

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

---

<i>In re</i> JULIEN G., a Minor,	)	Appeal from the Circuit Court
	)	of Cook County.
(THE PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Petitioner-Appellee,	)	No. 16 JD 2454
	)	
v.	)	
	)	The Honorable
JULIEN G., a Minor,	)	Stuart F. Lubin,
	)	Judge Presiding.
Respondent-Appellant).	)	

---

JUSTICE PUCINSKI delivered the judgment of the court.  
Presiding Justice Fitzgerald Smith and Justice Cobbs concurred in the judgment.

**ORDER**

¶ 1 *Held:* circuit court judgment adjudicating minor respondent delinquent of three counts of misdemeanor battery reversed, in part, where the court's judgment violated the one-act, one-crime rule. Cause remanded to the circuit court with instructions.

¶ 2 Following a bench trial conducted in accordance with the Juvenile Court Act of 1987 (705 ILCS 405/5-1 *et seq.* (West 2014)), minor respondent Julien G., was adjudicated delinquent of three counts of battery and sentenced to 18 months' probation. On appeal, respondent argues that the circuit court's adjudication determination violates the tenets of the one-act, one-crime

rule. For the reasons explained herein, we reverse, in part, the judgment of the circuit court and remand with directions.

¶ 3

### BACKGROUND

¶ 4

On September 16, 2016, 16-year-old Julien and his mother, Michelle, were involved in a physical altercation with Jamie Christman, and Jamie's 18-year-old daughter, Mariah.

¶ 5

Thereafter, on November 1, 2016, the State filed a petition for adjudication of wardship against respondent in connection with those events. In the filing, the State alleged that respondent was "delinquent by reason of the following facts:

On or about September 28, 2016, in violation of SECTION 12-3(a)(1) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, as amended, [RESPONDENT] committed the offense of BATTERY, in that the above-named minor knowingly caused bodily harm to Jamie Christman, in that [RESPONDENT] struck Jamie Christman about the face and body causing swelling, bruising, and a black eye.

On or about September 28, 2016, in violation of SECTION 12-3(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, as amended, [RESPONDENT] committed the offense of BATTERY, in that the above-named minor knowingly made physical contact of an insulting or provoking nature with Jamie Christman, in that [RESPONDENT] struck Jamie Christman about the face and body.

On or about September 28, 2016, in violation of SECTION 12-3(a)(2) of ACT 5 of CHAPTER 720 of the Illinois Compiled Statutes, as amended, [RESPONDENT] committed the offense of BATTERY, in that the above-named minor knowingly made

contact of an insulting or provoking nature with Mariah Christman, in that [RESPONDENT] slapped her hand and kicked her about the body.”<sup>1</sup>

¶ 6 Respondent elected to proceed by way of a bench trial.

¶ 7 At trial, Jamie testified that on September 28, 2016, at approximately 4:45 p.m., she was sitting in the front passenger seat of a vehicle that was parked by a local barber shop located on Irving Park Road in Chicago. Her daughter, Mariah, and Mariah’s 6-month-old son, Elias, were seated in the rear of the vehicle. The car in which they were sitting was owned by Anthony (Tony) Woodman. Tony was a friend of Jamie’s and the husband of respondent’s mother, Michelle. Jamie explained that she, her daughter, and her grandson were waiting in the vehicle while Tony was getting a haircut. As they were sitting in the vehicle, Jamie noticed a white vehicle “pull[] up” alongside them. Jamie testified that the white car “went past, then reversed, went past, reversed, backed up into the alley, and then started like coming, nosediving into the[ir] car, and then swerved right off” before there was any impact between the two vehicles. Respondent’s mother, Michelle, was the driver of the white vehicle. Jamie observed Michelle “shaking her finger” and “ranting and raving” at her from her vehicle; however, Jamie, was unable to “make out” what was Michelle saying. Michelle ultimately stopped her vehicle in the middle of the street approximately one car length in front of Tony’s car.

¶ 8 Thereafter, respondent, whom Jamie had never seen before, ran up to them. He was “yelling gang profanity,” and “throwing up gang signs.” After opening Jamie’s front passenger side door, respondent began repeatedly “chanting,” “I’m gonna f\*\*\* you up, b\*\*\*\*.” Respondent then “balled up” his fists, reached in the car, and started “lunging [and] punching” at

---

<sup>1</sup> The State’s petition also alleged that respondent had also committed the offense of theft; however, that charge is not relevant to this appeal.

her. Jamie testified that respondent struck her head against the steering wheel and hit her left eye with his fist. He then grabbed her arm and began pulling her out of the vehicle.

¶ 9 Once respondent extricated her from the vehicle, Jamie observed Mariah standing outside the vehicle with her son in her arms. Mariah was repeatedly yelling, “Don’t hit my mom. Don’t hit my mom.” As she did so, Mariah was using Jamie’s cell phone to record respondent’s aggressive behavior. When respondent observed Mariah recording him, he “slapped” the phone from Mariah’s hands and threatened to “kill [her] baby.” As respondent continued to engage in physically and verbally aggressive behavior toward Jamie and her daughter, respondent’s mother, Michelle, exited her own vehicle and began “laughing” and “pointing her finger” at both women. Michelle told Jamie, “I told you, b\*\*\*\*, you gonna get it.” Encouraged by his mother, respondent then began “chasing” Jamie around the car. Jamie testified that she kept trying to “dodge respondent” as he lunged and swung at her with “balled” fists.

¶ 10 As Jamie attempted to evade respondent, Tony arrived at the scene with Mariah’s boyfriend, Anthony Alvarez. Because Mariah was “freaking out” and “getting more hysterical,” Alvarez took the baby from her arms. After he did so, Michelle approached Mariah from behind and “started pulling Mariah’s hair.” Both women fell to the ground during the ensuing struggle.

¶ 11 At that point, a female off-duty police officer “showed up with [a] baton.” Jamie testified that “everything stopped” once the officer arrived. Respondent immediately grabbed Jamie’s phone from the ground and entered his mother’s vehicle. He and his mother then “pull[ed] off.” Following the incident, Jamie had a black eye, a sore cheekbone, and a bruised arm. After Tony obtained Jamie’s phone from respondent and returned it to her, she used it to take pictures of her injuries. She subsequently spoke to a detective about the incident “briefly” over the phone and relayed what had occurred.

¶ 12 On cross-examination, Jamie acknowledged that she had previously been convicted of felony burglary. When asked, Jamie denied that she was involved in a romantic relationship with Tony. She explained that she had been friendly with Tony since high school and that he was simply renting a room at her residence at the time of the offense. Jamie also acknowledged that when she spoke to a detective following the incident, she did not tell the officer that respondent had flashed gang signs or made any verbal references to gangs prior to physically assaulting her. She also did not tell the detective that Michelle had grabbed Mariah's hair and pulled Mariah to the ground. Jamie, however, explained that the conversation she had with the detective was brief and that she "never got to speak very thoroughly about the situation at all." She denied that she ever physically struck respondent or his mother during the altercation. She further denied that Tony had gotten involved in the physical altercation or that he had struck Michelle. Jamie estimated that respondent hit her "about two times" during the course of the incident, explaining that she was able to "dodge" most of his efforts to strike her. She did not seek medical treatment for her injuries.

¶ 13 Mariah confirmed her mother's account of the events that occurred on September 28, 2016. She confirmed that on that date, she was sitting with her son and her mother in a parked vehicle when Michelle arrived on the scene and "drove back and forth in her car like crazy." Respondent then ran up to their vehicle, yelling "king love, b\*\*\*\*\*." He subsequently opened the front passenger-side door and began hitting her mother. After observing respondent hit her mother's face and grab her mother's hair, Mariah exited the vehicle with her son. When her boyfriend arrived on the scene, Mariah asked him to hold her baby and began using her mother's cell phone to videotape respondent. Respondent, however, knocked the phone out of Mariah's hand and threatened to kill her son. He also kicked Mariah's left leg. Respondent's mother then

ran up to her and grabbed her hair. Mariah further confirmed that the incident stopped when an off-duty police officer arrived at the scene. At that point, respondent took her mother's phone, entered his mother's car, and left the scene.

¶ 14 After presenting the aforementioned evidence, the State rested its case-in-chief.

¶ 15 Thereafter, Michelle was called upon to testify on her son's behalf. She categorized her relationship with her husband, Tony, as "nonexistent" and "really bad." She testified that her husband was "dating Jamie Christman." When asked about the events that occurred on September 28, 2016, Michelle disputed the accounts provided by Jamie and Mariah. Michelle explained that at approximately 4:30 p.m., she dropped respondent off at a barbershop located on Irving Park Road so that he could get a haircut. After she dropped off her son, Michelle then drove around the area to look for parking. As she was driving, she noticed a vehicle that "looked like [her] husband's vehicle." She then put her car into reverse "just to check the license plate" of the other car and noted that the license plate number "matched" her husband's license plate number. She then observed two unknown women sitting in the vehicle. As she was stopped near her husband's vehicle, Michelle noticed her son running towards her. Respondent was being chased by her husband and another male, whom she had never seen before. Michelle thought her husband "was trying to beat [her son] up" so she exited her vehicle, intending to stop Tony from doing so. At that point, however, Jamie and Mariah exited her husband's vehicle, "charged at" her, and began to hit her. Respondent was ultimately able to pull the two women off of her after they had struck her three or four times. After he did so, however, Tony then stepped in and began to hit her repeatedly, "beat[ing] [her] to the point where [she] was blacking out." After regaining consciousness, Michelle testified that she called the police. Her husband had already left the scene with Jamie and Mariah when she placed that call. When police

arrived, they called an ambulance and she was taken to a hospital to receive treatment for her injuries. Michelle denied that her son ever hit Jamie or Mariah before they attacked her. She further denied that respondent had made gang references or verbally threatened Jamie and Mariah.

¶ 16 Following Michelle's testimony, the defense rested. The parties then delivered closing arguments. After hearing the parties' arguments and considering the evidence, the circuit court adjudicated respondent delinquent of three counts of misdemeanor battery. In doing so, the court expressly found that Michelle was not a credible witness. At the dispositional hearing that followed, the court sentenced respondent to 18 months' probation, subject to certain restrictions.

¶ 17 This appeal followed.

¶ 18 ANALYSIS

¶ 19 On appeal, respondent contends, and the State agrees, that the circuit court violated the one-act, one-crime rule by adjudicating him delinquent of two counts of battery against Jamie Christman.

¶ 20 As a threshold matter, respondent acknowledges that this issue was not properly preserved for appellate review because counsel failed to raise a one-act, one-crime violation claim in the circuit court; however, he urges this court to review his claim for plain error. See *In re Samantha V.*, 234 Ill. 2d 359, 368 (2009) (explaining that a minor "respondent's failure to object at trial forfeits consideration of the claimed error on appeal, unless [the] respondent can demonstrate plain error.") The plain error doctrine provides a limited exception to the forfeiture rule and allows for review of forfeited issues on appeal if the evidence is closely balanced or if the claimed error is of such a serious magnitude that it affected the integrity of the judicial process and deprived the defendant of his right to a fair trial. Ill. S. Ct. R. 615(a) (eff. Jan. 1,

1967); *People v. Belknap*, 2014 IL 117094, ¶ 48; *People v. Sargent*, 239 Ill. 2d 166, 189 (2010); *People v. Piatkowski*, 225 Ill. 2d 551, 564-65 (2007). “[I]t is well established that a one-act, one-crime violation affects the integrity of the judicial process, thus satisfying the second prong of the plain-error test.” *Samantha V.*, 234 Ill. 3d at 378-79; see also *In re Rodney S.*, 402 Ill. App. 3d 272, 281 (2010) (reviewing juvenile’s one-act, one-crime claim for plain error under the second prong of the plain error test). Accordingly, we will review respondent’s one-act, one-crime violation claim for plain error.

¶ 21 Pursuant to the one-act, one-crime rule, a defendant may not be convicted of more than one offense arising out of the same criminal act. *People v. King*, 66 Ill. 2d 551, 559-66 (1977); see also *People v. Almond*, 2015 IL 118817, ¶ 47. This rule applies to juvenile proceedings. *In re Samantha V.*, 234 Ill. 2d at 375; *People v. J.F.*, 2014 IL App (1st) 123579, ¶ 18. For purposes of the one-act, one-crime rule, an “act” is “any outward manifestation which will support a different offense.” *King*, 66 Ill. 2d at 566; see also *In re G.A.T.*, 2017, IL App (3d) 160702, ¶ 20. Accordingly, separate blows, even if closely related and inflicted in close temporal proximity, may constitute separate acts and properly support multiple convictions subject to concurrent sentences. *People v. Crespo*, 203 Ill. 2d 335, 342 (2001); *Rodney S.*, 402 Ill. App. 3d at 282. However, in order “[t]o sustain multiple convictions for closely related separate blows, the State must provide the defendant notice of its intent to treat each blow as a separate act by apportioning those separate blows at the trial level.” *Rodney S.*, 402 Ill. App. 3d at 282. That is, “findings of guilt for multiple offenses can only be sustained if the charging document reflects the State’s intent to apportion the accused’s conduct and prosecute the accused for multiple crimes.” *Samantha V.*, 234 Ill. 2d at 379 (citing *Crespo*, 203 Ill. 2d at 342). Where, however, it is evident from the charging instrument that the State elected not to apportion the accused’s



conduct and instead elected to pursue the charges against the defendant by treating his conduct as a single interrelated act, then multiple convictions are improper. *Rodney S.*, 402 Ill. App. 3d 282.

¶ 22 Here, the State's petition for adjudication of wardship alleged that respondent committed two counts of battery against Jamie Christman. The first count alleged that respondent committed battery when he "struck Jamie Christman about the face and body causing swelling, bruising, and a black eye," and resulting in bodily harm. The second count, similarly alleged that respondent committed battery when he "struck Jamie Christman about the face and body," which constituted physical contact of an insulting or provoking nature. Although Jamie testified at respondent's adjudication hearing that respondent struck her more than one time, it is evident from the State's petition for adjudication of wardship that the State did not apportion respondent's conduct or otherwise evidence any intent to treat respondent's conduct as constituting more than one act. Accordingly, because both of the battery charges involving Jamie were based on the same physical conduct, the circuit court violated the one-act, one-crime rule when it adjudicated respondent delinquent of both charges. See, e.g., *Samantha V.*, 234 Ill. 2d at 377-78 (finding that the circuit court violated the one-act, one-crime rule when it adjudicated the minor respondent delinquent of two counts of aggravated battery where the State "did not differentiate between strikes or blows to the victim when drafting the charging instrument" and treated the respondent's attack against the victim as one incident at trial); *Crespo*, 203 Ill. 2d at 338 (finding that the one-act, one-crime rule precluded multiple convictions of aggravated battery from being entered against the defendant even though the evidence at trial established that the defendant had stabbed the victim three times because the State failed to apportion the stab wounds in the indictment and treated the defendant's conduct towards the victim as a single attack at trial). Therefore, respondent has met his burden of

establishing plain error in this case. See *Samantha V.*, 234 Ill. 2d at 378-79 (a one-act, one-crime violation constitutes second-prong plain error because it affects the integrity of the judicial process).

¶ 23 Where, as here, a one-act, one-crime violation is found, the proper remedy is to vacate the less serious offense. *Samantha V.*, 234 Ill. 2d at 379. However, “ ‘when it cannot be determined which of two or more convictions based on a single physical act is the more serious offense, the cause will be remanded to the trial court for that determination.’ ” *Id.* at 380 (quoting *People v. Artis*, 232 Ill. 2d 156, 177 (2009)). In this case, the two charges of battery pertaining to respondent’s actions against Jamie differ only in their theories of criminal culpability. That is, count I was premised on respondent inflicting bodily harm on Jamie (720 ILCS 5/12-3(a)(1) (West 2014), whereas count II was based on respondent making physical contact with Jamie that was of an insulting or provoking nature (720 ILCS 5/12-3(a)(2) (West 2014)). The offense of battery, regardless of the manner in which the physical contact is inflicted, is a Class A misdemeanor. 720 ILCS 5/12-3(b) (West 2014). Under these circumstances, this court cannot determine which count reflects the more serious offense. Accordingly, we remand this cause to the circuit court to make this determination. See, e.g., *Samantha V.*, 234 Ill. 2d at 379-80 (remanding the cause to the circuit court where it was unclear which of the minor’s two aggravated battery convictions based on the same physical act was the more serious offense); *Rodney S.*, 402 Ill. App. 3d at 285 (same). On remand, once the circuit court makes this determination, it should correct the “Trial Order” to reflect its finding. After the correction, the “Trial Order” should reflect that respondent was adjudicated of one count of battery against Jamie and one count of battery against Mariah.

¶ 24 Additionally, both parties also observe that the “Sentencing Order” and the “Probation Order” entered by the circuit court lack clarity. Both documents simply reflect a sentence of 18 months’ probation. The probation term does not differentiate between the battery committed against Jamie and the battery committed against Mariah. Accordingly, at the parties’ request, we further instruct the circuit court to clarify those orders to reflect that the probation period imposed on respondent for his battery of Mariah be served concurrently with the probation period imposed on respondent for his battery of Jamie.

¶ 25 CONCLUSION

¶ 26 For the reasons stated above, we reverse the judgment of the circuit court in part, and remand the matter back to the circuit court with directions to modify the Trial Order, the Sentencing Order and the Probation Order in a manner that is consistent with our instructions.

¶ 27 Reversed in part and remanded with directions.