THIRD DIVISION
November 14, 2018

No. 1-18-0792

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

IN THE INTEREST OF A.L., a minor,	)	
	)	Appeal from the
(PEOPLE OF THE STATE OF ILLINOIS,	)	Circuit Court of
	)	Cook County
Petitioner-Appellee,	)	
	)	No. 17 JD 1230
v.	)	
	)	The Honorable
A.L.,	)	Daryl J. Jones,
	)	Judge Presiding.
Respondent-Appellant.)	)	

PRESIDING JUSTICE FITZGERALD SMITH delivered the judgment of the court. Justices Howse and Ellis concurred in the judgment.

ORDER

¶ 1 *Held:* Evidence presented in delinquency proceedings was sufficient for minor respondent to be found guilty of aggravated battery under accountability theory. Trial court did not abuse its discretion in sentencing minor respondent to three-year term of probation. Where respondent was found delinquent of two counts of aggravated battery based on same conduct, one of the two findings must be vacated under one-act, one-crime principles.

¶ 2 In this appeal of delinquency proceedings, the respondent, A.L., a minor, was found delinquent on two counts of aggravated battery under a theory of accountability for the conduct

of his minor co-respondent, K.S., which occurred during a fight among high school students. Following a dispositional hearing, the respondent was sentenced to three years of probation. On direct appeal, the respondent argues that: (1) the State failed to prove beyond a reasonable doubt that he was accountable for the conduct of K.S.; (2) the trial court abused its discretion in sentencing him to three years of probation; and (3) one of the two aggravated battery findings against him should be vacated under the one-act, one-crime doctrine.

¶ 3 The State agrees with the respondent's third argument, that one of the two aggravated battery findings against him should be vacated. This court agrees and therefore modifies the trial court's order to reflect only a single finding of delinquency for aggravated battery. For the reasons below, however, this court finds the respondent's other arguments to be unpersuasive and therefore affirms the trial court.

¶ 4 I. BACKGROUND

¶ 5 The State filed a petition for adjudication of wardship, alleging that the minor respondent was delinquent based on three counts of aggravated battery committed during an incident that occurred on June 12, 2017. The incident was alleged to involve two victims, M.C. and S.S., both minors. The first count was for a violation of section 12-3.05(a)(1) of the Criminal Code of 2012 (720 ILCS 5/12-3.05(a)(1) (West 2016)), alleging that the respondent committed aggravated battery causing great bodily harm to M.C. by striking M.C. about the face and body, causing a broken clavicle. The second and third counts were both for violations of section 12-3.05(c) of the Criminal Code of 2012 (720 ILCS 5/12-3.05(c) (West 2016)), alleging the respondent committed aggravated battery on a public way. The second count pertained to M.C. as victim, and the third count pertained to S.S. as victim. The second count alleged that the respondent committed a battery while M.C. was on Harding Avenue, a public way, the respondent caused great bodily

harm to M.C. by striking M.C. about the face and body, causing a broken clavicle. The third count alleged that the respondent committed a public battery while M.C. was on Harding Avenue, a public way, the respondent struck S.S. about the face and the body.

¶ 6 A bench trial was held concerning the allegations of delinquency, at which the respondent and K.S. were tried jointly. The State's case in chief as to both minors consisted of the testimony of M.C. and of Dr. Stacy Laurent, a pediatrician who treated M.C. for his injuries. Two videos taken of the incident, showing it from opposite angles, were also admitted into evidence. S.S. did not testify, and neither the respondent nor K.S. presented any evidence in defense.

¶ 7 M.C. testified that, as of the time of his testimony, he was 17 years old and a senior at Orr Academy in Chicago. He had been a junior as of the date of the incident, which was June 12, 2017. That day, during school, he had been with his friends S.S. and A., when A. became involved in an argument with another student. M.C. broke up the fight by pulling A. away from the other student and pushing A. into a classroom to keep them separated. That other student then made threats to M.C. also.

¶ 8 After school that day, M.C. and S.S. were walking home. When they reached Harding Avenue, which was near their school, they stopped and talked to A. At that point, a crowd of about 20-30 students from the school came up to them. The respondent and K.S. were among the crowd of students, as were D. and J., whom M.C. understood to be related to the respondent. He testified that the rest of the students in the crowd were people he did not know, "but I knew that that was the people they hung out with" in their "little clique."

¶ 9 M.C. described that the crowd "walked up talking *** like they were fixing to jump on us." As the crowd approached them, M.C. and S.S. were standing shoulder-to-shoulder in the grass between the sidewalk and the street. Believing he was about to get "jumped," M.C. backed into

the street while S.S. stayed on the grass. S.S. began verbally fighting with D., at which point M.C. saw the respondent grab S.S. from behind and slam her to the ground. M.C. then ran back toward S.S. to protect her. M.C. testified that he "hit the first person that grabbed [S.S.]," although he stated the person he struck was not the respondent. The person he struck was somebody he did not know. After M.C. struck somebody, multiple people from the crowd "rushed" him. He ran back into the street and fell down, and multiple people began punching and stomping on him. He identified three of these people as K.S., D., and J., although he testified that other people he did not know were beating him also. The respondent was not one of the individuals beating him. He testified that K.S. was punching him with his fist and stomping on him with his feet. He felt he was being punched and stomped all over his body. He testified he was kicked in the ribs and stomped on about 12 times and punched in the face less than 12 times.

¶ 10 The videos that were admitted into evidence show that, at the same time M.C. was in the street being kicked, stomped on, and punched by multiple individuals, a second individual was on the grass several feet away being kicked, stomped on, and punched by a different person. M.C. testified that the individual shown in the video being beaten was S.S., and the person kicking, stomping, and punching her was the respondent. M.C. testified that the respondent was wearing a white tank-top that day, and he admitted on cross examination that at least five people in the crowd were wearing white tank-tops that day.

¶ 11 M.C. testified that he was eventually able to get up and run away. He ran to the corner of the street. After he did so, he turned around and saw S.S. trying to walk away. He testified that as she was in the middle of the street, the respondent punched her. She fell down, and people from the crowd began stomping on her again. M.C. testified that the people he saw stomping on her were the same people who had been stomping on him, as well as the respondent. S.S. was

eventually able to get away, and she and M.C. ran back to the front of the school. M.C.'s grandfather came and picked them up.

¶ 12 M.C. testified that immediately after the incident, by the time he was at the corner, he noticed he could not lift his shoulder. He felt a sharp pain at the top of his left collarbone at the shoulder. That continued, and later that afternoon his mother took him to the emergency room. M.C. testified that by the time he arrived at the emergency room, he was still feeling the sharp pain and could not lift his arm. He was given medication and a sling for his arm, which he wore for 3-4 weeks. He had several follow up appointments with a physician.

¶ 13 Dr. Stacy Laurent testified that she was a pediatrician with the University of Illinois in Chicago. On June 12, 2017, she was the attending pediatrician in the emergency department, and she treated M.C. for his injuries that afternoon. She testified that he came in complaining of shoulder pain following an assault. She obtained an x-ray of his shoulder, which showed a fractured left clavicle. He also had tenderness over the left clavicle on physical examination. She prescribed him a sling to wear and ordered him to follow up with an orthopedic specialist.

¶ 14 After hearing all the evidence at trial, the trial court found both the respondent and K.S. guilty on the first and second counts, and not guilty on the third count. As to the third count, the trial court stated that although M.C. had testified credibly, and the videos showed a second individual being struck, the State had not proven beyond a reasonable doubt that S.S. was in fact the second individual being struck.

¶ 15 In ruling, the trial court noted there was no testimony that the respondent had contact with M.C., as M.C. had testified that K.S. was the only one of the two respondents who "jumped" him. However, the trial court agreed with the State's argument that the respondent was responsible for the conduct of K.S. under a theory of accountability. The trial court found that

the video of the incident had shown that K.S. and the respondent were both acting together to carry out the incident, that they approached at the same time, and that the whole incident was related and occurred at the same time. Thus, the trial court found that based on the theory of accountability, the State had proven beyond a reasonable doubt that both the respondent and K.S. participated in the incident and were guilty of the first two counts against each of them, for aggravated battery causing great bodily harm and aggravated battery on a public way.

¶ 16 At sentencing, the trial court adjudicated the respondent a ward of the court. Following a dispositional hearing, the trial court sentenced the respondent to three years of probation, which was the length of probation for which the State had argued. The respondent had argued the trial court should adopt the probation officer's recommendation of one year of probation. The respondent's conditions of probation included completing 30 hours of community service, undergoing DNA testing, mandatory attendance at school, participation in the Treatment Alternatives for Safe Communities (TASC) program, and a mentorship program. The trial court further sentenced the respondent to 30 days in the Cook County Juvenile Temporary Detention Center, which was stayed pending respondent's compliance with the other aspects of the sentencing order.

¶ 17 The respondent filed a timely notice of appeal, and this direct appeal followed.

¶ 18 II. ANALYSIS

¶ 19 A. Sufficiency of the Evidence

¶ 20 The respondent's first argument on appeal is that the State failed to prove beyond a reasonable doubt that he was accountable for the conduct of K.S., the offender who actually struck M.C., because there was insufficient evidence presented that the respondent shared a common criminal design with K.S. or participated in, aided, or facilitated the offense against M.C.

¶ 21 When a minor challenges the sufficiency of evidence used to support a finding of delinquency against him or her, the standard of review is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *In re Q.P.*, 2015 IL 118569, ¶ 24. Generally, the trier of fact has had the opportunity to hear and see witnesses and, for that reason, is in the best position to judge credibility. *People v. Austin M.*, 2012 IL 111194, ¶ 107. Thus, it is not the function of a reviewing court to retry the minor respondent. *Id.* A reviewing court must draw all reasonable inferences from the record in favor of the prosecution. *Id.* This court will reverse a conviction only if the evidence is so improbable, unsatisfactory, or inconclusive that it raises a reasonable doubt of the minor respondent's guilt. *In re Q.P.*, 2015 IL 118569, ¶ 24.

¶ 22 As stated above, the respondent was found guilty under an accountability theory for the conduct of K.S. in committing aggravated battery against M.C. Under Illinois law, a person is legally accountable for the conduct of another when, "either before or during the commission of an offense, and with the intent to promote or facilitate that commission, he or she solicits, aids, abets, agrees, or attempts to aid that other person in the planning or commission of the offense." 720 ILCS 5/5-2(c) (West 2016); *People v. Fernandez*, 2014 IL 115527, ¶ 13.

¶ 23 The respondent first argues that the State failed to prove that he possessed the intent to facilitate the commission of the crime committed by K.S. He argues that other than the fact that he and K.S. happened to arrive and approach the vicinity at the same time, there was no evidence that they were acting in concert or shared any criminal objective during this "confusing and disorderly skirmish of more than 30 people."

¶ 24 To prove under accountability principles that a defendant possessed the intent to promote or facilitate the commission of an offense, the State may present evidence that either (1) the

defendant shared the criminal intent of the principal, or (2) there was a common criminal design. *Fernandez*, 2014 IL 115527, ¶ 13. "Under the common-design rule, if 'two or more persons engage in a common criminal design or agreement, any acts in the furtherance of that common design committed by one party are considered to be the acts of all parties to the design or agreement and all are equally responsible for the consequences of the further acts.'" *Id.* (quoting *In re W.C.*, 167 Ill. 2d 307, 337 (1995)); 720 ILCS 5/5-2. Proof of the common purpose or design need not be supported by words of agreement, but instead it may be drawn from the circumstances surrounding the commission of an act by a group. *In re W.C.*, 167 Ill. 2d at 338. Furthermore, the fact that the criminal acts were not committed pursuant to a preconceived plan is not a defense if the evidence indicates involvement on the part of the accused in the spontaneous acts of the group. *Id.* "Evidence that a defendant voluntarily attached himself to a group bent on illegal acts with knowledge of its design supports an inference that he shared the common purpose and will sustain his conviction for an offense committed by another." *Fernandez*, 2014 IL 115527, ¶ 13 (quoting *In re W.C.*, 167 Ill. 2d at 338). While a defendant's mere presence at the scene of a crime does not render him or her accountable for an offense, the defendant's presence at the scene may be considered with other circumstances by the trier of fact when determining accountability. 720 ILCS 5/5-2.

¶ 25 The respondent argues that the evidence presented by the State failed to show that he was engaged in a common design with K.S. He argues that the evidence was insufficient to prove that a connection existed between them, from which it could be inferred that they shared a criminal objective. He argues that all that was shown was that they were both in the same large crowd of 30-plus young people that approached when K.S. assaulted M.C. and the respondent attacked the second individual. The respondent argues that, even if it was shown that he was involved in a

separate offense against a second individual, there was insufficient evidence that the attack by K.S. on M.C. was related to any plan the respondent had with K.S. According to the respondent, the most that the evidence suggests is that he was acting alone for a personal purpose when he attacked the second individual, because that individual was engaging in a verbal fight with D., who was a relative of the respondent. He argues that it was not proven that he even had any awareness of or concern with what K.S. was doing to M.C. or with the chaos going on around him.

¶ 26 After reviewing the evidence in the light most favorable to the State, this court concludes that sufficient evidence was presented for a rational trier of fact to find the respondent guilty of aggravated battery under an accountability theory. Significantly, the evidence that the State presented to the trial court in this case included two videos showing the incident at issue. The videos corroborate the testimony of M.C. that he and a second individual, identified in his testimony as S.S., were standing side-by-side in the grassy area between the sidewalk and the street as a crowd approached them. They show M.C. then leaving the grassy area and entering the street. As S.S. is about to fight another person, she is slammed to the ground from behind. Almost immediately when that occurs, M.C. comes back toward S.S. and a number of individuals attack him, one of which was identified in testimony as K.S. Then M.C. falls to the ground and the group, which includes K.S., continues kicking, punching, and stomping on him. Simultaneously, an individual identified in testimony as the respondent can be seen kicking, punching, and stomping on S.S., who is also on the ground several feet away from M.C.

¶ 27 We agree with the trial court's assessment that the videos demonstrated that the actions of K.S. directed at M.C. and the actions of the respondent directed at S.S. were clearly related and constituted a single incident. It is evident from the videos that the respondent and K.S. were acting together as part of a group to carry this incident out, as the trial court observed. We cannot

accept the respondent's characterization of the evidence as showing nothing more than two simultaneous but unrelated incidents. We further reject the respondent's argument that there was insufficient evidence that any plan existed between the respondent and K.S. pertaining to the acts directed at M.C. As stated above, "the fact that the criminal acts were not committed pursuant to a preconceived plan is not a defense if the evidence indicates involvement on the part of the accused in the spontaneous acts of the group." *In re W.C.*, 167 Ill. 2d at 338. Thus, even if the acts of K.S. or of the respondent were in some sense spontaneous as opposed to part of a preconceived plan, the evidence clearly demonstrates the respondent's involvement in the acts of the group. The evidence is sufficient to establish the existence of a common design.

¶ 28 The respondent cites *People v. Cowart*, 2017 IL App (1st) 113085-B, ¶ 40, to support the argument that, even if the evidence showed that he was involved in a separate attack against another individual that occurred in the vicinity of the assault of M.C. by K.S., the State did not sufficiently prove a "common link" or connection existed between these two incidents, from which it could be inferred that a shared criminal objective existed between the respondent and K.S. He relies upon this court's statement in *Cowart* that "individuals committing crimes in the vicinity of each other cannot automatically be held accountable for each other's criminal acts." *Id.* Rather, the state must show that a principal offender shared in a defendant's alleged criminal design, thereby establishing the "common" link between them. *Id.*

¶ 29 *Cowart* involved a shooting that occurred at an outdoor party at which up to several hundred people were present. *Id.* at ¶¶ 3-4. During the party, several women became engaged in a verbal altercation. *Id.* at ¶¶ 4-5, 7, 14. That escalated into a physical altercation, in which the defendant and several of his friends became involved. *Id.* The witnesses described the altercation as a chaotic fight involving many individuals. *Id.* During the chaos, multiple gunshots were fired,

one of which killed the victim at issue. *Id.* Forensic evidence presented at the trial indicated that 28 gunshots had been fired from at least six or seven different firearms, including two .38-caliber firearms, four 9-millimeter firearms, and one unknown firearm. *Id.* at ¶ 16. Several witnesses identified the defendant as one of the shooters. *Id.* at ¶¶ 5, 9-10. However, the evidence presented was that the defendant was shooting in the direction of one or two of the women, who were fleeing, not in the direction of the victim. *Id.* at ¶¶ 5, 9-10, 15.

¶ 30 At trial, the State did not attempt to establish the identity of the principal offender who shot the victim. *Id.* at ¶ 35. However, the State did attempt to establish a common criminal design between the defendant and the unknown shooter. *Id.* This court held that the evidence was insufficient to establish a common design. *Id.* A number of factors were significant to the court's determination, beyond simply the fact that the person who shot the victim was unknown. The evidence showed that hundreds of people were in attendance at this party, and many of them were armed with guns. *Id.* They were not all members of the group of individuals that the defendant associated with. *Id.* The witness testimony described a chaotic fight involving many individuals from the party, which became more chaotic once the gunfire began. *Id.* It was unclear from the evidence what had caused the gunfire to erupt initially, or when in the course of events the victim was shot. *Id.* The forensic evidence showed that at least 26 shots had been fired from a number of different weapons. *Id.*

¶ 31 Ultimately, the court agreed with the defendant's argument that it was insufficient for the State to show multiple illegal acts had occurred in the same vicinity without showing the common link between or among the actors. *Id.* at ¶¶ 36-40. We noted that it was undisputed that the evidence showed the defendant had fired shots toward at least one of the women, but that was not the crime the State had charged him with. *Id.* at ¶ 38. We concluded that to establish a

"common criminal design," the State would have needed to prove that the unknown shooter was a part of the defendant's alleged criminal design to shoot the women but instead killed the women while acting in furtherance of the plan they had in common. *Id.* The State did not present any such evidence that anyone other than the defendant shot in the direction of the women and killed the victim instead. *Id.*

¶ 32 We find that the present case is distinguishable from *Cowart*. Significantly, this is not a situation where the identity of the principal offender was unknown. In this case, the State charged that K.S. was the principal offender responsible for the aggravated battery of M.C., and it put on evidence in support of that charge. Moreover, while the incident at issue could be described as somewhat chaotic, inasmuch as it involved an attack by a number of students on multiple other students, the evidence introduced at trial was sufficient to allow the trial court to sort through the chaos. The two videos admitted into evidence showed the actions taken by both K.S. and the respondent during the incident and the relationship of their respective actions to the incident as a whole. As discussed above, we agree with the trial court's assessment that this was a single incident in which the respondent and K.S. were acting together to carry out a group attack. The evidence sufficiently demonstrates a "common link" between their conduct sufficient to establish the existence of a common design.

¶ 33 We similarly find distinguishable the facts of *People v. Estrada*, 243 Ill. App. 3d 177 (1993), which the respondent relies on to argue that the evidence did not show he knew what K.S. was intending to do to M.C., either before or during the attack. In *Estrada*, this court held that although the defendant knew the principal offender had a gun in the car they were riding in, there was no evidence indicating he was aware of any plan by the principal offender to shoot the victim in that case. *Id.* at 185. Thus, the court reversed the defendant's conviction for first degree

murder on a theory of accountability. *Id.* In this case, we find the evidence, which again includes the two videos showing the incident, is clearly sufficient to allow a reasonable trier of fact to draw the conclusion that the respondent had ample knowledge of what was happening between K.S. and M.C. several feet away from where he was standing when he was kicking, stomping, and punching S.S. As stated above, these two attacks began almost simultaneously and constituted a single incident. Further, even if no preconceived plan existed, the evidence would sufficiently establish the existence of a common design based on the respondent's active involvement in the spontaneous acts of the group. *In re W.C.*, 167 Ill. 2d at 338.

¶ 34 The respondent next argues that the evidence presented by the State failed to prove he was part of the "melee" at all. He argues there was little evidence presented that he was present for the offense. He points out that M.C. admitted that when he spoke to police on the day of the incident, he did not mention the respondent as being involved. He further argues that the videos only showed that the individual identified as S.S. was being struck by a person wearing a white tank-top whose face was not shown, and there were a number of other people present that day wearing white tank tops. We conclude that the evidence presented at trial was sufficient to allow a reasonable trier of fact to conclude that the respondent was present and participated in the incident at issue. In his testimony, M.C. described how he knew the respondent and identified the respondent as the individual shown in the video beating the person identified as S.S., while M.C. was being beaten several feet away. M.C. further described at trial his observations of the respondent's participation in the incident. It was the role of the trial court to determine the credibility of the witnesses and whether to accept this testimony.

¶ 35 The respondent's final argument with respect to the sufficiency of the evidence is that the State failed to prove that he solicited, aided, abetted, agreed, or attempted to aid K.S. in the

commission of aggravated battery against M.C. 720 ILCS 5/5-2(c). He argues that it is undisputed he did not participate in the beating of M.C. or physically aid K.S. in his attack on M.C. He further argues there was no evidence that that he verbally solicited or encouraged K.S. in his attack on M.C. He points out that, at trial, the State argued that it was K.S. who was attempting to aid the respondent, by preventing M.C. from interfering in the respondent's attack on S.S. He notes, however, that the trial court found that the State had not proven beyond a reasonable doubt that the second individual attacked was indeed S.S., and argues that when the State failed to do so, it failed to prove there was a connection between the attack by K.S. on M.C. and his attack on the second individual. He argues the State necessarily had to prove the identity of the person he attacked to prove that K.S. had a common design with him to attack a specific person. Finally, he argues that the State had to show the respondent was aware that K.S. was going to act in concert with him and attempt to aid him somehow, which it did not do.

¶ 36 Having reviewed all of the evidence presented to the trial court, we believe sufficient evidence was presented to allow a rational trier of fact to find it proven beyond a reasonable doubt that the respondent committed an act sufficient to be found guilty under accountability principles for the aggravated battery of M.C. by K.S. "Where one attaches himself to a group bent on illegal acts which are dangerous *** in character, or which will probably or necessarily require the use of force and violence ***, he becomes accountable for any wrongdoings committed by other members of the group in furtherance of the common purpose, or as a natural or probable consequence thereof even though he did not actively participate in the overt act itself." *People v. Flynn*, 2012 IL App (1st) 103687, ¶ 23.

¶ 37 As discussed above, the two videos admitted into evidence showing this incident clearly support the conclusion that the respondent attached himself to a group, which included K.S., that

was bent on engaging in illegal acts that were dangerous or which would probably require some use of force or violence. Having participated in this group action, the respondent became accountable for any wrongdoing committed by other members of the group, in furtherance of the common purpose or as a natural or probable consequence thereof. This would include the injuring of M.C. by K.S. during the attack of the two individuals. Based on the evidence showing that the respondent was involved in a group attack of M.C. and a second individual associated with M.C., we do not find any significance in the fact that the trial court concluded that it was not proven beyond a reasonable doubt that the second individual was in fact S.S.

¶ 38 B. Sentence

¶ 39 The respondent's next argument on appeal is that the three years of probation to which the trial court sentenced him was excessive. He argues that the trial court abused its discretion by declining to impose a sentence of one year of probation, which was the recommendation of the probation officer who conducted his social investigation. He argues that the probation term of three years was particularly inappropriate because he was not the principal offender in the aggravated battery of M.C., he had no other criminal history, he was a strong student, and he has strong family support. He argues these factors indicate an unusually high level of rehabilitative potential and points out that the rehabilitation of youthful offenders is an important goal of delinquency proceedings. See *In re Rodney H.*, 223 Ill. 2d 510, 520 (2006).

¶ 40 This court reviews a trial court's determination of the disposition for a juvenile offender for abuse of discretion. *In re N.H.*, 2016 IL App (1st) 152504, ¶ 78. At the sentencing hearing following trial in delinquency proceedings, the court determines whether it is in the best interests of the minor or the public that the minor be made a ward of the court. 705 ILCS 405/5-705(1) (West 2016). If the minor made a ward of the court, the trial court then determines the proper

disposition best serving the interests of the minor and the public. *Id.* In making this determination, the trial court may admit and rely on all evidence it considers helpful to its determination, including oral and written reports. *Id.* When determining the appropriate disposition, the trial court may choose as it sees fit among the sentencing alternatives available to it, and it need not defer to any particular recommendation. *In re J.C.*, 260 Ill. App. 3d 872, 884 (1994). Among the sentencing alternatives available to the trial court is placing a delinquent minor on probation. 705 ILCS 405/5-710(1)(a)(i) (West 2016). Where probation is imposed, the period of probation shall not exceed five years or until the minor reaches the age of 21, except in cases involving first degree murder. 705 ILCS 405/5-715(1) (West 2016).

¶ 41 At the sentencing hearing, the trial court indicated that it had taken into consideration the social investigation, the arguments of the parties in aggravation and mitigation, the recommendations of the probation officer, and the statements of the respondent and the respondent's cousin who accompanied him to the hearing. During those statements, both the respondent and his cousin indicated disagreement with or misunderstanding of the finding of guilt on accountability principles when the respondent himself never struck M.C. The trial court expressed concern that the respondent appeared not to understand that by participating in a group offense, he could be held responsible for the misconduct of others, and because of his failure to understand this he could become involved in a similar situation in the future. The trial court further stated that M.C. had been seriously injured and could have been killed in this incident.

¶ 42 We do not believe the trial court abused its discretion in imposing a probation term of three years in this case. The three-year period of probation was within the statutory guidelines, and the trial court was not required to accept the one-year period recommended by the probation officer. We reject the respondent's arguments that the sentence imposed by the trial court gave

inappropriate consideration to the rehabilitative objectives of delinquency proceedings, or to the mitigation factors presented by the defense. While rehabilitation of the minor remains one of the chief goals of delinquency proceedings, "this goal must be reconciled with the overriding concerns of protecting the public and holding juvenile offenders accountable for violations of the law." *People ex rel. Devine v. Stralka*, 226 Ill. 2d 445, 457 (2007). We see no basis for determining that the sentence chosen by the trial court failed to take all of these objectives into consideration. We further reject the respondent's arguments that the trial court "read too much" into the statements by the respondent and his cousin at the sentencing hearing concerning his finding of guilt based on accountability principles, and that these statements should not be interpreted to indicate a lack of remorse. The record demonstrates the trial court appropriately considered the seriousness of the offense and the objectives of rehabilitating the respondent, and the respondent has failed to show any abuse of discretion in sentencing.

¶ 43 C. One-Act, One-Crime Doctrine

¶ 44 The respondent's final argument is that the trial court erred in finding him delinquent for two counts of aggravated battery, where both counts arose from the same conduct. He argues that one of the two findings of delinquency should be vacated under the one-act, one-crime doctrine. This doctrine applies to findings of delinquency in juvenile cases. *In re Samantha V.*, 234 Ill. 2d 359, 375 (2009). The State agrees it would be appropriate for this court to do so. Further, although the respondent forfeited this issue by failing to raise it in the trial court, the State agrees this court should consider it under the plain error doctrine. *Id.* at 378-79 (one-act, one-crime violation satisfies plain error standard because it affects the integrity of the judicial process).

¶ 45 The first count of the State's petition for adjudication of wardship charged the respondent with a violation of section 12-3.05(a)(1) of the Criminal Code of 2012 (720 ILCS 5/12-

3.05(a)(1)), for aggravated battery causing great bodily harm. With respect to that first count, the State alleged that the respondent "knowingly caused great bodily harm to [M.C.], in that the minor-respondent struck [M.C.] about the face and body causing a broken clavicle." The second count of the petition charged the respondent with violation of section 12-3.05(c) of the Criminal Code of 2012 (720 ILCS 5/12-3.05(c)), for aggravated battery on a public way. With respect to that second count, the petition alleged that while M.C. was on "a public way, the above-named minor knowingly caused bodily harm to [M.C.], in that the minor respondent struck M.C. about the face and body causing a broken clavicle." Thus, the two counts charged respondent for the same conduct under different theories of culpability. The State, in its petition, did not attempt to apportion the charges among separate kicks, stomps, or punches of M.C. by K.S., but treated the attack in its entirety as a single incident. At trial, the State prosecuted its case against the respondent consistently with this theory that the entire attack was a single incident. The comments by the trial court in its ruling likewise indicate that it treated the attack as a single act that satisfied the elements of both charges. The trial order indicates a finding of guilty on counts one and two of the petition.

¶ 46 This court agrees with the parties that under one-act, one-crime principles, the two findings of delinquency are based on the same conduct, and one of them should be vacated. *Samantha V.*, 234 Ill. 2d at 378-80 (findings of delinquency on charge of aggravated battery causing great bodily harm and charge of aggravated battery on a public way, both arising out of an attack treated as a single incident in delinquency proceedings, violated one-act, one-crime principles); *In re Jessica M.*, 399 Ill. App. 3d 730, 740-41 (2010) (same). The respondent should be sentenced on the more serious offense, and the less serious offense should be vacated. *Samantha V.*, 234 Ill. 2d at 379. Here, both the respondent and the State agree that the finding of

delinquency for aggravated battery on a public way is the one that should be vacated. Thus, this court hereby vacates the finding of delinquency based on count two of the petition for adjudication of wardship. We uphold the finding of delinquency based on count one.

¶ 47 III. CONCLUSION

¶ 48 For the foregoing reasons, this court affirms the trial court's finding of delinquency against the respondent for aggravated battery on count one of the petition for adjudication of wardship and its sentencing of the respondent to a probation term of three years. The finding of delinquency against the respondent on count two of the petition for adjudication of wardship is hereby vacated, and the trial order entered January 9, 2018 is accordingly modified to reflect a finding of guilty on count one only.

¶ 49 Affirmed in part, vacated in part, and trial order modified.