

2026 IL 131745

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

(Docket No. 131745)

THE PEOPLE OF THE STATE OF ILLINOIS, Appellee, v.
PATRICK WADE, Appellant.

Opinion filed September 24, 2026.

JUSTICE O'BRIEN delivered the judgment of the court, with opinion.

Chief Justice Neville and Justices Overstreet, Holder White, Cunningham, and Tailor concurred in the judgment and opinion.

Justice Rochford took no part in the decision.

OPINION

¶ 1 A jury found defendant, Patrick Wade, guilty of two counts of aggravated criminal sexual assault (720 ILCS 5/11-1.30(a)(2) (West 2018)) and two counts of aggravated kidnapping (*id.* § 10-2(a)(3)). The Cook County circuit court imposed

sentences on all four counts, which resulted in an aggregate 40-year prison sentence.

¶ 2 Defendant appealed, contending the two aggravated kidnapping convictions violated the one-act, one-crime rule. 2025 IL App (1st) 231936-U (modified upon denial of rehearing). The appellate court disagreed, finding the two convictions did not violate the one-act, one-crime rule given that each conviction relied on different physical acts: two separate instances of criminal sexual assault. *Id.* ¶ 41. Accordingly, the appellate court held that the trial court properly imposed a sentence for each aggravated kidnapping conviction. *Id.* ¶¶ 44-46.

¶ 3 In this court, defendant argues that the two aggravated kidnapping convictions are improper under the one-act, one-crime rule. He also argues that the convictions are improper because the unit of prosecution for the offense of aggravated kidnapping is one, meaning a defendant can only be convicted of the offense once if only one kidnapping occurs. The State concedes error regarding the unit of prosecution.

¶ 4 Having reviewed the record and the parties' arguments, we find the trial court erred by entering a conviction and sentence for each count of aggravated kidnapping. The unit of prosecution for the offense permits only one conviction if there is only a single kidnapping of one victim. We remand the matter with directions for the trial court to first determine the more serious of the two convictions, impose a sentence for that conviction, and vacate the surplus aggravated kidnapping conviction. We otherwise affirm defendant's remaining convictions and sentences.

¶ 5 I. BACKGROUND

¶ 6 Given the State's concession of error, our recitation of the facts will be limited to those necessary to provide appropriate context for an understanding of the substance of the ruling of this court. The State charged defendant with two counts of aggravated criminal sexual assault (720 ILCS 5/11-1.30(a)(2) (West 2018)). Both counts alleged that defendant committed an act of sexual penetration upon the victim by use or threat of force causing bodily harm to the victim. One of the aggravated criminal sexual assault counts was based on contact between

defendant's penis and the victim's sex organ, and the other count was based on contact between defendant's penis and the victim's anus. The State also charged defendant with two counts of aggravated kidnapping (*id.* § 10-2(a)(3)) in that defendant committed two felonies (criminal sexual assault) upon the victim during the kidnapping.

¶ 7 The facts presented during the jury trial established that defendant kidnapped his victim and during the kidnapping he committed two separate acts of criminal sexual assault upon the victim. The jury found defendant guilty on all counts. The trial court imposed consecutive 15-year sentences for each aggravated criminal sexual assault conviction. Those sentences, in turn, ran consecutively to two concurrent 10-year sentences for aggravated kidnapping.

¶ 8 On appeal, defendant argued that one of the aggravated kidnapping convictions must be vacated under the one-act, one-crime rule. 2025 IL App (1st) 231936-U.¹ Defendant claimed that both convictions could not stand because each conviction was based on the same physical act: a kidnapping. *Id.* ¶ 33. Although the appellate court agreed that a single kidnapping occurred, forming part of both the offenses, it rejected the notion that the single common kidnapping resulted in a violation of the one-act, one-crime rule. *Id.* ¶ 41. The appellate court found that each conviction was based on separate instances of criminal sexual assault occurring during the kidnapping. *Id.* The appellate court affirmed defendant's convictions and sentences. *Id.* ¶ 46.

¶ 9 This court granted defendant's petition for leave to appeal to determine whether multiple convictions of aggravated kidnapping based on different predicate felonies from a single underlying kidnapping violated the one-act, one-crime rule.

¶ 10 II. ANALYSIS

¶ 11 Before this court, defendant maintains that the two aggravated kidnapping convictions violate the one-act, one-crime rule. He also contends that multiple convictions are impermissible because the unit of prosecution for the offense of

¹Defendant also argued that his counsel provided ineffective assistance in responding to a jury question, but defendant does not raise that issue before this court.

aggravated kidnapping is one conviction per single kidnapping.² Unit of prosecution analysis is a threshold question to be determined prior to considering whether multiple convictions violate the one-act, one-crime rule. *People v. Hartfield*, 2022 IL 126729, ¶ 67. We begin by considering the unit of prosecution.

¶ 12 “[I]n determining the unit of prosecution, this court looks to the language of the statute to determine what precisely has been prohibited by the legislature and in what unit of time, actions, or instances that crime is committed once.” *Id.* ¶ 83. Unit of prosecution analysis is controlled by what the statute seeks to prohibit. See *People v. Keys*, 2025 IL 130110, ¶ 84. This is a question of statutory interpretation, and our review is *de novo*. *Hartfield*, 2022 IL 126729, ¶ 68. Our goal in interpreting the statute is to ascertain and give effect to the legislature’s intent, the best indicator of that intent being the statutory language, given its plain and ordinary meaning. *Id.* Where the unit of prosecution is unclear in the statutory text, this court applies the doctrine of lenity and construes the statute in a defendant’s favor. See *People v. Manning*, 71 Ill. 2d 132, 135-37 (1978). As noted above, the State concedes error and agrees that one of defendant’s aggravated kidnapping convictions must be vacated. For the following reasons, we also agree.

¶ 13 Kidnapping occurs when a defendant knowingly and secretly confines another against that person’s will, by force or threat of force carries another from one place to another with intent secretly to confine that other person against his or her will, or by deceit or enticement induces another to go from one place to another place with intent to secretly confine that person against his or her will. 720 ILCS 5/10-1(a)(1)-(3) (2018). Aggravated kidnapping enhances the penalty for kidnapping if defendant commits a kidnapping and one of the following enumerated aggravating circumstances is present:

²Defendant did not raise the unit of prosecution argument in the appellate court or in his petition for leave to appeal in this court. However, the State concedes that the error should be reviewed because it is inextricably intertwined with the one-act, one-crime argument (*People v. Guy*, 2025 IL 129967, ¶ 59) and surplus convictions are reversible second prong plain error (*People v. Harvey*, 211 Ill. 2d 368, 387 (2004)). We accept the State’s concession and review the issue.

“(1) kidnaps with the intent to obtain ransom from the person kidnap[p]ed or from any other person;

(2) takes as his or her victim a child under the age of 13 years, or a person with a severe or profound intellectual disability;

(3) inflicts great bodily harm, other than by the discharge of a firearm, or commits another felony upon his or her victim;

(4) wears a hood, robe, or mask or conceals his or her identity;

(5) commits the offense of kidnap[p]ing while armed with a dangerous weapon, other than a firearm ***;

(6) commits the offense of kidnap[p]ing while armed with a firearm;

(7) during the commission of the offense of kidnap[p]ing, personally discharges a firearm; or

(8) during the commission of the offense of kidnap[p]ing, personally discharges a firearm that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.” *Id.* § 10-2(a)(1)-(8).

¶ 14 Initially, we note that the statutory language does not expressly define the unit of prosecution. As we have previously explained, “[s]uch language permeates the law, and there is no question that the legislature knows how to define the unit of prosecution.” See *Hartfield*, 2022 IL 126729, ¶ 87. Despite the lack of a defined unit of prosecution, we may discern the unit of prosecution from the design of the offense itself. *Id.* ¶ 88.

¶ 15 On that point, our decision in *People v. Lavallier*, 187 Ill. 2d 464 (1999), is instructive. There, the defendant crashed into another vehicle while driving under the influence of alcohol. *Id.* at 466. The crash caused great bodily harm to the two passengers in the other vehicle. *Id.* The defendant was found guilty of two counts of aggravated driving under the influence of alcohol for causing great bodily harm to each passenger while driving under the influence. *Id.* at 467.

¶ 16 On appeal, the defendant argued that multiple convictions were improper because both stemmed from the single act of driving under the influence of alcohol. *Id.* at 467-68. He contended that aggravated driving under the influence was predicated upon the underlying misdemeanor offense of driving under the influence of alcohol—an act he only committed once—and the injuries to another were an aggravating factor that elevated that offense to aggravated driving under the influence. *Id.* at 468.

¶ 17 This court found that the plain language defining aggravated driving under the influence was clear: an enhanced penalty was available when a person commits some misdemeanor driving under the influence and one of the statutorily listed aggravating circumstances was present. *Id.* at 468-69. Although misdemeanor driving under the influence was aggravated by causing great bodily harm, “the essential and underlying criminal act remain[ed] the same: driving while under the influence of alcohol.” *Id.* at 469. It was the physical injury caused to another by one driving under the influence of alcohol that aggravated the underlying offense from a misdemeanor to a felony. *Id.* Consequently, a single act of driving under the influence could not transform into multiple felonies even though the act caused injuries to multiple people. *Id.*; see *People v. Scott*, 43 Ill. 2d 135 (1969) (three burglary convictions predicated on the same unlawful entry could not stand even though the defendant intended to commit three different offenses upon unlawful entry).

¶ 18 The same logic applies here. The statute seeks to prohibit kidnapping, and it punishes the act more severely when one of the enumerated aggravating circumstances is present. 720 ILCS 5/10-2(b) (West 2018) (enhancing the punishment for kidnapping from a Class 2 felony to at least a Class X felony). The aggravating circumstances are separated by the word “or,” meaning the presence of any one of these circumstances elevates a kidnapping to aggravated kidnapping. However, in all cases the underlying criminal act is the same: kidnapping. Accordingly, we hold that the unit of prosecution for aggravated kidnapping is one conviction per single kidnapping. The presence of additional aggravating circumstances during the same predicate kidnapping, therefore, does not create additional offenses of aggravated kidnapping. In the present case, defendant kidnapped one victim, and two aggravating circumstances were present. Under the

plain language of the statute, defendant's actions constituted one unit of aggravated kidnapping.

¶ 19 Having determined that the unit of prosecution for aggravated kidnapping is a single conviction per each kidnapping, we conclude that the trial court erred in entering a conviction and sentence for both aggravated kidnapping counts. Given this dispositive determination, we need not determine whether defendant's convictions violate the one-act, one-crime rule. See *Hartfield*, 2022 IL 126729, ¶ 67.

¶ 20 As for the appropriate remedy, defendant and the State agree that this court should remand the matter for the trial court to vacate the less serious of the two aggravated kidnapping convictions. When multiple convictions result in a surplus conviction, a sentence should be imposed on the more serious offense, and the less serious offense should be vacated. *People v. Garcia*, 179 Ill. 2d 55, 71 (1997). To make this determination, the court looks to the relative punishments prescribed by the legislature for each offense. *People v. Artis*, 232 Ill. 2d 156, 170 (2009). If the penalties are identical, a court may compare the culpability of the mental state for each offense. *Id.* When both the punishment and the mental state are identical and it cannot be determined which of the two or more convictions is the more serious offense on these bases, a court of review will remand the cause for the trial court to make that determination. *Id.* at 177. Given that both convictions for aggravated kidnapping in this case have the same sentencing range and the same mental state and given the agreement of the parties, we remand the matter for the trial court to make this determination.

¶ 21 III. CONCLUSION

¶ 22 For the foregoing reasons, we find that defendant was improperly convicted of multiple counts of aggravated kidnapping. We remand the matter with directions for the trial court to vacate the less serious aggravated kidnapping conviction and impose a sentence on the more serious conviction. We otherwise affirm defendant's remaining convictions and sentences for aggravated criminal sexual assault.

¶ 23 Judgments affirmed in part and reversed in part.

¶ 24 Cause remanded with directions.

¶ 25 JUSTICE ROCHFORD took no part in the consideration or decision of this case.