

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

| | | |
|----------------------|---|----------------------------|
| In the Matter of: |) | |
| |) | |
| ANDREW FRANKLIN, |) | |
| |) | Commission No. 2022PR00087 |
| Attorney-Respondent, |) | |
| |) | |
| No. 6320628. |) | |

NOTICE OF FILING

To: Evette Ocasio (eocasio@iardc.org) (ardceservice@iardc.org)
 Matthew D. Lango (mlango@iardc.org)
 Attorney Registration & Disciplinary Commission
 130 East Randolph Drive, #1500
 Chicago, Illinois 60601-6219

PLEASE TAKE NOTICE that on **March 27, 2023**, we filed with the Clerk of the Attorney Registration & Disciplinary Commission: **ANSWER TO AMENDED COMPLAINT**, a copy of which is served upon you herewith.

By: /s/ Kathrynne Hayes
 Counsel for Respondent

Adrian Vuckovich (av@cb-law.com)
 Kathrynne Hayes (khayes@cb-law.com)
 COLLINS BARGIONE & VUCKOVICH
 One North LaSalle Street, Suite 300
 Chicago, Illinois 60602
 Telephone: 312-372-7813

CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that they served the foregoing document(s) by causing copies to be delivered to the above stated SERVICE LIST by **email** on **March 27, 2023**.

/s/ Monica Nunez
 Monica Nunez

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 3/27/2023 1:45 PM
 ARDC Clerk

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ANSWER TO AMENDED COMPLAINT

COMES the Respondent, Andrew Franklin, by his attorneys, Adrian Vuckovich and Kathryn Hayes, denying any prefatory allegations and for his Answer to the Administrator's Amended Complaint, states as follows:

STATEMENT PURSUANT TO COMMISSION RULE 231

Respondent was licensed to practice law in the State of Illinois on November 5, 2015. Respondent is not admitted to practice in other jurisdictions and has no other professional licenses.

COUNT I

(Alleged Unlawful Possession of a Controlled Substance)

1. At all times related to this complaint, Respondent resided in Chicago and worked, at most times throughout his legal career, as an associate or a contract attorney at various law firms in the Chicago area.

ANSWER: Admitted.

2. In or about 2019, Respondent used a fake South Carolina driver's license to rent a United States post office box ("PO box") in Chicago, Illinois, under the name "Joseph Borrel."

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ANSWER: Respondent admits that in the past he had in his possession a South Carolina driver's license. Respondent admits having a PO box at some point, in Chicago, Illinois and believes it was registered under the name Joseph Borrel. Any remaining allegations are denied.

3. Beginning in 2019, Respondent began acquiring ecstasy pills (MDMA) on the dark web. Respondent would purchase the pills using cryptocurrency and have the package shipped to Joseph Borrel at the PO box. Generally, there would be approximately 10 days between Respondent placing an order and receiving the package. After obtaining the pills, Respondent would then sell them to a known dealer for a net profit of approximately \$5,000 per transaction.

ANSWER: Denied that the allegations of paragraph 3 are relevant. Admitted that Respondent purchased, possessed and consumed ecstasy pills and admitted to such conduct in a criminal pleading. Respondent admits he has had a substance abuse problem for which he has sought treatment. The remaining allegations are vague and cannot be answered as alleged. Any remaining allegations are denied as alleged.

4. Between 2019 and October 2020, Respondent ordered ecstasy pills from the dark web approximately 15 times, and with each transaction Respondent kept no more than 10 pills.

ANSWER: Admitted that Respondent previously purchased ecstasy pills online. Respondent has acknowledged a substance abuse problem and sought treatment. The remaining allegations are vague and cannot be answered as alleged. Any remaining allegations are denied as alleged.

5. On or about October 13, 2020, Cook County Sheriff Investigator John Riggio was notified that a Customs and Border Protections Officer at the O'Hare International Airport Foreign Mail Unit conducted a border search on a parcel from Great Britain, and addressed to Joseph Borrel

at a P.O. box in Chicago, Illinois. Upon examination, the parcel contained a vacuum sealed bundle of approximately 424 gray “Grimm Reaper” pills, suspected to be ecstasy (MDMA). Subsequent field tests were conducted and it was determined the pills were positive for MDMA.

ANSWER: Respondent lacks personal knowledge of the allegations regarding alleged communications to Cook County Sheriff Investigator John Riggio. The remaining allegations are denied as alleged. It was previously stipulated that less than 15 pills were tested and found to be positive for MDMA. (Exhibit B, p. 17.)

6. On October 22, 2020, Judge Timothy Chambers signed an anticipatory search warrant and orders for a GPS and alarming devices to be installed on the parcel.

ANSWER: On information and belief, a warrant to allow monitoring measures was executed.

7. On October 23, 2020, investigators were alerted that Respondent had retrieved the parcel from the PO box. Investigators followed Respondent’s vehicle to a parking garage. Shortly thereafter, investigators received an alert from the alarming device, notifying them that the parcel had been opened. As an investigator approached the rear of Respondent’s vehicle, they observed Respondent with a bundle of pills in his hand and the open parcel in the trunk. Respondent was then arrested.

ANSWER: Admitted that Respondent was arrested. Respondent lacks personal knowledge of the allegations regarding the investigators and therefore, neither admits nor denies these allegations. Any remaining allegations are denied.

8. On December 18, 2020, the Cook County State’s Attorney’s Office filed a bill of indictment in the Circuit Court of Cook County charging Respondent with unlawful possession with the intent to deliver a controlled substance and unlawful possession of a controlled substance,

arising out of his arrest on October 23, 2020. Count I of the indictment charged Respondent with knowingly possessing with the intent to distribute 200 or more pills, but less than 600 pills of MDMA, a Class X felony, in violation of 720 ILCS 570/401(a)(7.5)(B)(ii). Count II of the indictment charged Respondent with knowingly possessing with the intent to distribute 200 or more pills, but less than 600 pills of MDMA, a Class X felony, in violation of 720 ILCS 570/401(a)(7.5)(A)(ii). Count III of the indictment charged Respondent with knowingly possessing 200 or more pills, but less than 600 pills of MDMA, a Class 1 felony, in violation of 720 ILCS 570/402(a)(7.5)(B)(ii). Count IV of the indictment charged Respondent with knowingly possessing 200 or more pills, but less than 600 pills of MDMA, a Class 1 felony, in violation of 720 ILCS 570/402(a)(7.5)(A)(ii). The matter was docketed as the *People of the State of Illinois v. Andrew Franklin*, case number 21 CR 0001601.

ANSWER: Denied. See Exhibit A.

9. On or about May 25, 2022, following plea negotiations between Respondent's counsel and the Cook County State's Attorney's Office, Count IV of the indictment was amended to a Class 4 felony for possession of a controlled substance, in violation of 720 ILCS 570/402(c). On that date, Respondent entered a plea of guilty to the amended Count IV of the indictment. The Cook County State's Attorney's Office entered a *nolle prosequi* to Counts I, II, and III, dismissing those counts of the indictment.

ANSWER: Admitted that Respondent entered a plea of guilty for possession of a controlled substance on amended count IV (possession of less than 15 pills). (See Exhibit B, p. 10.) Admitted that Counts I, II, and III were dismissed. Respondent further states 720 ILCS 570/402(c) states: "Any person who violates this Section with regard to an amount of a controlled substance other than methamphetamine or

counterfeit substance not set forth in subsection (a) or (d) is guilty of a Class 4 felony. The fine for a violation punishable under this subsection (c) shall not be more than \$25,000.” Any remaining allegations are denied.

10. At all times alleged in this complaint, 720 ILCS 570/401 provided, in part, that it is unlawful for any person to knowingly possess with intent to manufacture or deliver a controlled substance.

ANSWER: The allegations of paragraph 10 state a legal conclusion and therefore, require no answer. Any remaining allegations are denied.

11. At all times alleged in this complaint, 720 ILCS 570/402 provided, in part, that it is unlawful for any person to knowingly possess a controlled substance.

ANSWER: The allegations of paragraph 11 state a legal conclusion and require no answer. Any remaining allegations are denied.

12. On May 25, 2022, Judge Neera Walsh sentenced Respondent to 24 months of probation, pursuant to 720 ILCS 570/410, which provides that if Respondent completes his probation without incident, the court shall discharge Respondent and dismiss the proceedings against him. The statute further provides that a disposition of probation is a conviction for purposes of imposing the conditions of probation and for appeal. Respondent was also ordered to undergo a mental health assessment and treatment, ordered to perform 30 hours of community service, and required to submit to random drug testing.

ANSWER: Paragraph 12 purports to summarize Judge Walsh’s adjudication of the underlying matter and therefore is not complete. In further answer, the Report of Proceedings taken on May 25, 2022 and Sentencing Order entered on May 25, 2022, control over the allegations contained in paragraph 12. See

Exhibits A and B. The allegations concerning 720 ILCS 570/410 state a legal conclusion and therefore, do not require an answer. Paragraph 12 of the Complaint appears to reference, in part, 720 ILCS 570/410(i), which is not relevant in that no judgment of conviction was entered. Any remaining allegations are denied.

13. As a result of the conduct described above, Respondent has engaged in the following misconduct:

- a. committing criminal acts that reflect adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including possessing with the intent to distribute 200 or more pills, but less than 600 pills, of MDMA, in violation of Illinois Statutes 720 ILCS 570/401(a)(7.5)(B)(ii) and 720 ILCS 570/401(a)(7.5)(A)(ii); possession of a controlled substance in the form of 200 or more pills, but less than 600 pills, of MDMA, in violation of Illinois Statutes 720 ILCS 570/402(a)(7.5)(B)(ii), 720 ILCS 570/402(a)(7.5)(A)(ii); and possession of a controlled substance, in violation of Illinois Statute 720 ILCS 570/402(c), and in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by conduct including using a fake driver's license to rent a U.S. post office box under a fictitious name in order to conceal his receipt of illegal drugs, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

ANSWER: Denied. Respondent further states, as a matter of law and fact, Judge Walsh adjudicated that Respondent possessed "less than 15 pills, tablets, caplets, capsules[.]" (Exhibit B, pp. 10 -11 (ADM-PROD-000111)); see also Exhibit C.

AFFIRMATIVE MATTERS

Commission Rule 234 anticipates affirmative matter may be pled by a respondent. Commission Rule 234 states: "No reply shall be filed by the Administrator. Any new matter alleged in the respondent's answer shall be deemed denied." Respondent asserts the following

affirmative matter.

A. Violation of Rule 761/Failure to State a Cause of Action.

1. The Administrator brings this proceeding against Respondent pursuant to Illinois Supreme Court Rule 761(c).

2. The Amended Complaint violates Illinois Supreme Court Rule 761(f), which provides, in part, that the conviction of a crime by an attorney is conclusive proof.

3. Respondent pled guilty to possession of a controlled substance in the form of less than 15 pills. See Exhibit B and Exhibit C.

4. Respondent was not convicted of intent to distribute a controlled substance.

5. Respondent was not convicted of possessing 15 or more pills, but less than 200 pills.

6. Respondent was not convicted of possessing 200 or more pills, but less than 600 pills.

7. Respondent was not convicted of criminal conduct with respect to the PO box or “fake South Carolina driver’s license” referenced in paragraph 2 of the Amended Complaint.

8. The Amended Complaint contains allegations at paragraphs 13(a) and 13(b) and elsewhere which refer to and seek discipline based on a conviction which did not occur rather than the actual adjudication, in violation of Rule 761(f).

9. Those portions of the Complaint which violate Rule 761 fail to state a claim and are barred by the criminal court’s adjudication of the underlying criminal matter.

B. Violation of the Double Jeopardy Clause.

1. Attorney disciplinary proceedings are quasi-criminal proceedings.

2. Respondent pled guilty to a crime, possession of less than 15 pills.

3. The Amended Complaint seeks to retry Respondent for the crimes that were nonsuited or amended in the underlying criminal proceeding.

4. Respondent was not convicted of a crime based on an intent to distribute a controlled substance or distribution of a controlled substance.

5. Respondent was not adjudicated to have possessed more than 15 pills.

6. Respondent was not convicted of fraud or other crime with respect to the PO Box referenced in the Amended Complaint.

7. The adjudication of a crime involving the possession of a controlled substance is conclusive, pursuant to Illinois Supreme Court Rule 761(f).

8. Respondent cannot be prosecuted or tried a second time for an alleged crime of which he was not convicted.

9. Accordingly, the Amended Complaint, which seeks to discipline Respondent for the crime of intent to distribute a controlled substance, possession of a certain quantity, and fraud, violates the Double Jeopardy Clause of the United States Constitution.

WHEREFORE, the Respondent respectfully requests that the Amended Complaint be dismissed or in the alternative, that in the event the Panel finds that Respondent has violated the Rules of Professional Conduct, that Respondent be reprimanded or censured.

Adrian Vuckovich (av@cb-law.com)
Kathryne Hayes (khayes@cb-law.com)
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One North LaSalle Street, Suite 300
Chicago, Illinois 60602
Telephone: 312-372-7813

By: /s/ Adrian Vuckovich
Counsel for Respondent

Exhibit A
to Answer to Amended Complaint

** INFORMATION INDICTMENT RETURN SHEET**

| CASE NO. | IR | DEFENDANT | NO. | ARRAIGNMENT DATE |
|-------------|---------|-----------------|-----|------------------|
| 21CR0001601 | 2434702 | Andrew Franklin | 001 | 01/08/2021 |

GJ- 508 FBI-425236ED8 SEX:Male RACE:White DOB: [REDACTED]
ISB-40688281 Add:2138 S. Indiana Ave, Unit 2711, Chicago,
IL 60616
~~Municipal-20-1121093~~
CB-20006438 Arrest Agy:COOK COUNTY SHERIFF
RD/AR-SH20- Arrest Unit:
00394396
Arrest Date:10/23/2020
DL State: DL#:
Hgt:511 Wgt:180
Hair:Brown Eyes:Brown

True Bill 12/15/2020
ASA: Kellyn D Doyle-Coakley

001 MFG 200>600 PILLS ECSTASY/ANLG
720 ILCS 570/401(a) (7.5) (B) (ii)
0015303 Class: X
002 MFG 15>200 PILLS ECSTASY/ANLG
720 ILCS 570/401(a) (7.5) (A) (ii)
0015301 Class: X
003 POSS 200>600 PILL ECSTASY/ANLG
720 ILCS 570/402(a) (7.5) (B) (ii)
0012802 Class: 1
004 POSS 15>200 PILLS ECSTASY/ANLG
720 ILCS 570/402(a) (7.5) (A) (ii)
0012800 Class: 1

MA

IRIS Y MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY

20 DEC 18 PM 1:39

FILED

Exhibit B
to Answer to Amended Complaint

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)

3
4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CRIMINAL DIVISION

5 THE PEOPLE OF THE)
STATE OF ILLINOIS,)
6)
Plaintiff,)
7) Case No. 21 CR 00016-01
)
8 ANDREW FRANKLIN,)
)
9 Defendant.)

10

11 REPORT OF PROCEEDINGS held in the hearing
12 in the above-entitled cause before the HONORABLE
13 NEERA WALSH, Judge of said court, on the 25TH day
14 of MAY, 2022.

15 APPEARANCES:

16 HONORABLE KIMBERLY M. FOXX,
STATE'S ATTORNEY OF COOK COUNTY, by:
17 KELLY COAKLEY, Assistant State's Attorney
on behalf of the People;

18

TODD PUGH, Attorney-at-Law,
19 appeared on behalf of the Defendant.

20

21 TONJA R. JENNINGS BOWMAN
License #084-002995
22 Official Court Reporter
2650 South California
23 Chicago, IL

24

1 THE COURT: Good morning. You are Andrew
2 Franklin; is that correct?

3 THE DEFENDANT: Yes.

4 THE COURT: You're on bond.
5 Go ahead, Counsel.

6 MR. PUGH: Good morning, your Honor. Todd
7 Pugh on behalf of Andrew Franklin.

8 THE COURT: Go ahead, State.

9 MS. COAKLEY: Kelly Coakley, C-O-A-K-L-E-Y,
10 for the People.

11 THE COURT: And my recollection is that back
12 on 4/25, there was a 402 -- admonishments that were
13 given and there was a 402 conference that was
14 commenced and continued as to Count 1, the Class 4
15 felony. I think both sides were going to look into
16 some other matters. And where are we on that?

17 MR. PUGH: We are ready to continue the
18 conference with you when you have time.

19 MS. COAKLEY: I think it was on Count 4, which
20 was a Class 1 felony. But that is part of what I
21 needed to look into.

22 THE COURT: I'm sorry. I switched those
23 numbers around. Count 4, a Class 1 felony. Okay.
24 We'll pass it and we will do that.

1 MR. PUGH: Thank you, Judge.

2 (Case was passed and later
3 recalled.)

4 THE COURT: This is Andrew Franklin. And we
5 were going to have a 402 conference. His attorney
6 is present. The State is present.

7 And, State, before we continue that
8 402 conference, is there something else you need to
9 add?

10 MS. COAKLEY: Judge, at this time I'd like to
11 amend Count 4 to a Class 4 felony, making it a less
12 than 15 pills of MDMA, Section 57 -- I'm sorry --
13 720 at 570, Section 402(c), striking A, 7.5(A)(ii).

14 MR. PUGH: And I've seen those amendments.
15 Waive re-swearing, re-execution.

16 THE COURT: So now it's a Class 4 felony.

17 And Mr. Franklin, before I had given
18 you your admonishments on a 402 conference. And
19 before it, it was a Class 1 felony. Now it's a
20 Class 4 felony. I just want to tell you a little
21 bit more about that. You heard what the state's
22 attorney said. I'm going to allow that amendment.
23 And now as a Class 4 felony, the sentencing range
24 is one to three years in the Illinois Department of

1 Corrections, three to six years extended term, a
2 fine of up to \$25,000, and one year of mandatory
3 supervised release. It is probationable also, sir.
4 And it's probationable up to 30 months.

5 Do you understand what the new
6 sentencing range is on this amended charge?

7 THE DEFENDANT: I do.

8 THE COURT: And you understand what the
9 amended charge is now?

10 THE DEFENDANT: I do.

11 THE COURT: And you understand what the
12 sentencing range is, sir?

13 THE DEFENDANT: I do.

14 THE COURT: All right. And you still want us
15 to continue with that 402 conference?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. And we are going to
18 have that 402 conference. We'll have it now.

19 Let the record reflect that in
20 anticipation of the amendment, the Court and the
21 attorneys did engage in a 402 based on the
22 amendment.

23 And so, Mr. Franklin, as to this
24 amended charge, based on what your attorney and

1 what the State have told me about this, and since
2 the purpose of any kind of punishment on a case is
3 supposed to be rehabilitation, and not to mark you
4 for life so that you cannot go on with your life
5 and move on from this -- not to forget about this
6 by any means, but to understand and to hopefully
7 learn from it and not repeat and come back to the
8 criminal justice system.

9 Having heard everything and the
10 Court, I believe the State and the defense are
11 amenable that the Court's recommendation, if you
12 are to plead to this amended Class 4 felony of
13 possession of a controlled substance, that the
14 Court would recommend two years of 410 probation,
15 which is a probation that you could have removed
16 from your record if you successfully complete it.
17 And I do stress the word "it." And what I mean by
18 that is, there are some conditions, and these are
19 some very stringent conditions. I'm telling you,
20 if you don't do any one of these things, you'll be
21 back in front of me. And that sentencing range we
22 are talking about, that will be the least of your
23 concerns because it will be a conviction on your
24 record, and I think your livelihood will go away.

1 Do you understand that, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: And so if you were to plead
4 guilty, you would have to provide to the Adult
5 Probation Department a mental health assessment, a
6 treatment plan, and to follow all of the treatment
7 recommendations.

8 It's my understanding that you are
9 already in treatment at this point, so that should
10 not be an issue with Dr. Stafford Henry. Is that
11 correct?

12 THE DEFENDANT: Yes.

13 THE COURT: And Stafford is S-T-A-F-F-O-R-D,
14 Henry, H-E-N-R-Y.

15 And you are already in treatment
16 with him, correct, as you already had a session; is
17 that right?

18 THE DEFENDANT: That's right.

19 THE COURT: So it shouldn't be an issue to
20 have a treatment plan and to be following his
21 recommendations, correct?

22 THE DEFENDANT: That's correct.

23 THE COURT: All right. And that you are also
24 to do 30 hours of self-directed community service

1 that needs to be set up and started within 30 days.
2 You have to provide also that you have done these
3 things with Dr. Henry to the Adult Probation
4 Department within 30 days.

5 Self-directed community service
6 means this: That you can do it at a not-for-profit
7 agency. Cannot get paid for it, hence, the
8 not-for-profit. And that needs to be letterhead,
9 what you are doing there, who is going to be
10 supervising you, and how you're going to get that
11 30 hours done. And that you need to have started
12 that within the next 30 days; again, could be a
13 basis for a violation, that is, if you didn't do
14 any of that within the next 30 days. Do you
15 understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: And then also you are subject to
18 random urine drops, such as random drug testing.
19 And if that comes back at any time as being
20 positive, that could result in a new sentence also.
21 And that you are going to have check dates, meaning
22 that in 30 days -- which is the next court date --
23 it's going to be on June 30th of 2022 -- that
24 you'll be in person to let me know if you are in

1 compliance with your probation; and then,
2 thereafter, I'll see you on a three-month date, a
3 six-month date, a one-year date, and an 18-month
4 date. These will all be in person. Do you
5 understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Mr. Pugh may or may not be here.
8 Maybe his colleague may be here. And as to Ms.
9 Coakley, she may not be here, but her colleagues
10 will be here representing the State.

11 So do you understand what the
12 Court's offer is?

13 THE DEFENDANT: I do.

14 THE COURT: And did you have an opportunity to
15 talk to your attorney about it?

16 THE DEFENDANT: Yes, I did.

17 THE COURT: And what did you decide, do you
18 want to accept or reject the Court's offer?

19 THE DEFENDANT: I want to accept.

20 THE COURT: All right. And, sir, are you
21 ready to go forward with the plea today?

22 MR. PUGH: We are, your Honor.

23 THE COURT: So, sir, I'm going to continue to
24 ask you a series of questions. If you understand

1 them, please answer them out loud; if you don't,
2 let me know and I will explain them to you. All
3 right, sir.

4 Remind me, sir, how old are you?

5 THE DEFENDANT: Thirty-five.

6 THE COURT: And you went to law school,
7 correct?

8 THE DEFENDANT: That's right.

9 THE COURT: And you graduated from law school,
10 right?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. And you obviously went
13 to undergrad. And you graduated from high school
14 also, correct?

15 THE DEFENDANT: Yes.

16 THE COURT: So at any time if you don't
17 understand any of my questions, you let me know and
18 I'll explain them to you. All right, sir?

19 THE DEFENDANT: All right.

20 THE COURT: State's proceeding on that amended
21 Count 4.

22 As to Counts 1 through 3, it's
23 motion State nolle pros. Defendant demands trial,
24 for what it's worth?

1 MR. PUGH: Yes, Judge.

2 MS. COAKLEY: Yes.

3 THE COURT: So count number four as amended
4 reads as follows:

5 That on or about October 23rd of
6 2020 at and within the County of Cook that Andrew
7 Franklin committed the offense of possession of a
8 controlled substance, and that he unlawfully and
9 knowingly possessed otherwise than is authorized in
10 the Illinois Controlled Substances Act of said
11 State of Illinois, then in force and effect, less
12 than 15 pills, tablets, caplets, capsules or
13 objects but less than 200 pills, tablets,
14 caplets --

15 MS. COAKLEY: Judge, if you can just strike
16 that. Should be less than 15. I'm sorry.

17 THE COURT: That's fine. Less than 15. Less
18 than.

19 Mr. Pugh, I'm making that amendment
20 from the 200 to the 15.

21 MR. PUGH: Without objection.

22 THE COURT: Thank you. That will be allowed.

23 So it will be for -- that last
24 phrase will be less than 15 pills, tablets, caplets

1 capsules, or objects of any substance or which
2 contain salts, isomers and salts of isomers, or any
3 analog or derivative thereof a certain controlled
4 substance, to wit -- the long phrase of MDMA
5 spelled out. And that this is in violation of the
6 Illinois Compiled Statutes.

7 Do you understand what this amended
8 charge is, sir?

9 THE DEFENDANT: Yes.

10 THE COURT: As charged now, as I told you
11 before, this is a Class 4 felony. A Class 4 felony
12 is punishable by one to three years in the Illinois
13 Department of Corrections, three to six years
14 extended term, a fine of up to \$25,000, and one
15 year mandatory supervised release -- which is
16 commonly referred to as parole -- that you'll serve
17 at the end of any time in the penitentiary.

18 Do you understand what the
19 sentencing range is, sir?

20 THE DEFENDANT: Yes.

21 THE COURT: I'm now going to talk to you about
22 collateral consequences. Collateral consequences
23 are things that could happen -- I'm not telling you
24 they are going to happen, except for one -- you

1 can't have a gun.

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: The sentence for any future
5 conviction may be increased, and there may be a
6 high possibility of the imposition of consecutive
7 sentences. There may be an impact on your ability,
8 among other things, to get certain licenses,
9 certain jobs, and certain housing.

10 Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: How do you plead; guilty or not
13 guilty?

14 THE DEFENDANT: Guilty.

15 THE COURT: Do you understand you have the
16 right to plead not guilty and have a trial before a
17 jury or a judge?

18 THE DEFENDANT: I do.

19 THE COURT: Do you understand that a jury
20 trial is 12 people that are chosen by you, your
21 attorney and the prosecutor? Those 12 people would
22 hear the evidence and decide your guilt or
23 innocence. Their decision would have to be
24 unanimous, that is, they'd all have to agree before

1 a verdict can be entered against you.

2 THE DEFENDANT: I understand.

3 THE COURT: How many people are on a jury?

4 THE DEFENDANT: Twelve.

5 THE COURT: How many people have to vote you

6 guilty before you can be found guilty?

7 THE DEFENDANT: All of them.

8 THE COURT: Right. Which is how many?

9 THE DEFENDANT: Twelve.

10 THE COURT: Do you want to have a jury trial

11 in this case?

12 THE DEFENDANT: No.

13 THE COURT: I'm showing you this piece of

14 paper. It's a formal method of waiving your right

15 to a jury trial. It has a line for you to sign if

16 you want to give up your right to a jury trial.

17 Did you sign it?

18 THE DEFENDANT: Yes.

19 THE COURT: Is that your signature?

20 THE DEFENDANT: Yes.

21 THE COURT: And it has today's date above it?

22 THE DEFENDANT: Yes.

23 THE COURT: And what's the date today?

24 THE DEFENDANT: June -- May 25th.

1 THE COURT: And May 25th of what year?

2 THE DEFENDANT: 2022.

3 THE COURT: Right. I'm going to accept you
4 knowingly and intelligently made a jury waiver at
5 this time.

6 Sir, in addition to giving up your
7 right to a jury trial, you're giving up your right
8 of a trial of any kind, even a trial before a judge
9 like myself. You are giving up your right to see
10 and hear witnesses testify against you, to
11 cross-examine them, present your own witnesses,
12 remain silent and have the State prove you guilty
13 beyond a reasonable doubt.

14 Do you understand that?

15 THE DEFENDANT: I do.

16 THE COURT: Anyone threaten you or promise you
17 anything to get you to plead guilty?

18 THE DEFENDANT: No.

19 THE COURT: You're pleading guilty of your own
20 free will?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand what the Court's
23 offer is?

24 THE DEFENDANT: I do.

1 THE COURT: All right. And if you are not a
2 citizen of the United States, you are hereby
3 advised that a conviction of the offense for which
4 you've been charged may have the consequences of
5 deportation, exclusion from admission to the United
6 States, or denial of naturalization under the laws
7 of the United States.

8 Do you understand that?

9 THE DEFENDANT: I do.

10 THE COURT: State, is there a factual basis?

11 MS. COAKLEY: There is.

12 Your Honor, if the State were to
13 proceed to trial, the State would call John Riggio,
14 R-I-G-G-I-O, Star 647 of the Cook County Sheriffs
15 Police Department. He would testify he is on a
16 task force, and that on the date of October 13th of
17 2020, Customs and Border Protection officers at
18 O'Hare International Airport intercepted a package
19 from Great Britain, under the authority of Homeland
20 Security did a border search. Once opened, they
21 found it to contain a toy which inside had a
22 vacuum-sealed bag with 424 gray Grim Reaper pills.
23 They field tested positive for
24 Methylenedioxy-methamphetamine, also known as

1 Ectasy or MDMA. They formulated a plan to do a
2 controlled delivery. They obtained an anticipatory
3 search warrant for that package that would allow
4 the package to be wired to an alarming device that
5 would trigger and notify investigators when the
6 package was opened. They dusted a luminescent
7 powder over the items inside there so that when you
8 look under a black light, you can tell somebody
9 touched those once the package is opened.

10 They then placed those items into
11 the original container and did a control delivery
12 to the address that it was addressed to, which was
13 Post Office Box 9723 located at 4101 South Halsted
14 in Chicago. They delivered it to that post office
15 box and set up surveillance. The defendant
16 appeared at 11:38 on October 23rd and brought the
17 slip that he retrieved from that box to the desk
18 and received the package.

19 At that time they followed the
20 defendant and eventually maintained surveillance on
21 his car until he went to 2138 South Indiana and
22 parked in the parking garage there. It was at that
23 time they -- he would make an identification of the
24 defendant in court and he would testify the

1 defendant exited the car with the package, opened
2 the trunk to that car; and at that time they
3 received the alert, that the package had been
4 opened at 11:53 a.m. at that location.

5 They then executed the search
6 warrant, recovered the bundle of pills and also the
7 key to the post office box from this defendant's
8 pocket. They were inventoried pursuant to rules
9 and regulations of the Cook County Sheriffs Police.
10 They also recovered a protector 1206(i) bug
11 detector from the trunk, which is a
12 counter-surveillance device for detecting audio
13 bugs and a GPS tracker and video cameras. Those
14 narcotics that were then sent to the Northeastern
15 Illinois Regional Crime Lab for testing and
16 analysis.

17 They would next call Gina Havlik,
18 H-A-V-L-I-K. She would testify she's a forensic
19 scientist qualified in the area of drug chemistry,
20 and she received those items through the proper
21 chain of custody, and that she tested less than 15
22 of those tablets and found those to be positive for
23 methalyne -- MDMA.

24 So stipulated?

1 MR. PUGH: So stipulated.

2 THE COURT: Let the record reflect that the
3 defendant understands the nature of the amended
4 charge against him, the possible penalties of this
5 case under the law; the plea has been given freely
6 and voluntarily. A factual basis exists for the
7 plea, and the plea will be accepted. And there
8 will be a finding of guilty on this amended Class 4
9 felony as read into the record. And the Court is
10 going to withhold judgment on the findings at this
11 time.

12 State and defense, is there anything
13 further in aggravation, mitigation that I did not
14 hear in that 402 conference?

15 MS. COAKLEY: No, your Honor.

16 MR. PUGH: Judge, in terms of mitigation for
17 the purpose of the record, I thought I should
18 establish as follows:

19 Prior to the 402 conference in this
20 case, we made a very comprehensive submission to
21 the State's Attorney's office, which they
22 considered. And non-privilege forms of that is the
23 following:

24 That following Mr. Franklin's

1 arrest, he immediately enrolled in an intensive
2 outpatient program. He completed that program and
3 has verified participation in meetings of
4 Alcoholics Anonymous and other 12-step meeting
5 participation four times a week, and his sentence
6 shortly following his arrest, verification of that
7 has been provided to the State. In addition, I did
8 provide previous verification of treatment at Shans
9 (phonetic) Medical Center at the University of
10 Florida that was provided to the State, as well as
11 eight letters of reference for Mr. Franklin.

12 In addition, he has no criminal
13 history. He has a verified work history. He is
14 currently employed. He is also engaged with the
15 Illinois Supreme Court Attorney Registration and
16 Disciplinary Commission, their LAP program, L-A-P.
17 And he has participated in that since shortly after
18 his arrest.

19 We know that all those matters were
20 spread during the conference, but I thought it very
21 important that mitigation also be on the record as
22 well.

23 THE COURT: I appreciate that.

24 Mr. Franklin, it's your turn now, if

1 you want to say anything to the Court before I
2 impose sentence.

3 THE DEFENDANT: No. Just thank you for the
4 opportunity.

5 THE COURT: Sir, you have the right before
6 sentencing to a presentence investigation, which is
7 an investigation into your background and history.

8 Because this is an agreed-upon
9 disposition, you may waive your right to this
10 presentence investigation.

11 Do you understand that, sir?

12 THE DEFENDANT: I do.

13 THE COURT: Do you want to have a presentence
14 investigation?

15 THE DEFENDANT: No.

16 THE COURT: I'm showing you this piece of
17 paper. It's a formal method of waiving your right
18 to the presentence investigation. It too has a
19 line for you to sign if you want to give up your
20 right to the presentence investigation. Did you
21 read it?

22 THE DEFENDANT: Yes, I did read it. That is
23 my signature. That's today's date.

24 THE COURT: All right. I'm going to accept

1 your knowingly-made waiver of the presentence
2 investigation also.

3 Sir, I am going to sentence you as I
4 said I would, if you pled guilty to this amended
5 Class 4 felony. And you are going to receive two
6 years of 410 probation. You have to provide to the
7 Adult Probation Department your mental health
8 assessment, your treatment plan, and to follow all
9 of the treatment recommendations within 30 days.
10 You have to do 30 hours of self-directed community
11 service, which I've explained to you that you need
12 to set up and start within 30 days. You are
13 subject to random urine drops, and you are going to
14 have check dates that are in 30 days, so this is
15 the first one. So your next court date will be
16 motion defendant 6/30 of 22. And it will be here
17 in person for status on your probation compliance.
18 You then will have one in three months, a six-month
19 date, a one-year, and an 18-month one; and that
20 will all be in person. You get credit for two days
21 time considered served/time actually served in the
22 Cook County Jail.

23 And Mr. Pugh has asked for your
24 court costs to be satisfied by your time actually

1 served, and it will be. However, there are
2 probation fees that you are going to have to pay.

3 Do you understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: And, sir, do you ever play sports?

6 THE DEFENDANT: No.

7 THE COURT: All right. Do you know what the
8 phrase "The ball is in your court" means?

9 THE DEFENDANT: I do.

10 THE COURT: What's it mean?

11 THE DEFENDANT: It means it's up to me whether
12 this plan succeeds.

13 THE COURT: Exactly. And so it's a tennis
14 term. So it is up to you what's going to happen
15 next.

16 Right now if you successfully
17 complete this, this will not be a conviction on the
18 record. And your attorney will talk to you more
19 about how to have it removed from your record. But
20 if you don't, it's going to become a felony
21 conviction on your record. And there may be prison
22 time that's associated with it.

23 Do you understand that?

24 THE DEFENDANT: I do.

1 THE COURT: All right. And all warrants are
2 quashed and recalled as to this defendant, as to
3 this case only.

4 Sir, you have a right to appeal.
5 However, before you can appeal my decision within
6 30 days of today's date you must file with the
7 clerk of the Court a written motion to withdraw
8 your plea of guilty and vacate the judgment. In
9 the motion you must state all the reasons why you
10 want to withdraw your guilty plea.

11 Do you understand that, sir?

12 THE DEFENDANT: I do.

13 THE COURT: If I grant the motion, I'll set
14 your guilty plea, sentence and judgment aside and
15 set your case for trial. Any charges, however,
16 that were dismissed as a part of the plea agreement
17 would be reinstated at the State's request, and
18 also set for trial.

19 If I deny your motion, you have 30
20 days from the date of that denial to file a written
21 Notice of Appeal.

22 Do you understand that, sir?

23 THE DEFENDANT: I do.

24 THE COURT: Any issue or claim of error not

1 raised in the motion to withdraw your plea of
2 guilty and vacate the judgment would be waived for
3 appeal purposes.

4 If you can't afford to pay for it, a
5 copy of the transcript of the proceedings at the
6 time of your plea of guilty will be provided to you
7 free of charge; and you will be provided an
8 attorney to assist you in the preparation of that
9 motion.

10 Those are your appeal rights. Do
11 you understand them?

12 THE DEFENDANT: I do.

13 THE COURT: All right.

14 Ms. Lucenti, do you want him to just
15 come down to the probation department or do you
16 want to meet him somewhere else?

17 PROBATION OFFICER: Judge, I'm going to need
18 to call him.

19 THE COURT: So the phone number that you have
20 on the probation specs that you signed, the
21 probation officer, Ms. Lucenti, is going to call
22 you in about 20 minutes or so. So make sure you
23 answer that phone call.

24 It's your responsibility to make

1 sure that you have contacted the Probation
2 Department today to make sure that you have that
3 all in place so that when I see you back on
4 June 30th, that you will be able to tell me where
5 we are, and the status of this, as will the
6 Probation Department. All right, sir?

7 THE DEFENDANT: All right.

8 MR. PUGH: Good luck to you.

9 (Which were all the proceedings
10 had in the above-entitled cause
11 on the above-mentioned date.)
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1 STATE OF ILLINOIS)
2) SS:
COUNTY of C O O K)

3

4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
5 MUNICIPAL DEPARTMENT - CRIMINAL DIVISION

6

7 I, Tonja R. Jennings Bowman, Official
8 Court Reporter for the Circuit Court of Cook
9 County, Illinois Criminal Division, do hereby
10 certify that I reported in machine shorthand the
11 proceedings had on the hearing in the
12 above-entitled cause, and transcribed the same by
13 Computer-Aided Transcription, which I hereby
14 certify to be a true and accurate transcript of the
15 proceedings had before the HONORABLE NEERA WALSH,
16 judge of said court.

17

18

19 *Tonja R. Jennings Bowman, CSR.*

20

21 Dated this 13th day
22 of OCTOBER, 2022.

23

24

Exhibit C
to Answer to Amended Complaint

Page 1 of 4

It is further ordered Defendant shall comply with the conditions specified below.

STANDARD CONDITIONS

- ☒ If reporting is ordered, the Defendant shall report immediately to the Social Service or Adult Probation Department as indicated in the above Sentencing Order and pay that department such sum as determined by the department in accordance with the standard probation fee guide. Said fee not to exceed \$50.00 per month.
- ☒ Pay all fines, costs, fees, assessments, reimbursements and restitutions (If applicable, Additional Order Required.).
- ☒ Not violate the criminal statutes of any jurisdiction.
- ☒ Refrain from possessing a firearm or any other dangerous weapons.
- ☒ Notify monitoring agency of change of address.
- ☒ Not leave the State of Illinois without consent of the court or monitoring Agency.
- ☒ Comply with reporting and treatment requirements as determined by the Adult Probation or Social Service Department's assessment. Any treatment requirements not specified elsewhere on this order that would cause a financial hardship shall be reviewed by the court after being imposed.

DRUG/ALCOHOL/DUI RELATED CONDITIONS

- ☐ Complete drug/alcohol evaluation and treatment recommendations.
- ☒ Submit to random drug testing as determined by the monitoring agency or treatment provider.
- ☐ Zero Tolerance for Drugs/Alcohol.
- ☐ Remote Alcohol Monitoring.
- ☐ Transdermal Alcohol Monitoring.
- ☐ Breath Alcohol Ignition Interlock Device.
- ☐ Complete Traffic Safety School.
- ☐ Complete TASC Program.
- ☐ DUI Offenders Classified Level A Monitoring, report immediately to Central States Institute of Addictions and commence the following treatment intervention program within sixty (60) days of this order:
 - ☐ Minimum ☐ Moderate ☐ Significant
- ☐ DUI Offenders Classified Level B or C Monitoring, report immediately to:
 - ☐ Social Service Department ☐ Adult Probation Department and complete a drug/alcohol evaluation within thirty (30) days, fully comply with the intervention plan and commence the following treatment intervention program within sixty (60) days of this order:
 - ☐ Minimum ☐ Moderate ☐ Significant ☐ High
- ☐ Attend a Victim Impact Panel.
- ☐ File proof of financial responsibility with the Secretary of State.
- ☐ Surrender Driver's License to Clerk of the Court.
- ☐ Pay all Driver's License reinstatement fees.

SPECIAL CONDITIONS

- ☐ Home Confinement through Adult Probation until _____ (Additional Order Required).
- ☐ GPS device through Adult Probation until _____ at \$10 per day (Additional Order Required).

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois

cookcountyclerkofcourt.org

☒ ~~Submit to searches by Adult Probation of person and residence when there is reasonable suspicion to require it (high risk probationers only).~~ FOR

☐ Obtain a GED.

☒ Perform 30 hours of community service as directed by the ☐ Social Service or
☒ Adult Probation Department Community Service Program. "ICS" TO BE STARTED w/ 30 days

☐ Perform _____ days of Sheriff's Work Alternative Program (S.W.A.P.) (773) 674-0716.

☐ Avoid contact with: _____

☐ Complete mental health evaluation and treatment recommendations.

☐ Register as a Violent Offender Against Youth.

☒ DNA Indexing.

☐ Complete Anger Management Counseling and any other recommendations per assessment, which may include an evaluation and/or treatment for alcohol and drug abuse, mental health, parenting or sexual abuse.

DOMESTIC VIOLENCE

☐ Comply with all lawful court orders including an Order of Protection.

☐ Complete Domestic Violence Counseling and any other recommendations per assessment, which may include an evaluation and/or treatment for alcohol and drug abuse, mental health, parenting or sexual abuse.

SEX OFFENDER

☐ Complete evaluation and treatment recommendations for sex offenders.

☐ Register as a sex offender.

☐ STD/HIV Testing.

RESTITUTION

☐ Make restitution to:

_____ in the amount of \$ _____, payable through the
Social Service Department or Adult Probation Department at the rate of \$ _____,
per _____ with final payment due on or before _____.

☒ OTHER 2 days CCOCC TCS/TB

☒ ADDITIONAL ORDERS

Assessment and treatment provider Dr. Stafford Henry, 105 W.

Madison, Chicago IL 60602. Defendant to provide treatment plan and

follow all recommendations within 30 days. Subject to check dates, 30 days, 3 months

☒ Next Court Date: 1 year and 18 months in person
6/30/22

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois

cookcountyclerkofcourt.org

I acknowledge receipt of this Order and agree to abide by the specified conditions. I agree to accept notices by regular mail at the address provided to the monitoring agency and to answer questions asked by the Court related to my behavior. I understand that a failure to comply with the conditions of this Order, or refusal to participate, or withdrawal or discharge from a required program, plan, or testing will be considered a violation of this Order and will be reported to the Court; and may result in a re-sentencing imposing the maximum penalty as provided for the offense.

Andrew Franklin

(Defendant's Name)

[Signature]

(Defendant's Signature)

Defendant DOB: [REDACTED]Address: 2138 S. INDIANA #2711 City: ChicagoState: IL Zip: 60614Telephone: 407-453-0727 Email: Andrew Franklin Esq @ gmail . comPrepared by: Kellyn D. Coakley

ENTERED:

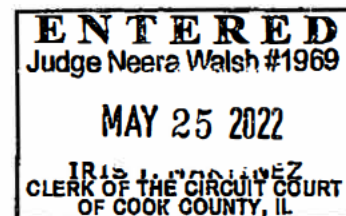
Dated: _____

[Signature]

Judge

1969
Judge's No.

Atty. No.: _____ ARDC No.: _____

Atty Name: Kellyn CoakleyAtty. for: People of the State of IllinoisAddress: 2650 S California AveCity: ChicagoState: IL Zip: 60608Telephone: 7736742872Primary Email: kellyn.coakley@cookcountyil.gov

Iris Y. Martinez, Clerk of the Circuit Court of Cook County, Illinois

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