. Appellant asks that the discretion exercised for eight days not be withdrawn on a motion no party filed, three days before a custodial term.

X. Rule 13(c)(2) supplies the mechanism, and this motion supplies the vehicle

Except as provided under paragraph (c)(7), an attorney may not withdraw his or her appearance for a party **without leave of court and notice to all parties of record**.

Ill. S. Ct. R. 13(c)(2).

Appellant asked the Office, in substance, on August 3, 2026, to move to withdraw. Rule 13(c)(2) requires leave of court, so the request could not be self-executing, and Rule 13(c)(3) provides that a motion to withdraw “may be denied by the court if granting the motion would delay the trial of the case, or would otherwise be inequitable.” Appellant states, so that this Court need not infer it: **granting the discharge alone, and leaving**

the direction of July 31, 2026 in place, would be inequitable within the meaning of that sentence, because it would leave appellant barred from filing and without counsel at the same hour. That disposition is the one outcome appellant does not seek and asks this Court not to enter.

XI. The relief is sequenced, and the sequence is the point

Appellant asks that the relief be entered in the following order and that no part of it be entered without the part above it.

1. **The stay first.** A stay of the sentence and admission to bail under Rule 609(a), and a stay of the execution of the May 28, 2026 warrant under Rules 609(a) and 366(a)(5). This relief does not depend on who represents appellant and can be entered today without deciding anything else in this motion. If this Court grants nothing else, appellant asks for this.
2. **Then the direction.** Vacatur of so much of the order of July 31, 2026 as directs that appellant file nothing further with this Court.
3. **Then the appointment.** Vacatur of the appointment and leave for the Office of the State Appellate Defender to withdraw — **in the same order that vacates the direction, and not before.**

Appellant does not ask this Court to discharge counsel before a stay is entered. If this Court is not prepared to enter a stay on this motion, appellant asks that counsel remain appointed and that paragraph 3 be denied, so that some party retains the capacity to seek one.

XII. In the alternative, if counsel is not discharged

If this Court declines to vacate the appointment, appellant asks in the alternative that the direction of July 31, 2026 be vacated as to the warrant of May 28, 2026 and the custody it commands, and as to that subject only.

The ground is the direction's own premise. It bars appellant from filing because he has counsel. **Appointed counsel has stated in writing that the Office will not seek relief reaching the warrant, and has stated the reason: the Office does not appear in the circuit courts and does not regard the relief as available here.** Exhibit OO. As to that subject, therefore, the premise of the direction does not obtain. There is no counsel who will act, not because counsel is unwilling but because counsel understands the Office to be without authority, and the bar consequently operates on behalf of no one. A direction entered to prevent duplicative filings by a represented party cannot, on its own terms, prevent the only filing that will be made on a subject the representation does not reach.

Counsel identified the same gap and proposed the same solution appellant now asks this Court to supply. She wrote that appellant “will need to file a separate motion to quash the warrant in the circuit court, either on your own, or by asking to have counsel appointed to represent you in the circuit court.” Exhibit OO. That answer presupposes that appellant may act for himself on the subject his appellate counsel does not reach. **The direction of July 31, 2026 is what prevents it.** Nothing in this alternative asks this Court to discharge anyone, and appellant would remain represented as to every other question in the appeal.

XIII. A third disposition, in the alternative: standby counsel

Parts XI and XII ask this Court to vacate the appointment, or failing that to vacate the filing direction as to the warrant. Appellant offers a third disposition in the alternative to both. It resolves every branch of this motion

and requires this Court to find nothing against anyone.

Permit appellant to proceed self-represented and retain the Office of the State Appellate Defender as standby or advisory counsel.

Appellant states the governing authority against himself first. **There is no constitutional right to standby counsel.** *McKaskle v. Wiggins*, 465 U.S. 168 (1984), does not create one and appellant does not assert one. What *McKaskle* holds is the half that matters here — that standby counsel is compatible with self-representation, and may be appointed even where the litigant objects:

A defendant’s Sixth Amendment rights are not violated when a trial judge appoints standby counsel — **even over the defendant’s objection** — to relieve the judge of the need to explain and enforce basic rules of courtroom protocol or to assist the defendant in overcoming routine obstacles that stand in the way of the defendant’s achievement of his own clearly indicated goals.

McKaskle v. Wiggins, 465 U.S. 168 (1984).

The question is therefore not one of entitlement but of this Court’s discretion, which Rule 366(a)(5) supplies in terms. What the disposition produces on each problem this motion identifies is set out below.

Appellant is barred from filing	Cured. The direction of July 31, 2026 is vacated as to a self-represented appellant, and he may file on the subject counsel has stated in writing the Office cannot reach.
Appellant would otherwise be unrepresented	Cured. Counsel remains on the docket. This is the outcome Part XI asks this Court to avoid , and this disposition avoids it without denying anything.
Counsel has offered to file a stay	Preserved. Counsel remains free to file the motion she has stated in writing she “remain[s] willing to file” (Exhibit OO), and the Office’s Rule 607(c) fee-free intake and the record preparation its staff has begun continue uninterrupted.
The Rule 607(a) findings have never been made	Unaffected and still necessary. This disposition does not require the Court to make the determination today in order to enter a stay.

Appellant states plainly what this alternative concedes: it leaves on the docket an Office he has asked to be relieved, and it does not resolve the Rule 607(a) question. He offers it anyway, because a disposition that reaches the custody before 9:00 a.m. on Thursday, August 6, 2026 is worth more to him than one that vindicates him after it.

XIV. The appointment directs a statutory agency to do what the same order declined to authorize

The Office of the State Appellate Defender is a creature of statute, and the statute states the class of persons it exists to serve:

The State Appellate Defender shall represent **indigent persons** on appeal in criminal and delinquent minor proceedings, when appointed to do so by a court under a Supreme Court Rule or law of this State.

725 ILCS 105/10(a). *The Office submits its budget for the approval of the State Appellate Defender Commission.*
725 ILCS 105/10(b).

Rule 607(a) closes the circle in its own last sentence: “Compensation and reimbursement for expenses of appointed attorneys shall be as provided by statute.” The Office’s authority to act, and the public appropriation that pays for the acting, both run to indigent persons on appeal. **The order of July 31, 2026 appointed the Office and, in the same order, denied the determination that would have established indigency.**

Appointed counsel cited that statute herself. Exhibit OO invokes “725 ILCS 105/1 et seq.” as the measure of what the Office may and may not do. The Office is reasoning correctly from its own enabling Act; what is missing is the finding that Act and Rule 607(a) both make the condition of its application here.

The result is a representation with no predicate and no product, and none of it is any lawyer’s doing. The Office cannot obtain the report of proceedings, because Rule 607(b) conditions transcription on the finding the order declined to make; it is nonetheless obliged by Rule 651(c) to examine a record of the proceedings. Its support staff has begun to arrange preparation of the record and to send standard client correspondence (Exhibit OO). An Assistant Deputy Defender has read the file, read the circuit court docket, telephoned and written. The Deputy Defender for the district is away in the week the term begins. And the person represented has asked this Court to end the representation. **Every hour of that is public expenditure, and every hour of it proceeds from an order that entered the appointment while refusing the finding on which the statute conditions it.**

Either finding disposes of this Part, and appellant will accept either. If appellant is indigent, then Rule 607(b) commands the report of proceedings without charge, the appointment stands on the predicate the rule requires, and counsel can do the work the appropriation funds. If appellant is not indigent, then section 10(a) does not reach him, Rule 607(a) does not authorize the appointment, and the Office should be relieved. What cannot be right is the present condition: a statutory agency at work in a cause on the authority of an order that declined to make the finding its enabling statute names, on a record it cannot obtain, for a client who did not ask for it.

Appellant asks this Court to find nothing about the diligence of the Office or the value of any lawyer’s work, and this Part is not offered for that purpose. Exhibit OO is the work of a lawyer who read the materials, telephoned the same day her Office learned of the appointment, explained her position, and offered to file. **The waste is not hers. It is the order’s.** Appellant asks only that the finding Rule 607(a) requires be made — in either direction — because until it is, the appointment consumes a public appropriation without producing a transcript, without reaching the warrant, and without the consent of its subject.

XV. The interval, measured against the appeal

The People’s Objection of July 30, 2026 states at paragraph 11 that the report of proceedings is due September 10, 2026 and the record on appeal September 24, 2026. A 180-day term commencing August 6, 2026 runs to February 2, 2027 on its face. On the People’s own schedule, forty-nine days of the term will have been served before the record is due here, and the term will be complete before an ordinary briefing cycle would close. That is the ordinary ground for a stay under Rule 609(a) and appellant states it without elaboration.

XVI. The response period, as it stands, expires four days after the term begins

If this Court reads one Part of this motion first, appellant asks that it be this one. Rule 361(b)(3) provides that responses to a motion are due “within 7 days after personal or e-mail service of the motion ... or within such further time as the court or a judge thereof may allow.” Rule 361(d) then provides:

Except in extraordinary circumstances, or where opposing counsel has indicated no objections, no motion will be acted upon until the time for filing responses has expired.

Ill. S. Ct. R. 361(d).

Seven days from August 3, 2026 is **August 10, 2026**. The term is scheduled to begin at 9:00 a.m. on Thursday, August 6, 2026. **On the ordinary schedule the response period expires four days after the custody this motion seeks to prevent has already begun, and Rule 361(d) forecloses action in the interval.** The consequence is that this motion cannot be granted in time on the ordinary schedule regardless of its merit — not through any position taken by the People, who have not been served for the reason stated in Part XVII, and not through any act of appellant, but by operation of the rule.

Rule 361(d) contains its own answer. It excepts “extraordinary circumstances,” and Second District Local Rule 109 contemplates a three-day response period “except in extraordinary circumstances necessitating an earlier ruling.” Rule 361(g) makes a motion regarding bail an emergency motion when the movant so designates it, and appellant has so designated this one. Appellant therefore asks, in the order stated:

1. That the Court **shorten the response period** to a date certain not later than 12:00 noon on Wednesday, August 5, 2026, so that a response may be filed and this motion decided before the term begins; or
2. That the Court **enter an administrative stay** of the order of June 17, 2026, of the 180-day term, and of the execution of the warrant of May 28, 2026, under the extraordinary-circumstances clause of Rule 361(d) and Rule 366(a)(5), **to expire on this Court’s disposition of this motion**, and set the response period thereafter. Alternative B of the proposed order filed herewith is drawn for exactly that and decides nothing on the merits; or
3. That the Court **direct the clerk to transmit** this motion to appellee’s counsel forthwith under Rule 361(b)(1), with a direction to respond by a date certain, so that the shortened period runs from an act of the clerk rather than from an act appellant is forbidden to perform.

Appellant does not ask this Court to rule without giving the People an opportunity to be heard, and the third request is directed at giving them one on a schedule that fits the emergency. What he asks the Court not to do is allow the ordinary seven-day period to run unmodified, because that period and the term cannot both be observed.

XVII. Service, and the reason it is presented in this form

Rule 361(b)(1) requires that a motion be filed with proof of service, and provides: “Service and filing will be excused only in case of necessity.” The order of July 31, 2026 directs that appellant “shall not communicate by any means with appellee’s counsel.” Appellant has obeyed that direction. He has not served, and will not serve, the Office of the State’s Attorneys Appellate Prosecutor, any attorney of that Office, or the State’s Attorney of Lake County with this or any other document.

Appellant therefore asks this Court to excuse service upon appellee under the last sentence of Rule 361(b)(1), the necessity being an order of this Court; or, in the alternative, to direct the clerk to transmit a copy of this motion and of any order entered on it to appellee’s counsel. Appellant has served the Office of the State Appellate Defender, which is his own appointed counsel and is not appellee’s counsel, at its published address, and the proof of service filed with this motion states the manner and the hour.

One mechanical matter, disclosed here because it will occur and appellant would rather state it than have it discovered. **This motion is filed through the Court’s electronic filing system.** Rule 11(c) provides that “[u]nless otherwise specified by rule **or order of court**, documents shall be served electronically,” and Rule

11(c)(1) permits electronic service “through an approved electronic filing service provider.” Upon the clerk’s acceptance of a filing, that system generates a notice of electronic filing to the service contacts already attached to this appeal.

Appellant has not added, and will not add, any address for appellee’s counsel to the service list of the envelope transmitting this motion. He has sent nothing to appellee’s counsel and will send nothing. If appellee’s counsel receives notice of this filing, it will be generated by the Court’s own system, from contacts already on this docket, upon the clerk’s acceptance — which is the transmission this Part asks the Court to direct in any event. The order of July 31, 2026 is precisely the “order of court” that Rule 11(c) contemplates as displacing the default, and appellant reads it to bar an act of his own rather than the operation of the Court’s docketing system. He states the point so that this Court, and not he, decides which reading governs.

Appellant therefore asks, in the order stated: that service be **deemed effected** through the electronic filing service provider under Rule 11(c)(1); or **excused** under the last sentence of Rule 361(b)(1), the necessity being an order of this Court; or that the clerk be **directed to transmit**.

A proposed order phrased in the alternative accompanies this motion as Rule 361(b)(2) requires. This motion states the nature of the emergency and the specific relief requested as Rule 361(g) and Second District Local Rule 109 require, and the hour by which action is asked appears in the first paragraph of this motion.

XVIII. The forums already asked, and the federal posture

Appellant sets out below every forum in which he has sought relief bearing on the custody at issue, with the disposition of each. The table states dispositions and dates. **It does not characterize any of them, and appellant does not offer a denial as evidence that any court erred.** It is offered because Part XVI asks this Court to act on a shortened schedule, and a court asked to do that is entitled to know what has already been asked of whom.

Forum	What was sought	Disposition
Circuit Court of Lake County No. 23 CF 1146	Rule 609(a) motion for a stay of sentence; Rule 607 motion for an indigency determination and the report of proceedings. Both file-stamped July 23, 2026.	No ruling to this hour.
Appellate Court, Second District No. 2-26-0352	Emergency request to stay the sentence; Rule 607(a) determination; report of proceedings; omnibus relief.	Order of July 31, 2026: counsel appointed; the indigency determination and the report of proceedings denied ; remaining relief denied without prejudice to a motion by counsel; appellant directed to file nothing further.
Supreme Court of Illinois Nos. 133295, 133301, 133389	Supervisory relief under Rule 383; leave to file original actions under Rule 381.	Denied.
Supreme Court of the United States No. 25A1406, <i>Allababidi v. Junkin</i>	Application for an injunction. Submitted June 10, 2026; docketed June 17, 2026. Submitted before the order of June 17, 2026 was entered, and therefore did not seek review of it.	Presented to Justice Barrett , who on June 22, 2026 denied the application . Exhibit PP.
Forum	What was sought	Disposition
Supreme Court of the United States No. 26-5055, <i>Allababidi v.</i>	Certiorari to the Supreme Court of Illinois, from the judgment of conviction entered September 8, 2025 in No. 23 CF 1146. File-stamped February	Docketed July 10, 2026. Exhibit QQ.

Forum	What was sought	Disposition
<i>Illinois</i>	27, 2026. Arises from Appeal No. 2-25-0440 and does not concern the order of June 17, 2026.	
United States District Court N.D. Ill. No. 1:26-cv-01077	Habeas corpus; emergency relief.	Dkt. 25 (May 29, 2026): appellant directed to raise concerns about the state case “with the state court in the first instance.” Part II.

Two things follow from the table and appellant asks this Court to draw no third. First, the direction at Dkt. 25 sent him to a state court, and the order of July 31, 2026 then directed him to file nothing in the state court that has the matter. **Those two directions cannot both be obeyed by the same person on the same day, and this motion is the only form in which appellant can say so.** Second, of the forums in the table, the only one that has not yet ruled on the order of June 17, 2026 is this one.

Appellant states the following because it is a fact of the record and because stating it now prevents any later suggestion that it was withheld. He asks this Court to give it no weight in deciding this motion.

An application for a writ of habeas corpus ... shall not be granted unless it appears that — (A) the applicant has exhausted the remedies available in the courts of the State; or (B)(i) there is an absence of available State corrective process; or **(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.**

28 U.S.C. § 2254(b)(1).

A habeas proceeding is pending in No. 1:26-cv-01077, and the order at Dkt. 25 quoted in Part II directed appellant to bring his concerns about the state case to the state court first. He has done so. A ruling by this Court — **in either direction** — is what permits the federal court to take up the exhaustion question on a complete record. A denial is a ruling. An order shortening time and then denying relief is a ruling. The only disposition that leaves the question open is no disposition at all.

Appellant does not suggest that any disposition of this motion would constitute misconduct by any judicial officer, and he does not ask this Court to weigh the federal consequence in deciding it. He asks for a ruling, and he would rather have a reasoned adverse ruling from this Court before 9:00 a.m. on Thursday, August 6, 2026 than silence.

XIX. What this motion does not assert, and what it affirmatively states about counsel

Appellant states the following affirmatively, and asks this Court to treat it as part of the record and not as courtesy. **Appointed counsel acted promptly and in good faith.** Exhibit OO establishes that she telephoned on the day her Office learned of the appointment; that she had read the transmitted instruments and the Lake County circuit court docket before she called; that she offered to file the motion this Court’s order of July 31, 2026 invited; that she confirmed the conversation in writing within ninety minutes; that she gave a reasoned legal explanation for the limit she stated; and that she closed by writing that she “remain[s] willing to file a motion to stay.” Appellant does not dispute any of it and asks this Court to accept all of it.

Accordingly, this motion does not assert:

- A.** That any Assistant Deputy Defender, any Deputy Defender, or the Office of the State Appellate Defender has engaged in misconduct, acted in bad faith, delayed, or represented anyone

incompetently. Nothing in this motion is offered as a predicate for any proceeding against anyone, and appellant will not offer it for that purpose later.

- B. That the position stated in Exhibit OO is unreasonable. It is correct as to a motion to quash. Part VI joins issue with it on one clause of one rule — the admission-to-bail clause of Rule 609(a) — and on nothing else.
- C. That counsel is obliged to adopt appellant’s theory of the case. Rule of Professional Conduct 1.2(a) commits the objectives of representation to the client and the means to the lawyer.
- D. That the interval between the order of July 31, 2026 and this motion is attributable to counsel. Part VII states the contrary in terms.
- E. That the Deputy Defender’s absence is anyone’s fault. It is stated because it bears on what can be filed before 9:00 a.m. on Thursday, August 6, 2026 and for no other reason.
- F. That this Court should decide the merits of the appeal, adjudicate the petition to revoke filed May 14, 2026, or make any finding about any assistant State’s Attorney.
- G. That any judicial officer of this Court has acted improperly, has been the subject of any communication from any party or non-party, or has done anything other than enter the orders that appear on this docket. **Appellant makes no allegation on information and belief anywhere in this motion.**
- H. That any matter pending in any other court is before this Court. Appellant has proceedings pending elsewhere. None of their materials is tendered here, and the supporting record filed with this motion contains three documents, all of them correspondence between appellant and his own appointed counsel.

The difficulty in this appeal is structural and it was created by an order, not by a lawyer. An appointment was entered on a Friday without the findings Rule 607(a) requires; the appointee was not told until the following Monday; the appellant was directed to file nothing in the interval; the appointment carries no transcript because the same order refused the finding Rule 607(b) conditions it on; and the relief that reaches the custody has been left, on the Office’s own reading of its statute, to a litigant who has been directed not to seek it. Every one of those is within this Court’s power to correct, and none of them requires a finding against anyone.

XX. Relief requested

WHEREFORE, Defendant-Appellant EHAB ALLABABIDI respectfully asks that this Court:

1. **STAY**, under Illinois Supreme Court Rule 609(a), the order entered June 17, 2026 and the 180-day term of imprisonment activated by it, pending the disposition of this appeal, and **ADMIT** appellant to bail, with or without bond, as that rule provides;
2. **STAY**, under Rules 609(a) and 366(a)(5), the execution of the warrant entered May 28, 2026 in Lake County No. 23 CF 1146 for the period of the stay, and **DIRECT** that a copy of the order be transmitted to the clerk of the circuit court and to the Sheriff of Lake County;

3. **VACATE** so much of the order entered July 31, 2026 as directs that appellant file nothing further with this Court;
4. **VACATE** the appointment of the Office of the State Appellate Defender entered July 31, 2026, and **GRANT** that Office leave to withdraw under Rule 13(c)(2), in the same order that grants paragraph 3 and not otherwise;
5. **GRANT** appellant leave to file this motion instantler, to the extent the direction of July 31, 2026 is read to reach it;
6. **DEEM** service upon appellee effected through the electronic filing service provider under Rule 11(c)(1); or **EXCUSE** service under the last sentence of Rule 361(b)(1); or **DIRECT** the clerk to transmit this motion and any order entered on it to appellee's counsel;
7. **IN THE ALTERNATIVE** to paragraphs 3 and 4, **VACATE** the direction of July 31, 2026 as to the warrant of May 28, 2026 and the custody it commands, and as to that subject only; and
8. **SHORTEN** the response period under Rules 361(b)(3) and 361(d) and Second District Local Rule 109 to a date certain not later than 12:00 noon on Wednesday, August 5, 2026, or, in the alternative, **ENTER** an administrative stay under the extraordinary-circumstances clause of Rule 361(d) to expire on the disposition of this motion and set the response period thereafter;
9. **IN THE FURTHER ALTERNATIVE** to paragraphs 3, 4 and 7, **PERMIT** appellant to proceed self-represented, **VACATE** the direction of July 31, 2026 that appellant file nothing further, and **RETAIN** the Office of the State Appellate Defender as standby or advisory counsel under Rule 366(a)(5); and
10. **ENTER** such further orders as the case may require under Rule 366(a)(5), including, if this Court is not prepared to rule before 9:00 a.m. on Thursday, August 6, 2026, an administrative stay of the sentence and of the execution of the warrant until this motion is decided.

Verification

Under penalties as provided by law pursuant to section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), I certify that the statements set forth in this instrument are true and correct, except as to matters stated on information and belief, and as to those matters I certify that I verily believe them to be true. Every description of a court record in this instrument is drawn from the document identified for it in the supporting record filed herewith.

Respectfully submitted,

/s/ Ehab Allababidi

EHAB ALLABABIDI

Defendant-Appellant, Pro Se

8516 W. Winona St., Chicago, Illinois 60656

(773) 920-0030 | defcon5ready@gmail.com

Dated: August 3, 2026