

# PEREMPTORY CHALLENGES

## Supreme Court Rule 434

(d) Peremptory Challenges. A defendant tried alone shall be allowed seven peremptory challenges in a case in which the punishment may be imprisonment in the penitentiary, and five in all other cases; except that, in a single trial of more than one defendant, each defendant shall be allowed five peremptory challenges in a case in which the punishment may be imprisonment in the penitentiary, and three in all other cases. If several charges against a defendant or defendants are consolidated for trial, each defendant shall be allowed peremptory challenges upon one charge only, which single charge shall be the charge against that defendant authorizing the greatest maximum penalty. The State shall be allowed the same number of peremptory challenges as all of the defendants.

---

Rule 434 provides for 7 peremptory challenges in a felony case (Ill.S.Ct. R. 434(d) (eff. May 1, 1985)), while section 115-4 provides for 10 (725 ILCS 5/115-4(e) (West 2010)). The appellate court has consistently held that Rule 434 trumps section 115-4.

See *People v. Hendrix*, 250 Ill.App.3d 88, 104, 189 Ill.Dec. 859, 620 N.E.2d 1176 (1993); *People v. Harbold*, 220 Ill.App.3d 611, 619, 163 Ill.Dec. 181, 581 N.E.2d 132 (1991); *People v. Colclasure*, 200 Ill.App.3d 1038, 1042, 146 Ill.Dec. 742, 558 N.E.2d 705 (1990); *People v. Whitlock*, 174 Ill.App.3d 749, 769, 124 Ill.Dec. 263, 528 N.E.2d 1371 (1988); cf. *People v. Daniels*, 172 Ill.2d 154, 160 n. 1, 216 Ill.Dec. 664, 665 N.E.2d 1221 (1996) (supreme court declined to resolve whether Rule 434 preempts section 115-4).

*People v. Brown*, 2013 IL App (2d) 111228, 989 N.E.2d 737, 743