2024 IL App (2d) 230545-U
No. 2-23-0545
Order filed October 30, 2024

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. CORDELLE J. MILLER, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of Lake County. No. 21-CF-720 Honorable David C. Lombardo, Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Justice Kennedy concurred in the judgment.
Presiding Justice McLaren specially concurred.

ORDER

¶ 1 *Held*: The judgment of the circuit court is affirmed; the armed-habitual-criminal statute is constitutional on its face under both the United States and Illinois Constitutions.

¶ 2 Defendant, Cordelle J. Miller, appeals his conviction of armed habitual criminal on the basis that section 24-1.7(a) of the Criminal Code of 2012 (Criminal Code) (720 ILCS 5/24-1.7(a) (West 2022)) violates the second amendment of the United States Constitution (U.S. Const., amend. II) and article I, section 22, of the Illinois Constitution (Ill. Const. 1970, art. I, § 22) on its face. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On June 23, 2023, defendant was charged with attempt first degree murder (720 ILCS 5/9-1(a)(1) (West 2022)), home invasion (*id*. § 19-6(a)(3)), three counts of armed habitual criminal ("AHC") (*id.* § 24-1.7(a)), aggravated battery with a firearm (*id*. § 12-3.05(e)(1)), aggravated discharge of a firearm (*id*. § 24-1.2(a)(2)), three counts of unlawful possession of a weapon by a felon ("UPWF") (*id.* § 24-1.1(a)), and six counts of aggravated unlawful use of a weapon (*id.* § 24-1.6(a)(1)(3)(C)). In particular, the AHC charge alleged that defendant knowingly possessed a Glock handgun after having been convicted of two forcible felonies, armed robbery (case No. 14-CF-710), and aggravated robbery (case No. 08-CF-5417). Certified copies of defendant's predicate convictions were filed as exhibits.

¶ 5 Prior to trial, two counts of AHC and two counts of UPWF were dismissed. Additionally, defendant's remaining counts of AHC and UPWF were severed from his other charges and the cause proceeded to a bench trial. After trial, defendant was ultimately convicted of one count of AHC and one count of UPWF.

¶ 6 Defendant filed a motion for a new trial, and on, September 18, 2023, the circuit court denied that motion. Thereafter, defendant was sentenced to 25 years' imprisonment for AHC, and his conviction for UPWF merged with that count. Defendant filed a timely motion to reconsider sentence that was denied on November 29, 2023. This timely appeal followed.

¶ 7 II. ANALYSIS

¶ 8 On appeal, defendant argues that (1) the AHC statute violates the second amendment on its face pursuant to the Supreme Court's decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), and (2) the same statute violates article I, section 22, of the Illinois Constitution on its face, as the Illinois Constitution affords him greater protections than the federal

constitution. The State disagrees. The sole issue on appeal involves the constitutionality of a statute, an issue we review *de novo. People v. Baker*, 2023 IL App (1st) 220328, ¶ 21. We address each argument in turn.

¶ 9 A. Second Amendment

¶ 10 To succeed in facially challenging a statute as unconstitutional, a defendant must show that the statute is unconstitutional under any set of facts. A defendant's particular circumstances are irrelevant. Moreover, statutes are presumed constitutional "and to rebut that presumption, the party challenging a statute's constitutionality has the burden of establishing a clear violation." *People v. Bochenek*, 2021 IL 125889, ¶ 10. "If it is reasonably possible to construe the statute in a way that preserves its constitutionality, we must do so." *Id.*

¶ 11 The second amendment to the United States Constitution states: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const., amend. II. In 2022, the Supreme Court decided *Bruen*. There, the Court considered whether "ordinary, law-abiding citizens have a *** right to carry handguns publicly for their self-defense." *Bruen*, 597 U.S. at 9-10. Ultimately, the Court abandoned means-end scrutiny, part of the two-step test developed following *District of Columbia v. Heller*, 554 U.S. 570, 634 (2008), for evaluating second-amendment claims. Instead, the Court announced that, when regulating conduct presumptively covered by the second amendment, *i.e.* where the plain text of the second amendment covers an individual's conduct, "the government must demonstrate that the regulation is consistent with this Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 17. Meaning, under this new analysis, *Bruen* requires an initial textual inquiry, then, if necessary, a historical inquiry. If the textual inquiry is satisfied, the burden shifts to the government to show that the challenged law is consistent with the historical tradition of firearm regulation. See

id. at 28-30 (considering whether a historical analog and modern firearm regulation are "relevantly similar" or share a "central component" under the second amendment).

¶ 12 1. Textual Inquiry

¶ 13 Turning to the textual inquiry, we must first consider whether the second amendment's plain text covers defendant's conduct. Defendant was convicted of AHC pursuant to section 24-1.7(a)(1), which provides:

> "(a) A person commits the offense of being an armed habitual criminal if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of any combination of the following offenses: (1) a forcible felony as defined in Section 2-8 of this Code." 720 ILCS 5/24-1.7(a)(1) (West 2022).

¶ 14 Defendant argues that *Bruen* does not limit the second amendment to law-abiding citizens and that, under the textual inquiry, the focus is on an individual's conduct, not status. Adversely, the State urges us to find defendant is not a member of "the People" to whom the second amendment applies because he has two prior forcible-felony convictions. We agree with the State.

¶ 15 The plain text of the second amendment does not apply to defendant. To start, *Heller* affirmed that the right to keep and bear arms is "not unlimited." *Heller*, 554 U.S. at 626. While *Heller* struck down legislation that prohibited the possession of handguns in the home, the court also recognized that the right to keep and bear arms was not a rubberstamp to "to carry any weapon whatsoever in any manner whatsoever and for whatever purpose." *Id.* The Court explained that nothing in *Heller* "should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons ***." *Id.* This sentiment was again repeated and reaffirmed by the plurality in *McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) (plurality opinion). Then, in *Bruen*, the Supreme Court reaffirmed the government's authority to regulate firearms, especially where the

defendant was not an "ordinary, law-abiding citizen." *Bruen*, 597 U.S. at 8, 71. In fact, *Bruen repeatedly* states that the second amendment protects the rights of "ordinary, law-abiding citizen[s]." *Id*. at 2, 5, 8-10, 26, 31-32, 70-71. These protections do not extend to felons, especially those with forcible-felony convictions, which necessarily "involve[] the use or threat of physical force or violence against any individual." 720 ILCS 5/2-8 (West 2022); see also *Bruen*, 597 U.S. at 81 (" '[N]othing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons ***.' ") (Kavanaugh, J., concurring, joined by Roberts, C.J.) (quoting *Heller*, 554 U.S. at 626-27); *Bruen*, 597 U.S. at 129 (Breyer, J., dissenting, joined by Sotomayor and Kagan, JJ.) (same, and noting, "Like Justice Kavanaugh, I understand the Court's opinion today to cast no doubt on that aspect of *Heller*'s holding."). As such, the plain text of the second amendment does not protect defendant here because he is not a part of "the People" referred to in the second amendment as he has multiple forcible-felony convictions.

¶ 16 Defendant suggests the "law-abiding" language used in *Bruen*, like *Heller*, is *dicta*, and any presumption, post-*Heller*, that felon-dispossession legislation was permissible under the second amendment, is abrogated by *Bruen*. To the extent that *Heller* contains *dicta* regarding felon-dispossession regulations, *Bruen*'s language and repeated exception for "law-abiding citizen[s]" supports the *dicta* outlined in *Heller*. In fact, in *Bruen*, the Court approved of and incorporated into its holding that "law-abiding citizens" have a right to carry firearms publicly for their self-defense. *Bruen*, 597 U.S. at 8, 71. Regardless of *Bruen*'s holding, however, Illinois courts have credited the impact of *dicta* from the Supreme Court. See, *e.g.*, *People v. Williams*, 204 Ill. 2d 191, 206 (2003) ("Judicial *dicta* have the force of a determination by a reviewing court and should receive dispositive weight in an inferior court."); *People v. Montgomery*, 2016 IL App (1st) 142143, ¶ 14 (opting to follow the *dicta* set forth in *Heller* and *McDonald*). Accordingly,

defendant's argument here is unpersuasive.

¶ 17 Next, citing *People v. Brooks*, 2023 IL App (1st) 200435, defendant asserts that *Bruen*'s textual inquiry requires courts to examine a defendant's conduct, not the status of the person performing the conduct. However, *Brooks* takes an overly narrow view of *Bruen*'s textual analysis and ignores the Supreme Court's repeated reference to "the People" the second amendment intended to protect—"law-abiding citizens." See *Bruen*, 597 U.S. at 32 (explaining the textual analysis and finding that the petitioners were part of "the People" protected by the second amendment as "two ordinary, law-abiding, adult citizens").

¶ 18 Instead, we find *People v. Baker*, 2023 IL App (1st) 220328, persuasive. There, the First District determined that, under *Bruen*'s textual analysis, section 24-1.1(a) was not unconstitutional because defendant's prior felony convictions left him outside the scope of the second amendment, as he was not a law-abiding citizen. *Id*. ¶ 37. Specifically, the court found that "[t]he *Bruen* Court could not have been clearer that its newly announced test applied only to laws that attempted to regulate the gun possession of 'law-abiding citizens,' and not felons like defendant." *Id.* (citing *Bruen*, 597 U.S. at 71). We agree; *Bruen*'s textual analysis is clear and, thus, defendant falls outside the scope of the second amendment as he was not a law-abiding citizen.

¶ 19 Further, we note that defendant's argument here is inconsistent with the weight of our jurisprudence. Although *Brooks*' narrow, textual analysis concludes that convicted felons are within the scope of the second amendment, the Appellate Court has upheld several second amendment challenges finding, pursuant to *Bruen*, that the scope of the second amendment is limited to law-abiding citizens. See *People v. Gross*, 2024 IL App (2d) 230017-U, ¶ 24; *People v. Echols*, 2024 IL App (2d) 220281-U, ¶ 142; *People v. Muhammad*, 2023 IL App (1st) 230121-U, ¶ 17; *People v. Boyce*, 2023 IL App (4th) 221113-U, ¶¶ 14-16; *People v. Smith*, 2023 IL App (2d)

220340-U, ¶¶ 56-57; *People v. Baker*, 2023 IL App (1st) 220328, ¶ 37. We agree with the weight of the foregoing authority.

¶ 20 2. Historical Inquiry

¶ 21 Even assuming that, despite defendant's forcible-felony convictions, defendant's conduct—possessing a firearm—satisfies *Bruen*'s textual analysis, it fails under the historical prong. Under this inquiry, the State has the burden to "justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 24. In this analysis, the State must point to "historical precedent from before, during, and even after the founding [that] evinces a comparable tradition of regulation." *Id.* at 27. However, the most relevant historical information comes from period around the enactment of the second amendment and focuses on what the Framers understood the amendment to mean. *Id.* at 34-35. Nonetheless, *Bruen* recognized that a "historical twin" is not necessary for a thorough analysis; courts are encouraged to utilize analogical reasoning and consider "well-established and representative historical analogue[s]" that are relevantly like the regulations at issue. *Id.* at 29 (emphasis omitted).

¶ 22 Defendant argues that the State "cannot provide conclusive historical evidence for unqualified and permanent bans on the possession of firearms based on status[.]" Defendant's argument hinges, specifically his issue with unqualified and permanent bans, on the State presenting a "historical twin" to the present AHC statute. This is simply not required under *Bruen*'s historical inquiry. Instead, we consider whether there is a representative historical analog addressing felon dispossession.

¶ 23 This issue was considered at length in *Brooks*, 2023 IL App (1st) 200435, ¶¶ 91-100. There the court considered whether the AHC statute was consistent with the nation's tradition of firearm regulations. The First District held that a sufficient historical tradition existed such that laws

allowing felon dispossession did not offend the second amendment. *Id.* Specifically, the *Brook*'s court determined that, since our nation's founding, our government has recognized its ability to totally disarm entire categories of people who could not be trusted to abide by the law. *Id.* ¶¶ 91, 93 (citing *Atkinson v. Garland*, 70 F.4th 1018, 1035 (7th Cir. 2023) (Wood, J., dissenting), and *Range v. Attorney General United States of America*, 69 F.4th 96, 128 (3d Cir. 2023) (Krause, J., dissenting)). For example, the English government in the 1600s disarmed individuals who failed to abide the dictates of the monarch and those who were non-Anglican protestants who refused to join the Church of England because they threatened the " 'Peace of the Kingdom.' " *Brooks*, 2023 IL App (1st) 200435, ¶ 93 (quoting *United States v. Jackson*, 69 F.4th 495, 502 (8th Cir. 2023) (vacated)). This practice persisted in colonial America, where individuals, like Native Americans, minorities, and those who refused to swear loyalty oaths, were disarmed because they could not be trusted to adhere to the law. *Id.* ¶ 94. Moreover, criminal punishments for offenses including deceit, forgery, theft, counterfeiting, and hunting in a prohibited area resulted in disarmament or the forfeiture of an offender's estate—presumably including firearm dispossession. *Id.* ¶ 96. "Even some non-capital offenses triggered the *permanent* loss of an offender's estate, including any firearms." (Emphasis added.) *Id.* Additionally, prior to the adoption of the Bill of Rights in 1791, it was proposed by the Anti-Federalists of Pennsylvania, although not adopted, that the right to bear arms should be limited to individuals who had not committed crimes and did not pose a danger to the public. *Id.* ¶ 95.

¶ 24 As *Brooks* makes clear, "there is a historical tradition of legislatures exercising their discretion to impose 'status-based restrictions' disarming entire 'categories of persons' who, based on their past conduct, were presumed unwilling to obey the law." *Id.* ¶ 97 (quoting *Range*, 69 F.4th at 129 (Krause, J., dissenting)). Felons, historically, have fallen outside the scope of the second

amendment, as their conduct exhibits that they cannot be trusted to abide by the law. *Id*. ¶ 98; see also *Heller*, 554 U.S. at 635 (noting the second amendment "elevates above all other interests the right of law-abiding, responsible citizens to use arms in defense of hearth and home"). Accordingly, we conclude that the founding-era historical record supports the legislature's ability to permanently disarm felons. *Awkerman v. Illinois State Police*, 2023 IL App (2d) 220434, *Brooks*, 2023 IL App (1st) 200435, ¶ 100. Since the AHC statue requires two prior forcible-felony convictions as an element of the offense, any offender charged with this offense is not a law-abiding citizen; thus, the AHC statute is outside the scope of the second amendment and constitutional on its face.

¶ 25 B. Illinois Constitutional Challenge

¶ 26 Next, defendant asserts that, even if we hold that the AHC statute comports with the second amendment, we must find that it unconstitutional on its face under the Illinois Constitution. Defendant asserts that article I, section 22, "extends even to those who have fallen outside the political community" (*i.e.* individuals with multiple forcible-felony convictions) because it protects "the individual citizen," not just "the People." Moreover, section 22's language, "[s]ubject only to the police power," cannot impose greater restrictions than *Bruen*. The State, however, argues that our jurisprudence limits "the individual citizen" to law-abiding citizens and the legislature's police power does not conflict with the second amendment. We agree with the State.

¶ 27 Article I, section 22, provides: "Subject only to the police power, the right of the individual citizen to keep and bear arms shall not be infringed." Ill. Const. 1970, art. I, § 22. Our constitution does not mirror the second amendment (U.S. Const., amend. II). Instead, it adds the words " '[s]ubject only to the police power,' omits prefatory language concerning the importance of a militia, and substitutes 'the individual citizen' for 'the people.' " *Kalodimos v. Village of Morton*

Grove, 103 Ill. 2d 483, 491 (1984). Generally, we apply a "limited lockstep" approach when interpreting provisions of the Illinois Constitution that have a federal analog. *People v. Caballes*, 221 Ill. 2d 282, 309 (2006). Meaning, Illinois courts adhere to the principles of federal constitutional law and utilize Illinois constitutional law as a gap-filler. *Id.*

¶ 28 Starting with the police-power clause, defendant contends that Illinois Constitutional Convention records show a concern with the ability to regulate certain types of arms, not categories of people. We disagree. The report of the Bill of Rights Committee on the Preamble and Bill of Rights ("Committee Report") explained that the police-power limitation in article I, section 22, was adopted " '[b]ecause arms pose an extraordinary threat to the safety and good order of society, the possession and use of arms is subject to an extraordinary degree of control under the police power.' " *Kalodimos*, 103 Ill. 2d at 492 (quoting Committee Report, 6 Record of Proceedings, Sixth Illinois Constitutional Convention 88). In particular, the Committee Report listed five types of regulations under the police-power clause that were not considered constitutional infringements on the right to bear arms. Importantly, this included: "[t]he State may forbid or regulate the possession or use of firearms by *** persons whose *** violent propensities shown by prior criminal conduct present unacceptable risks of danger to themselves or others." Committee Report, 6 Record of Proceedings, Sixth Illinois Constitutional Convention 89. Not only did the police-power clause consider regulating the right to bear arms based on an individual's past criminal conduct, but this exercise of police power was reaffirmed in *McDonald*, where the Supreme Court reiterated its statements in *Heller* that its holding did not cast doubt on longstanding regulatory measures such as "prohibitions on the possession of firearms by felons." (Internal quotation marks omitted.) *McDonald*, 561 U.S. at 786; *Heller*, 554 U.S. at 626-27. Moreover, as discussed above, *Bruen* has implicitly accepted this exercise of police power by distinguishing between regulations

impacting law-abiding and nonlaw-abiding citizens. Accordingly, we reject defendant's arguments.

¶ 29 Although defendant cites *Kalodimos* and the Committee Report, he asserts that the concern for the delegates was violence and dangerousness, and not mere felon status. Without resolving this exact issue, we note that the delegates' "apparent" concerns are relevant here. In evaluating the facial challenge of the AHC statute, we note that we are not merely dealing with felon status. The AHC statute disarms felons with multiple forcible-felony convictions, which, as we noted, "involve[] the use or threat of physical force or violence against any individual." 720 ILCS 5/2-8 (West 2022). Meaning, a defendant convicted under this statute has exhibited a pattern of dangerousness or physical violence against another, something that plainly excludes him from claiming he is a law-abiding citizen. As such, defendant's attempts to minimize the delegates' comments in the Committee Report is unpersuasive.

¶ 30 Defendant also contends that the present-day AHC statute cannot withstand *Bruen*'s historical inquiry. We disagree. As discussed, there is a historical basis for the AHC statute in the second amendment, and the police-power clause in article I, section 22, does not conflict with the rights guaranteed by the second amendment. In fact, the exercise of this power, especially against individuals who are not law-abiding citizens, has been continuously reaffirmed. People v. Kelley, 2024 IL App (1st) 230569, ¶¶ 24-28; *Gross*, 2024 IL App (2d) 230017-U, ¶ 25; *Boyce*, 2023 IL App (4th) 221113-U, ¶¶ 15, 18; *Echols*, 2024 IL App (2d) 220281-U, ¶¶ 152-54, 158; *Brooks*, 2023 IL App (1st) 200435, ¶¶ 91-100. Accordingly, we find section 24-1.7 is a proper exercise of police power, and, thus, defendant has not shown that section violates the Illinois Constitution on its face.

¶ 31 Next, defendant asserts that the Illinois Constitution confers a broader right to bear arms than the second amendment because it guarantees the right to "the individual citizen," not just "the People." We disagree. As *Kalodimos* notes, the omission of the second amendment's prefatory language and the use of the words "the individual citizen" in the Illinois Constitution "were intended to broaden the scope of the right to arms from a collective one applicable only to weapons traditionally used by a regulated militia *** to an individual right covering a wider variety of arms." *Kalodimos,* 103 Ill. 2d at 492 (citing Committee Report, 6 Record of Proceedings, Sixth Illinois Constitutional Convention 87). The Committee Report does not suggest that these changes were intended to protect a felon's right to bear arms. Rather, the opposite is true. This clause was intended to protect "the right to possess and make reasonable use of arms that *law-abiding persons* commonly employ ***." (Emphasis added.) Committee Report, 6 Record of Proceedings, Sixth Illinois Constitutional Convention 89. As discussed, *Bruen, McDonald,* and *Heller* all support the Illinois Constitutional Convention's limitation on firearm possession to those who are law-abiding citizens. See, *e.g.*, *Bruen*, 597 U.S. at 8-10; *McDonald*, 561 U.S. at 786; *Heller*, 554 U.S. at 626-27. As such, we find that the Illinois Constitution does not presumptively protect defendant, or those charged with AHC, because article I, section 22, does not guarantee greater protections than the second amendment for those charged with multiple forcible-felony convictions.

¶ 32 III. CONCLUSION

¶ 33 For the reasons stated, we affirm the judgment of the circuit court of Lake County.

¶ 34 Affirmed.

¶ 35 PRESIDING JUSTICE McLAREN, specially concurring:

¶ 36 I specially concur because I believe the defendant committed *forcible* felonies. The majority in paragraph 15 states, "*These protections do not extend to felons*, especially those with

forcible-felony convictions, which necessarily 'involve[] the use or threat of physical force or violence against any individual.' " However, I believe the majority misreads *Bruen* by limiting the right to keep and bear arms only to "law-abiding citizens." *Supra* ¶ 15. The majority then makes this the threshold test in its analysis. *Supra* ¶¶ 15-19. Although, the Supreme Court held that "ordinary, law-abiding citizens have a *** right to carry handguns publicly for their self-defense," (*Bruen*, 597 U.S. at 9-10)), it did not eliminate the right to those who had broken *any* law. Rather, the Supreme Court requires us to examine "the Second Amendment's plain text." *Id.* at 3-4. The plain text of the second amendment does not contain the words "law-abiding citizens."

¶ 37 Markedly absent from the majority's analysis is the most recent Supreme Court decision regarding the second amendment, *United States v. Rahimi*, 602 U.S. ___, 144 S. Ct. 1889 (2024). In *Rahimi*, a case more akin to ours than *Bruen*, the defendant was convicted of possessing guns in his home while he was subject to a restraining order. He argued that the statute under which he was convicted was unconstitutional on its face. Without examining or even mentioning the term "law-abiding citizens," the Supreme Court began its analysis as follows: "As we explained in *Bruen*, the appropriate analysis involves considering whether the challenged regulation is consistent with the principles that underpin our regulatory tradition." *Id.* at ___, 144 S. Ct. at 1898. It then held "When a restraining order contains a finding that an individual poses a credible threat to the physical safety of an intimate partner, that individual may—consistent with the Second Amendment—be banned from possessing firearms while the order is in effect." *Id.* at ___, 144 S. Ct. at 1897.

¶ 38 For these reasons, I am not convinced that the majority's threshold inquiry regarding whether defendant is a law-abiding citizen is well grounded. Additionally, the majority does not

address whether the term "law-abiding citizens" can include felons who have not committed felonies that "involve[] the use or threat of physical force or violence against any individual."

¶ 39 Regarding the challenge to the Illinois Constitution, I agree with the majority's analysis contained in paragraph 29. The AHC statute disarms felons with multiple forcible-felony convictions, so "a defendant convicted under this statute has exhibited a pattern of dangerousness or physical violence against another, something that plainly excludes him from claiming he is a law-abiding citizen." *Supra* ¶ 29.

¶ 40 In conclusion, I wish to distance myself from any further analysis by the majority. Although it may be scholarly and interesting, I consider it *dicta*. "As this court has explained, *dictum* is of two types: *obiter dictum* and judicial *dictum*." *People v. Williams*, 204 Ill. 2d 191, 206 (2003). "*Obiter dictum*," frequently referred to as simply "*dictum*," is a remark or opinion that a court utters as an aside. *Exelon Corp. v. Department of Revenue*, 234 Ill. 2d 266, 277 (2009); *Cates v. Cates*, 156 Ill. 2d 76, 80 (1993). *Obiter dictum* is not essential to the outcome of the case, is not an integral part of the opinion, and is generally not binding authority or precedent within the *stare decisis* rule. *Exelon*, 234 Ill. 2d at 277. "In contrast, 'an expression of opinion upon a point in a case argued by counsel and deliberately passed upon by the court, though not essential to the disposition of the cause, if *dictum*, is a *judicial dictum*. [Citation.] * * * [A] *judicial dictum* is entitled to much weight and should be followed unless found to be erroneous.' " (Emphasis added.) *Id.* at 277-78, quoting *Cates*, 156 Ill. 2d at 80; see also *Woods v. Interstate Realty Co.*, 337 U.S. 535, 537 (1949) ("where a decision rests on two or more grounds, none can be relegated to the category of *obiter dictum*").