

NOTICE  
Decision filed 09/30/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 250708-U  
NO. 5-25-0708  
IN THE  
APPELLATE COURT OF ILLINOIS  
FIFTH DISTRICT

NOTICE  
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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|--------------------------------------|---|--------------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the          |
|                                      | ) | Circuit Court of         |
| Plaintiff-Appellee,                  | ) | Jackson County.          |
|                                      | ) |                          |
| v.                                   | ) | No. 19-CF-460            |
|                                      | ) |                          |
| ANTONIO D. WATSON,                   | ) | Honorable                |
|                                      | ) | Ralph R. Bloodworth III, |
| Defendant-Appellant.                 | ) | Judge, presiding.        |

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JUSTICE HACKETT delivered the judgment of the court.  
Presiding Justice Cates and Justice Bollinger concurred in the judgment.

**ORDER**

¶ 1 *Held:* The State and the defendant agree that a one-act, one-crime rule violation occurred in this case, and agree that the defendant’s conviction and sentence for the offense of unlawful possession of a weapon by a felon, as charged in count II, should be vacated. The defendant’s double jeopardy claim is precluded because the defendant entered into a negotiated sentencing agreement that incorporated his earlier guilty plea, the defendant has not asked this court or the circuit court to vacate that agreement, and the defendant has not alleged on appeal that his entry into the agreement was not intelligent, knowing, or voluntary. Accordingly, we vacate his conviction and sentence for count II, but otherwise affirm the judgment of the circuit court.

¶ 2 The defendant, Antonio D. Watson, appeals the judgment of the circuit court of Jackson County that resulted in the convictions and sentences described in detail below. For the reasons that follow, we vacate his conviction and sentence for the offense of unlawful possession of a

weapon by a felon, as charged in count II in this case, and we otherwise affirm the judgment of the circuit court.

¶ 3

## I. BACKGROUND

¶ 4 The facts in this case are largely undisputed. Accordingly, we recite only those facts necessary to an understanding of our disposition of the narrow issues raised by the defendant on appeal. On November 14, 2019, the defendant was charged by indictment with two felony offenses. Count I alleged that on or about October 20, 2019, the defendant committed aggravated battery with a firearm, a Class X felony, in violation of section 12-3.05(e)(1) of the Criminal Code of 2012 (720 ILCS 5/12-3.05(e)(1) (West 2018)), in that he “knowingly caused bodily harm to Rafeal Jordan and in so doing \*\*\* discharged a firearm \*\*\* shooting [Jordan] in the chest, thereby causing injury to” Jordan. Count II alleged that on that same date, the defendant committed unlawful possession of a weapon by a felon, a Class 2 felony, in violation of section 24-1.1(a) of the Criminal Code of 2012 (*id.* § 24-1.1(a)), in that he, “a person having been previously convicted of” aggravated battery in Jackson County case No. 19-CF-6, and of unlawful possession of a weapon by a felon in Jackson County case No. 11-CF-249, “knowingly possessed a firearm.”

¶ 5 At a hearing held on October 1, 2021, the circuit court noted that it was a Friday afternoon, and that count I of the case was set to go to trial on the following Monday morning. The parties consented to a Rule 402 conference, pursuant to Illinois Supreme Court Rule 402 (eff. July 1, 2012), which followed. At the conclusion of the conference, and a brief recess during which the defendant consulted with his retained counsel, the circuit court announced that it had “been presented with a marked plea of guilty to count II in this case.” The State thereafter explained that in exchange for the defendant’s plea of guilty to count II, the State had agreed not to “seek consecutive sentencing as to any sentence that might be imposed in the future as to count I.” The

State further explained that in exchange for the defendant's plea, the case would be set for sentencing on count II, with the State agreeing that if count I—which would remain pending—eventually went to trial, the State would not introduce evidence of the defendant's guilty plea to count II “as any sort of admission in proving what [the State would] need to prove to convict him on Count I.”

¶ 6 The circuit court thereafter admonished the defendant as to the charge to which he was pleading guilty, and the range of potential penalties the defendant faced with regard to that charge. The circuit court also ensured the defendant was able to understand the plea agreement, and that the defendant was not forced into the agreement. The court admonished the defendant with regard to the rights he was giving up by pleading guilty. The State put forward its factual basis for the plea, stating that if count II went to trial, the State would present evidence that on October 20, 2019, the defendant “was a person who had been previously convicted of a felony offense, that being aggravated battery, a Class 3 felony offense in Jackson County, Illinois, Case No. 2019-CF-6,” and that “having been convicted of that felony offense, the defendant knowingly possessed a firearm.”

¶ 7 Four days later, on October 5, 2021, the State filed a superseding information, charging the defendant with three offenses. Counts I and II were identical to the charges filed in the November 14, 2019, indictment of the defendant. Count III alleged that on or about October 20, 2019, the defendant committed the offense of armed habitual criminal, a Class X felony, in violation of section 24-1.7 of the Criminal Code of 2012 (720 ILCS 5/24-1.7 (West 2018)), in that the defendant “knowingly possessed a firearm after having been previously convicted of robbery” in Jackson County case No. 00-CF-478, “and after having been previously convicted of unlawful possession of a weapon by a felon” in Jackson County case No. 11-CF-249.

¶ 8 On October 12, 2021, the circuit court held a preliminary hearing on the superseding information. The circuit court noted that the defendant had entered a plea of guilty to count II, and that count I remained pending. After the circuit court found that probable cause existed for all three counts, the defendant entered a plea of not guilty to count III. Defense counsel thereafter expressed that he and the defendant were “frustrated with the addition of count III immediately after we had a plea hearing on the Friday before,” and added that he was researching “and checking into what we can do about all that,” because he believed the addition of count III “violate[d] a lot of the good faith that’s required in plea negotiations.”

¶ 9 On October 29, 2021, the defendant filed a motion to withdraw his guilty plea prior to his sentencing on count II. Therein, he alleged that the addition of count III “was not something discussed or anticipated during the plea negotiations and wasn’t filed until almost two years after the” original indictment. He alleged that the allegations in count III “were either known or should have been known to the State almost two years prior to the” entry of his plea of guilty to count II, because the only difference between counts II and III was that count III alleged “additional criminal history as an element of the Class X felony charge.” The defendant further alleged that his plea was not knowing and voluntary, and that he did not receive the benefit of his bargain to plead guilty, because the State’s filing of count III—which he again alleged was “essentially the same charge” as that found in count II—was done to give the State “an unfair advantage over [him] by exposing him to Class X felony sentencing.” The defendant added that he believed “it would be unconscionable under contract principles as applied to the plea bargain” if the State were allowed to charge him with count III after he already entered a plea of guilty to count II, which he claimed was “a lesser included offense of” the new count III.

¶ 10 At a hearing held on the defendant's motion, the State argued that the defendant's motion should be denied because the defendant was "still receiving the benefit of the bargain." The State argued that "[n]othing has changed as far as what he got in exchange for his plea of guilty," because the State was still bound by the sentencing promises it made. The State argued that when the case was before the grand jury, the State had "a cooperative witness [and] a cooperative victim." The State argued that it was necessary to add the new charge because of the changes in the attitudes of both the formerly-cooperative victim and the formerly-cooperative witness. The State noted that the defendant had "been on the phone from the jail with [the victim] over the course of this case," and argued that the defendant had convinced the victim not to cooperate. The State also argued that the defendant's motion was "premature," because at present, there was no "final judgment and conviction and sentence on count II."

¶ 11 The defendant countered that the changes in the case of which the State complained had not happened in the four days between the defendant's plea of guilty to count II and the filing of the new charge in count III. The defendant argued that the victim had made a videotaped statement over a year prior to the plea, in which the victim stated that the defendant did not shoot him. The defendant pointed out that the victim had also stated in jail calls, and in court, that the defendant did not shoot him. The defendant argued that the new charge was "not fair" because "you plead on Friday and then on Tuesday there is new charge for basically the same thing you pled to, but it is a Class X instead of Class 2."

¶ 12 The circuit court stated that it remembered "very specifically" the Rule 402 conference, and the defendant's subsequent plea. The circuit court stated that the defendant "participated greatly in the 402 conference, and the negotiations throughout that day and then ultimately the open plea in the case." The court added that it had considered the arguments of both parties, and

that it was denying the defendant's motion to withdraw his guilty plea. The court stated that sentencing would continue as set, as would the defendant's trial.

¶ 13 On January 7, 2022, the defendant's retained counsel filed a motion to withdraw, in which he stated that the defendant wished to discharge him. The defendant's sentencing on count II was thereafter continued. At a subsequent hearing, the defendant indicated that he had changed his mind, and no longer wished to discharge retained counsel. At the same hearing, the defense agreed to defer sentencing on count II until after the defendant's trial on counts I and III.

¶ 14 On February 23, 2022, the defendant filed a motion to sever counts I and III for trial. Following a hearing held that same day, the circuit court granted the defendant's motion. The State then elected to proceed to trial the following week on count III, the armed habitual criminal count, with a trial on count I to be held at a later date.

¶ 15 Because the defendant does not contest the sufficiency of the evidence adduced against him at trial, and because he does not raise any other errors related to the trial or the events surrounding it, we do not discuss the trial in detail. We note that following the presentation of evidence and argument, the jury deliberated, after which it found the defendant guilty of count III, armed habitual criminal. The circuit court entered a judgment of guilty on the verdict, and set the case for sentencing.

¶ 16 On March 31, 2022, the defendant filed a motion for a new trial, and for a judgment of acquittal notwithstanding the jury's verdict. In the motion, the defendant stated, among other things, that he "object[ed] to the filing of [count III] after he pled to [count II]." On July 15, 2022, retained counsel again filed a motion to withdraw, again because the defendant wished to discharge him. A hearing on retained counsel's motion was held on August 8, 2022. The defendant stated that he and retained counsel "just had a lot of differences," and that his relationship with counsel

was not “working.” The circuit court thereafter granted the motion and allowed retained counsel to withdraw. The court also granted a continuance of the remaining count I, which had been scheduled to go to trial.

¶ 17 On August 28, 2022, the circuit court appointed the public defender as new counsel to represent the defendant. On December 7, 2022, a new privately-retained attorney entered an appearance for the defendant. Just over one year later, on December 8, 2023, that counsel filed a motion to continue sentencing, in which she stated that she was still waiting to receive all of the transcripts necessary for her to amend prior retained counsel’s motion for a new trial. The circuit court entered an order for delivery of those transcripts to counsel.

¶ 18 Following additional delays, on August 20, 2024, counsel filed her motion for a new trial, in which she sought to amend prior counsel’s motion. Also on August 20, 2024, she filed separate motions for acquittal notwithstanding the verdict as to count III, and to withdraw the defendant’s plea of guilty to count II. In the motions, counsel objected to the defendant’s conviction as to count III, claiming, among other things, that the addition of count III violated the compulsory joinder statute, and that counts II and III “arise from the same occurrence, which cannot be the basis for” count III. At a status hearing held on November 20, 2024, counsel noted that she had amendments to make to her motions, but that she believed the amendments would become “moot” because she wished to set the case “for a potential plea.”

¶ 19 On November 25, 2024, the parties appeared in court. The circuit court stated that the parties had advised the court “that several things ha[d] been reached this afternoon to present to” it. The circuit court stated that its understanding was that there was “going to be a recommended sentence to two counts in \*\*\* the superseding” charging document, namely counts II and III, and that count I would be dismissed. The court continued that its understanding was that the defendant

was “going to present a negotiated sentence here today, the State [was] going to join in that,” which would “render the motions moot,” and would mean “that the motions d[id] not need to be heard.”

¶ 20 The circuit court then asked defense counsel if it was correct “that the motions will be rendered moot by this and not called up for hearing by the defense?” Defense counsel answered, “That’s accurate, your Honor.” The defendant agreed with the court as well. The circuit court then asked the defendant if anyone had forced or threatened him into entering the agreement. The defendant answered, “No, your Honor.”

¶ 21 The State thereafter agreed that any pending cases in Jackson County against the defendant would be dismissed as part of the agreement, including count I. The circuit court stated that its understanding was that the recommended sentences were: (1) on count II, 10 years in the Illinois Department of Corrections (IDOC), to be followed by a term of mandatory supervised release (MSR) of “no more than two years,” with the sentence to be served at 50%, and with the defendant to receive credit for the time he had already served on that charge and (2) on count III, 8 years in IDOC, to be followed by a term of MSR of “up to three years,” with the sentence to be served at 85%, and served concurrently with the count II sentence. The State, defense counsel, and the defendant all agreed that the circuit court’s recitation of the terms of the negotiated agreement was accurate.

¶ 22 When questioned, the defendant again stated that no one had forced or threatened him into entering the agreement, that he wanted to enter the agreement, and that he understood it and had no questions about it. The circuit court noted for the record that it had been present throughout the case, had read and considered the presentence investigation report, had considered the recommendations of the parties, and accepted the agreement. Thereafter, the court sentenced the defendant consistent with the terms of the parties’ agreement.

¶ 23 The circuit court then admonished the defendant of his appeal rights, stating to the defendant that the defendant could “file a motion to reconsider these sentences within the next 30 days.” The court advised the defendant that the motion must be in writing, and must set “forth the legal reasons” the court should reconsider the sentences. The court added, “Put everything in those motions. If they are not in writing, the reasons are not there, the court can’t consider anything not in writing, and they are going to be waived for purposes of an appeal.” The court informed the defendant that if a motion to reconsider were granted, a new sentencing hearing would follow, and that if the motion were denied, the defendant could “appeal that decision within 30 days by filing an intent to appeal with the clerk’s office in writing.”

¶ 24 The circuit court also admonished the defendant that although “[t]echnically” the defendant had asserted that he was abandoning his posttrial motions, he still had the right to appeal. The court advised the defendant that to do so, the defendant would have to “file in writing or refile a motion to vacate and withdraw your open plea on that count, that’s [count II], within the next 30 days, setting forth the legal reasons you believe you should be allowed to withdraw this plea, the open plea at least.” The court reiterated that the motion must be in writing, and must include all legal reasons. The circuit court then admonished the defendant that he could “also appeal the conviction on [count III], the armed habitual count, the jury trial that we had in the case within the next 30 days by filing an intent to appeal with the clerk’s office in writing. The court advised the defendant that if he could not afford an attorney, and decided to appeal, an attorney could be appointed to represent him.

¶ 25 Approximately three months later, on February 21, 2025, the defendant, acting *pro se*, filed a handwritten motion to reconsider sentence, which contained a handwritten date of February 13, 2025. In the motion, the defendant stated that he “would like all pending post-trial motion, which

are pending to be heard in pursuit of this motion to reconsider sentence in [count II] of the grand jury indictment, [count III] of the superseding information.” He further stated that (1) his father had “stage 4 prostate cancer,” (2) he did not “even know how to write this motion,” (3) his attorney had not answered phone calls from his family, and (4) he “would like for the courts to take this into consideration.” The defendant thereafter raised two substantive issues: (1) evidence of phone conversations with the victim should have been allowed at the defendant’s trial on count III, because the conversations were “relevant” and (2) the State admitted that it could have charged the defendant with count III “when the case started,” and its failure to do so “violated the compulsory joinder statute, which violated the speedy trial.” The defendant stated that he did not have transcripts from his case to help him, but that he “just would like the court to look at all [his] motions and take in consideration to[o] this new motion to reconsider sentence.”

¶ 26 On February 27, 2025, the circuit court entered a record sheet entry in which it found the defendant’s *pro se* motion to be untimely, and denied it. The entry thereafter stated that “[t]he defendant was represented in this case by private counsel,” and that “[a]ny motions are to be filed through counsel.” The entry added, “The sentences remain the same. [The defendant] was previously advised of his motion and appeal rights. The case is and remains closed.”

¶ 27 On September 3, 2025, the defendant, acting *pro se*, filed a notice of appeal, which contained a handwritten date of August 27, 2025, and in which he stated that he needed an “attorney to be appointed.” Filed with the notice of appeal was a handwritten letter in which the defendant stated that for the past “maybe 3-5 months,” he had been asking his family to check to see if his “appeal was processing,” but that they always informed him that they could not see an appeal pending. He stated that he had not “gotten the chance” to contact his attorney to ask her why she had not “filed the appeal yet.” He stated that his attorney knew that he “wanted to fight

this case.” He added that after he filed his motion to reconsider, he never received “anything back from the courts.” He stated that he had “been unsuccessful in reaching” his attorney, and that his family also had tried to call and text his attorney, but had not received a response from his attorney. He added that he did not know if he “should file ineffective assistance on” his attorney if she failed to file his appeal, because “she knew that [the defendant] wanted to proceed to the next stage, which would have been to appeal this case.”

¶ 28 On September 5, 2025, this court entered an order in which we noted that the defendant’s notice of appeal was untimely on its face, and in which we appointed the Office of the State Appellate Defender (OSAD) to represent the defendant. We allowed OSAD 30 days in which “to show cause why the notice of appeal should not be stricken, and the appeal dismissed for lack of appellate jurisdiction.” On November 19, 2025, OSAD filed a motion for a supervisory order with the Illinois Supreme Court, in case No. 132491. Therein, OSAD alleged, among other things, that the defendant’s “untimely filing of his notice of appeal should be excused due to the [circuit] court’s insufficient appeal admonishments.” OSAD specifically alleged that the circuit “court’s admonishments did not clearly advise [the defendant] that if he could not afford an attorney, that one would be provided to him at no cost to assist him *with the preparation of the post-plea and post-sentence motions*,” and that instead the “admonishment indicated to [the defendant] that if he could not afford an attorney *for the appellate process*, one would be appointed for him.” (Emphases in original.)

¶ 29 On the following day, November 20, 2025, this court allowed OSAD’s request to stay this appeal pending a ruling from the Illinois Supreme Court on OSAD’s motion for a supervisory order. On December 3, 2025, the Illinois Supreme Court entered a supervisory order in which it directed this court to allow the defendant “leave to file a late notice of appeal from the November

25, 2024, judgment of the” circuit court. On December 15, 2025, we entered an order, pursuant to the Illinois Supreme Court’s supervisory order, in which we allowed defendant five days in which to file a late notice of appeal. On January 12, 2026, the defendant filed his late notice of appeal.

¶ 30

## II. ANALYSIS

¶ 31 On appeal, the defendant raises the following two arguments: (1) the State’s addition of count III after the circuit court accepted the defendant’s plea of guilty to count II violated the double jeopardy clauses of the United States and Illinois constitutions, because the counts were “based on precisely the same act of possession of a firearm” and (2) because the counts were based on “a single act of possession of a firearm,” under the one-act, one-crime rule, only one of the defendant’s convictions can stand. The remedy sought by the defendant pursuant to his first argument is that this court “vacate the defendant’s conviction and sentence for [c]ount III.” The remedy sought by the defendant pursuant to his second argument is that this court vacate his “less serious conviction,” which he contends is his conviction for count II. His reasoning for this contention is the fact that count II was a Class 2 felony, whereas count III was a Class X felony.

¶ 32 We begin with the defendant’s first argument. It is well established that negotiated agreements in criminal cases—including agreements for negotiated sentences—“are governed to some extent by contract law principles.” *People v. Evans*, 174 Ill. 2d 320, 326 (1996). Because a defendant’s underlying contract right in a criminal case is constitutionally based, “the application of contract law principles to plea agreements may require tempering in some instances.” *Id.* at 327. In each of the two cases involved in *Evans*, the defendant and the State entered into negotiated agreements wherein “the defendant pleaded guilty to certain charges in exchange for the State’s agreement to dismiss other charges and recommend a specific sentence.” *Id.* The trial courts in each case accepted the negotiated agreements, including the agreed sentences, and entered

judgment upon them. *Id.* Thereafter, each defendant unilaterally sought to reduce his sentence by filing a motion for reconsideration of sentence. *Id.*

¶ 33 The *Evans* court ruled that by so doing, the defendants were trying “to hold the State to its part of the bargain while unilaterally modifying the sentences to which they had earlier agreed.” *Id.* The court held that “[s]uch a practice flies in the face of contract law principles,” and was “inconsistent with constitutional concerns of fundamental fairness.” *Id.* The *Evans* court refused to condone such a practice, stating that doing so would encourage gamesmanship, essentially allowing a defendant to “negotiate with the State to obtain the best deal possible in modifying or dismissing the most serious charges and obtain a lighter sentence than [the defendant] would have received had [the defendant] gone to trial or entered an open guilty plea, and then attempt to get that sentence reduced even further by reneging on the agreement.” *Id.* at 327-28. The court ultimately held that “for a defendant to prevail in a challenge to a sentence entered pursuant to a negotiated plea agreement, the defendant must (1) move to withdraw the guilty plea and vacate the judgment, and (2) show that the granting of the motion is necessary to correct a manifest injustice.” *Id.* at 332.

¶ 34 In this case, on October 1, 2021, the defendant entered a negotiated plea of guilty to count II. Thereafter, he agreed multiple times that sentencing on that plea was to be deferred, ultimately until after his trial and conviction for count III. In the negotiated sentencing agreement that followed on November 25, 2024, after the defendant was convicted of count III at trial, the defendant and the State agreed that the defendant would serve (1) 10 years in IDOC as his sentence for his negotiated plea of guilty on count II, to be followed by a term of MSR of “no more than two years,” with the sentence to be served at 50%, and with the defendant to receive credit for the time he had already served on that charge and (2) 8 years in IDOC as his sentence following his

jury-trial conviction on count III, to be followed by a term of MSR of “up to three years,” with the sentence to be served at 85%, and served concurrently with the count II negotiated plea of guilty sentence. Also pursuant to the agreement, the State agreed to dismiss the Class X felony of aggravated battery with a firearm that was charged in count I, and the defendant expressly agreed to abandon his posttrial challenges to counts II and III.

¶ 35 It is clear from the foregoing that the parties’ November 25, 2024, negotiated sentencing agreement was based in part on the defendant’s October 1, 2021, negotiated plea of guilty to count II. Indeed, the sentencing agreement became an integral part of that plea, and vice versa, because without sentencing, the defendant’s plea of guilty to count II would not be complete, and without the plea, there would be no legal basis for the defendant’s sentence. See, *e.g.*, *People v. Wilson*, 286 Ill. App. 3d 169, 172 (1997) (in *Evans*, Illinois Supreme Court agreed with the State that as a result of negotiated plea bargaining, a guilty plea and sentence go hand-in-hand as material elements of a negotiated plea agreement). Thus, the negotiated sentencing agreement in this case contemplated the full integration of the defendant’s plea of guilty to count II into the agreement. In the absence of an agreed modification to the agreement, there is no way to sever the plea from the rest of the agreement. Likewise, it is equally clear that the sentence the defendant agreed to serve for count III—which is the sentence he now seeks to have vacated, along with his conviction for count III, pursuant to his double jeopardy argument—was an integral part of the bargain he struck in the negotiated sentencing agreement, a bargain that we reiterate included the State’s agreement to dismiss the Class X felony of aggravated battery with a firearm that was charged in count I. Accordingly, there is no way to sever the defendant’s negotiated sentence for count III—which of course was dependent upon his conviction for count III being proper—from the rest of

the agreement either, or from its connection to the defendant's October 1, 2021, negotiated plea of guilty to count II.

¶ 36 Nevertheless, in this appeal, the defendant has not asked this court to vacate the defendant's negotiated sentencing agreement with the State, and has not alleged that his entry into that agreement was not intelligent, knowing, or voluntary. The defendant also has not asked this court to remand to the circuit court to allow the defendant to file with that court a motion to vacate the negotiated sentencing agreement. This is not surprising in light of the fact that if the negotiated sentencing agreement were vacated, it would be permissible for the State to reinstate count I against the defendant, and he would again face the Class X felony charge of aggravated battery with a firearm. In other words, the State would be returned to its pre-plea *status quo*, just as *Evans* dictates it should be. *Evans*, 174 Ill. 2d at 332. Under these circumstances, we agree with the State that the defendant's first argument amounts to an attempt to unilaterally modify the parties' agreement, dispensing with the defendant's negotiated agreement as to his sentence for count III, while at the same time deriving continuing benefits from the agreement and refusing to repudiate it. We do not believe this is permissible pursuant to *Evans* and its progeny.

¶ 37 As this court explained in *People v. Leach*, 284 Ill. App. 3d 4 (1996), *Evans* “stands for the proposition that a defendant cannot challenge a sentence imposed pursuant to a negotiated plea agreement without first moving to withdraw his guilty plea and vacate the judgment.” *Id.* at 6. We noted that “[t]he reason for this is that, in a negotiated guilty plea, as opposed to an open guilty plea, the State has agreed to a specific sentence and in some cases has dropped other charges in exchange for a defendant's guilty plea.” *Id.* We added that “[i]f a defendant is to challenge his sentence, he must also withdraw his plea in order to put the State back in its original bargaining position.” In this case, to challenge the sentence he agreed to for count III—and therefore to

challenge the conviction that underlies count III—the defendant would have to first move to vacate his negotiated sentencing agreement with the State, which, as explained above, became an integral part of his negotiated plea of guilty, and vice versa. Because he has not done so, we conclude his double jeopardy challenge to his conviction for count III is precluded.

¶ 38 We turn therefore to the defendant’s second argument. Although as a general proposition, the *Evans* principles would apply to this argument as well, the State has filed a confession of error as to this argument, agreeing with the defendant that his convictions for counts II and III “violate the one-act, one-crime doctrine,” and that therefore the defendant’s “conviction of the less serious offense must be vacated.” Thus, with regard to this argument, there is no effort by one party to unilaterally modify the parties’ negotiated sentencing agreement. To the contrary, the State’s confession of error in its brief on appeal—and the defendant’s acceptance, in his reply brief, of that confession of error—is tantamount to a bilateral agreement by the parties to modify their November 25, 2024, agreement. For the following reasons, we too accept the State’s confession of error.

¶ 39 As the State aptly notes, the defendant’s convictions for counts II and III “rest on the same physical act: his possession of a firearm on October 20, 2019.” As the State also correctly notes, “[t]he factual basis for the defendant’s guilty plea on [count II] established that he, having previously been convicted of a felony, knowingly possessed a firearm on that date,” whereas his conviction for count III “rests on that same possession, which was the only act of possession the State’s evidence established at trial.” The State further agrees with the defendant that in this case, count II should be vacated, because as a Class 2 felony it is less serious than count III, a Class X felony.

¶ 40 As the Illinois Supreme Court has long recognized, if multiple convictions are based on a single physical act, in violation of the one-act, one-crime rule, the conviction and sentence on the less serious offense must be vacated. *People v. Artis*, 232 Ill. 2d 156, 170 (2009). “In determining which offense is the more serious, a reviewing court compares the relative punishments prescribed by the legislature for each offense.” *Id.* We agree with the parties that in this case, a one-act, one-crime rule violation occurred, and that the remedy they have agreed to is appropriate: that this court vacate the defendant’s conviction and sentence for count II, which we agree is the less serious offense, because the punishment for it as a Class 2 felony offense is less serious than the punishment for count III, a Class X felony. Accordingly, pursuant to their agreed modification of their November 25, 2024, agreement, we vacate the defendant’s conviction and sentence for count II.

¶ 41 III. CONCLUSION

¶ 42 For the foregoing reasons, we vacate the defendant’s conviction and sentence for count II, and otherwise affirm the judgment of the circuit court.

¶ 43 Count II conviction and sentence vacated; remainder of judgment affirmed.