

NOTICE
Decision filed 10/15/26. 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) 240374-U
NO. 5-24-0374
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).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Macon County.
	)	
v.	)	No. 18-CF-1778
	)	
MIKHAIL D. GORDON,	)	Honorable
	)	Jeffrey S. Geisler,
Defendant-Appellant.	)	Judge, presiding.

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

ORDER

¶ 1 *Held:* We vacate two of the defendant’s convictions and sentences for home invasion as they violate the one-act, one-crime doctrine. However, we otherwise affirm as the juvenile court did not improperly transfer the defendant to criminal court; the admission of other-crimes evidence was, if erroneous, harmless; the defendant’s two convictions for armed robbery did not violate the one-act, one-crime doctrine; and the defendant’s sentence was not excessive.

¶ 2 Following a jury trial, the defendant, Mikhail D. Gordon, was convicted of four counts of home invasion, two counts of armed robbery, and one count of aggravated battery. Thereafter, the circuit court of Macon County merged two of the home invasion convictions and sentenced him to concurrent terms of 33 years in the Illinois Department of Corrections (IDOC) on each of the remaining three home invasion counts and each armed robbery count as well as a 5-year term for the aggravated battery count, also to be served concurrently. The defendant appeals, arguing that

(1) the juvenile court improperly transferred him to criminal court; (2) the trial court improperly admitted other-crimes evidence; (3) some of his convictions should be vacated under the one-act, one-crime doctrine; and (4) his sentence was excessive. For the reasons that follow, we affirm in part and vacate in part.

¶ 3

II. BACKGROUND

¶ 4 In November 2018, the State brought an amended petition against the defendant, alleging he was a delinquent minor under the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 *et seq.* (West 2016)). The petition alleged that the defendant committed multiple offenses in connection with three separate home invasions that occurred on November 20, 2018, in Decatur.¹ He was 16 years old at the time the offenses were committed.

¶ 5

A. Transfer Proceedings

¶ 6 On November 29, 2018, the State petitioned the juvenile court to transfer the defendant to criminal court to allow for his prosecution under Illinois criminal law. Analyzing the requisite statutory and nonstatutory factors to support a transfer, the State noted that the defendant was previously adjudicated delinquent for residential burglary on August 28, 2017, and March 16, 2017; that he had been unsuccessfully terminated from probation; and that he had at least one prior abuse/neglect case filed on his behalf after his mother was driving under the influence while his then 15-month-old brother was in the vehicle. The State also noted that the defendant was not currently enrolled in school, but while in school, he had a history of tardiness, truancy, out-of-school suspensions, and behavioral issues, which included threatening staff, using profanity, engaging in horseplay, and being grossly defiant. The State further noted that the defendant was

¹The State's initial petition brought charges related to one of the home invasions, while the amended petition brought charges based on all three home invasions.

diagnosed with attention-deficient/hyperactivity disorder (ADHD), anxiety, and depression; and that he successfully completed substance abuse treatment.

¶ 7 Regarding the current charges, the State alleged that the charges were serious, as the numerous offenses ranged from Class X to Class 4 charges. The State noted that it was alleged that the suspects, including the defendant, entered the homes while armed; they demanded money and firearms; one of the suspects “pistol whipped” some of the victims; and one suspect placed a firearm in a six-year-old’s mouth. The State alleged that there was some evidence of premeditation, and the offenses caused serious bodily harm, as one victim suffered a broken wrist.

¶ 8 The State noted that the defendant had previously received mental health and substance abuse treatment and argued that there were no additional programs in the juvenile system that would benefit him. In addition, the State compared the possible sentences in the IDOC and the Illinois Department of Juvenile Justice (DOJJ) and alleged that the punishment under the juvenile justice system was inadequate. Regarding the potential sentence in criminal court, the State noted that in four of the counts brought against the defendant, he faced a minimum sentence of six years in the IDOC with a 15-year firearm enhancement; he was charged with Class X felonies; and that if he was convicted of the charges with the highest penalties in criminal court, he would serve a minimum of 17.85 years (he would serve 85% of the 21-year minimum sentence). Attached to the motion was the 2017 DOJJ annual report discussing the various services offered by the DOJJ.

¶ 9 On December 13, 2018, the juvenile court held a hearing on the State’s motion, and the following testimony was presented. James Wrigley, a juvenile detective with the Decatur Police Department, was the lead detective assigned to the three home invasions that occurred on the same night. He first testified as to the home invasion that occurred at the Vercellino residence. During that invasion, the home was occupied by Peter D. Vercellino, Peter W. Vercellino (Peter D.’s son),

and Jonathan Vercellino (Peter D.'s six-year-old grandson). Peter W. was on FaceTime with his fiancée when there was a knock at the door. When he answered the door, the suspects held him at gunpoint, entered the house, and demanded money and firearms. Peter D., who was over 60 years old, exited the back bedroom, and the suspects also demanded money and firearms from him. One suspect hit Peter D. on the head with a firearm. Peter D. begged them not to hurt Jonathan, who was in another room, but one suspect brought Jonathan into the room with Peter D. and Peter W., put a gun in Jonathan's mouth, and threatened to shoot him.

¶ 10 When the police officers arrived at the residence, they saw inside and observed multiple suspects escorting the occupants around the house at gunpoint. Although Detective Wrigley did not know how many suspects were inside, four individuals were seen exiting the house. All four suspects, one of which was the defendant, were eventually apprehended. One of the victims reported that all four suspects were armed. The suspects took four firearms and money from the residence. When the defendant was apprehended, he possessed a large amount of money.

¶ 11 Detective Wrigley next testified about the home invasion that occurred at the residence of Jeffrey and Sharon Viccone. Jeffrey was in his garage when he was approached by an armed Black male, who demanded guns and money while threatening to shoot Jeffrey. Eventually, three other subjects joined the first man. All four wore hooded sweatshirts and were armed. Sharon V. heard a noise in the garage, opened the garage door, and saw what was happening. She attempted to flee, but some of the suspects ran after her and stopped her. At some point, Jeffrey was brought inside the house. While inside, one suspect struck Jeffrey in the head with a gun and took him through the house to retrieve items. The suspects took Jeffrey's wallet, cell phone, and money.

¶ 12 Detective Wrigley then testified about the home invasion that occurred at the residence of Willie and Sharon Green. Eric Green, the Greens' son, was parked in the driveway when he was

approached by a suspect. The suspect pointed a gun at Eric and demanded guns and money. When Eric told the suspect that he did not have guns or money, the suspect escorted Eric to the residence and threatened to shoot Eric. Four other suspects were present during this incident. Although the door to the residence was locked, Sharon G. let them inside. At some point, one suspect struck Sharon G. in the face with a gun. Willie was escorted through the house to retrieve items, and he gave them a handgun and money.

¶ 13 Detective Wrigley testified that during the police interviews of three of the suspects, those suspects identified the defendant as being involved in all three home invasions and claimed that the defendant was armed. However, Detective Wrigley did not have any information as to the defendant's specific involvement in each home invasion.

¶ 14 Lillian Mantay, a Macon County juvenile probation officer, testified that the defendant had a history of juvenile delinquency in that he had two residential burglary adjudications (March and September 2017), and he was sentenced to a term of probation for each one. His first probation term was unsuccessfully terminated due to the second adjudication. The defendant attended residential substance abuse treatment for an extended period of time during each of those probation terms. Mantay indicated that the defendant's performance in the second probation term was "adequate enough" to terminate early. He was overall compliant with his appointments, completed substance abuse treatment, and had no new criminal offenses.

¶ 15 Mantay noted that the defendant was enrolled in high school for the 2018-19 school year but only attended three days. Prior to that, the defendant was enrolled at Eisenhower High School but had attendance, truancy, and behavioral issues. He was assessed at a moderate risk to reoffend. Mantay noted that in 2018, the defendant was a victim of a drive-by shooting and was shot in the

foot. Also, according to the defendant's substance abuse evaluation, the defendant may have depression, anxiety, and ADHD.

¶ 16 Terry Cook, the defendant's social worker at Eisenhower High School, testified that the defendant's attendance was poor. However, Cook acknowledged that from September through December 2016, the defendant was absent because he attended substance abuse treatment. Cook indicated that the defendant had an individual education plan (IEP) because he had a learning disability, but he did not meet his goals because of lack of attendance. The defendant then enrolled in a different high school but was dropped for "lack of application."

¶ 17 Mark Tusing, a DOJJ aftercare supervisor, testified about the services available there. He noted that a document was provided to the juvenile court listing various services available to minors, including mental health, substance abuse, education, and structured psychotherapy for youth responding to crises (SPARCS) programming. Tusing did not know any details about the SPARCS program, but he noted that it had to do with mental health. However, he noted that the document provided to the juvenile court indicated that the SPARCS program provided treatment for youth who experienced significant trauma and that the mental health staff were trained in trauma-informed practice. He also noted that the DOJJ provided mental health programs offering dialectical behavior therapy, cognitive behavioral therapy, and anger management groups.

¶ 18 Tusing indicated that as part of the aftercare program, a release program was developed for a minor based on the minor's specific needs, which included identifying risk areas, areas of need, and community resources. Also, upon a minor's return to the community, referrals were made for mental health, substance abuse, educational needs, multi-systemic therapies, and/or anger management. However, when a minor turned 21 years old, services were terminated, and the minor was discharged from DOJJ commitment. Tusing explained that although Class X offenders

generally served 18 months in the DOJJ, depending on program completion and good behavior, offenders could be released earlier. After release, Class X offenders were required to serve 18 months of aftercare supervision but could be discharged early. If a minor returned to DOJJ custody for a parole violation, the term could be longer, but the term would end when the minor turned 21. Tusing indicated that the programs available at the DOJJ and IDOC were similar, but the IDOC offered more college programs. He also indicated that the terms of incarceration and parole were longer in the IDOC.

¶ 19 Alyssa Williams-Schafer, the assistant to the chief of programs for the IDOC, testified that the services offered by the IDOC were medical treatment, mental health, education, post-secondary education, vocational, correctional industry, behavior modification programs, life skills programming, and reentry programming. She explained that individuals assessed at a high to moderate risk to reoffend were prioritized for certain services, such as cognitive behavioral, and those with shorter sentences were prioritized for life skills programs and reentry planning. She noted that individuals who scored low on the educational assessment test and did not have a high school diploma or GED were placed in mandatory adult basic education. She also noted that individuals with a certain assessment score were eligible for substance abuse treatment, but medical and mental health services were provided to anyone needing those services. She explained that an individual initially placed in the DOJJ would be transferred to the IDOC sometime between the individual's eighteenth and twenty-first birthday.

¶ 20 After testimony, the State argued that the defendant was 16 years old and could only be held for five more years in the DOJJ, which might not be enough time for him to receive needed treatment, while the minimum sentence in the IDOC was 21 years. The State contended that the services offered through the IDOC and DOJJ were similar; and even if the defendant was sentenced

to the IDOC, he would begin his sentence in the DOJJ and then be transferred. The State argued that the present home invasions were an escalation of the defendant's two prior residential burglaries because, during the home invasions, the home occupants were present and guns were used. The State also argued that the seriousness of the offenses weighed in favor of transfer since firearms were involved and stolen, people were injured, and the victims ranged in ages from 6 to over 60 years old.

¶ 21 In response, defense counsel argued that the defendant successfully completed his latest probation and community service and that the probation was terminated early. Counsel acknowledged that the allegations in the case were very serious but noted that the defendant's specific involvement was unknown and that the defendant was the only juvenile in the group. Defense counsel argued that individuals with learning disabilities, such as the defendant, were usually more impressionable and susceptible to influence. Defense counsel also argued that the defendant needed mental health services since he had been diagnosed with anxiety, depression, and ADHD. Defense counsel further argued that several services available through the DOJJ were unavailable in the IDOC, such as the SPARCS program; and given the defendant's age, background, learning disability, and mental health issues, the DOJJ programs were more appropriate for him to obtain the treatment he needed.

¶ 22 After hearing the testimony and counsels' arguments, the juvenile court granted the State's request to transfer the defendant to criminal court. In analyzing the various statutory and nonstatutory factors for a discretionary transfer, the juvenile court noted that, as the defendant was 16 years old, the maximum term he could serve in the DOJJ was slightly over four years. The juvenile court also noted that the defendant was twice adjudicated a delinquent minor for residential burglary and had successfully completed his second probation. As for the defendant's

history of abuse or neglect, the juvenile court noted that although the State had not presented any evidence on this factor, a report from Mantay indicated that the defendant was the subject of a juvenile case where his mother was driving under the influence while he was in the vehicle or “something of that nature.”

¶ 23 Regarding the circumstances of the offenses, the juvenile court noted that the three home invasions were a serious escalation from the defendant’s prior residential burglaries because here, unlike in the prior burglaries, people were present when their homes were invaded at gunpoint. The juvenile court found that the evidence demonstrated that the defendant was an active participant in the offenses as he was armed with a firearm inside the homes, and a large amount of money was discovered on him when he was apprehended. Also, the juvenile court found that the home invasions were committed in an aggressive and premeditated manner in that the defendant armed himself with a firearm and entered another person’s residence. The juvenile court also found that the offenses caused serious bodily harm, as Peter D. was hit over the head with a firearm. The juvenile court further found that based on Detective Wrigley’s testimony, there was evidence that the defendant possessed a deadly weapon.

¶ 24 As for the advantages of DOJJ treatment, the juvenile court acknowledged that services were available through the DOJJ but also noted that services were also available through the IDOC. As for the SPARCS program, the juvenile court noted that the defendant would initially serve his sentence in the juvenile system and that the SPARCS program would be accessible to him then. The juvenile court found that the public’s protection required IDOC sentencing. In support of this finding, the juvenile court noted that the evidence demonstrated that the defendant had a history of services through an IEP and had attended substance abuse treatment. However, despite having the opportunity to participate in services offered by his school through the IEP, the defendant did

not attend school in 2018. The juvenile court found that the defendant's escalating behavior indicated that he was unlikely to be rehabilitated in the juvenile system within 18 months. Thus, the defendant's case was transferred to criminal court.

¶ 25

B. Criminal Court Proceedings

¶ 26

1. *Pretrial Proceedings*

¶ 27 In December 2018, the State charged the defendant by information, in connection with the incident that occurred at the Vercellino residence, with four counts of home invasion (720 ILCS 5/19-6(a)(2), (a)(3) (West 2016)), two counts of armed robbery (*id.* § 18-2(a)(2)), two counts of armed violence (*id.* §§ 33A-2(a), 33A-3), one count of residential burglary (*id.* § 19-3), one count of unlawful possession of stolen/converted firearm (*id.* § 24-3.9(a)(1)), and four counts of aggravated battery (*id.* § 12-3.05(a)(1), (f)(1)).

¶ 28 On September 12, 2023, the State filed a motion to introduce evidence of the two, uncharged home invasions that occurred that same night. The State argued that the other-crimes evidence showed the defendant's motive, intent, lack of mistake, and *modus operandi* and that the evidence's probative value outweighed its prejudicial effect. The State contended that all three offenses occurred within 130 minutes of each other; and that at each home, the suspects showed guns, used violence, and demanded money and guns.

¶ 29 At the October 25, 2023, pretrial hearing on the State's motion, the State argued that the other-crimes evidence demonstrated the following: the defendant's *modus operandi*, as the factual circumstances of the home invasions were very similar; the defendant's identity, as no witness would identify him as being in the Vercellino residence; a series of events that the defendant and his friends were involved in, as the evidence showed their pattern for that night; and a lack of mistake in that the defendant could not claim that he did not know what would happen. In response,

defense counsel argued that the other-crimes evidence did not establish identity as there was no evidence that the defendant was involved in the offenses. Defense counsel argued that although the other crimes occurred close in time and had some factual similarities, the offenses appeared to be crimes of opportunity, rather than showing a scheme or plan. After hearing arguments, the trial court granted the State's motion, finding that the other-crimes evidence was relevant to establishing the defendant's identity, motive, and *modus operandi*. Noting that the offenses were committed within hours of each other and were factually similar, the trial found that the probative value of the other-crimes evidence outweighed the prejudicial effect.

¶ 30

2. Criminal Trial

¶ 31 Before the defendant's jury trial commenced on January 8, 2024, the State indicated that it was proceeding on the following charges: (1) four counts of home invasion (counts I through IV), which consisted of two counts for the unlawful entry into Peter D.'s home and causing him bodily injury, one count for the unlawful entry into the home and forcibly placing the gun in Jonathan's mouth, and one count for the unlawful entry into the home and threat of force against Peter W.; (2) two counts of armed robbery (counts V and VI), which consisted of one count for knowingly and forcibly taking property from Peter D.'s presence, and one count for knowingly and forcibly taking property from Peter W.'s presence; and (3) one count of aggravated battery for forcibly placing the handgun in Jonathan's mouth (count XIV). The State then dismissed the remaining counts (counts VII through XIII). Subsequently, the following evidence was presented at trial.

¶ 32 Peter W. testified that in November 2018, he lived with his parents. On November 20 at about 9:40 p.m., he was on a FaceTime call with his fiancée when he heard a knock at the front door. He exited the side door and asked, "Who's here?" He did not immediately see anyone, but then a person wearing a hoodie came around the corner and asked whether the street was Waller

Street. After Peter W. responded, more individuals came around the corner. The person who asked him about the street name pointed a silver semiautomatic gun at him. Peter W. believed that there were four individuals in total. The individuals instructed him to go inside and followed him into the house. When inside, the individuals repeatedly demanded money and guns while one of them held a gun to the back of Peter W.'s head. Peter W. was then led to a bedroom and instructed to lie facedown on the bed. He told them where to find the key to the gun safe and the gun in his vehicle. At some point, he noted that a revolver was being held to his head because he heard a hammer being cocked. He noted that this was a different gun from the original firearm.

¶ 33 Peter W. noted that the individuals were wearing dark hoodies, and one was wearing a white mask. He believed that, based on their speech, they were African American. However, he explained that he had his face down and eyes closed as instructed, and he never tried to look at them. He believed that one of them was always with him while the others searched the house. He was eventually brought into the family room and was told to lie facedown on the floor. They took long rifles, a shotgun, pistols, ammunition, a bunch of coins, a backpack, and gun sleeves. One of the stolen firearms was taken from Peter W.'s vehicle. Firearms, ammunition, and other items belonging to the Vercellinos were discovered in the yards neighboring their residence. On cross-examination, Peter W. could not say whether all four individuals were armed, and he did not get a good look at any of them.

¶ 34 Peter D. testified that shortly before 10 p.m., he was in a bedroom when he heard knocking on the door. He then heard his son walk to the door and a commotion that did not "sound right." He went into the living room and saw two men standing in the living room and pointing guns into the kitchen doorway. He did not recognize them. Not realizing that there were more intruders in the house, he rushed toward the men and tackled them to the ground. While he was on the ground,

another individual started beating him in the head with a gun. He was also stomped on, kicked, and beaten, but he did not know where the blows were coming from. The individuals asked where the guns and money were located. While searching the house, they discovered Jonathan in a bedroom. One of them brought Jonathan into the living room, put a gun in Jonathan's mouth, and threatened to kill Jonathan if Peter D. did not tell them where his money and guns were located. Two of the individuals stayed in the living room with him and Jonathan while the other two moved around the house. Eventually, both Peter W. and Jonathan were thrown on the living room floor next to Peter D. Peter D. had head injuries and a broken hand. The individuals stole a couple thousand dollars, which included \$2 bills. Peter D. noted that all four had weapons.

¶ 35 Scott Rosenbery, a lieutenant with the Decatur Police Department, testified that on November 20 at 9:55 p.m., he and Sergeant James Tertocha were dispatched to the Vercellinos' residence, which was located on 33rd Street. While outside the house, Lieutenant Rosenbery observed two Black males entering the residence and subjects walking around inside. Lieutenant Rosenbery also observed, inside the residence, a White male wearing a white T-shirt, holding his hands up, and being "somewhat" compliant. Lieutenant Rosenbery then observed four individuals exiting the front door; three were Black males, and one was wearing a mask, so the person's race could not be determined. Also, one of these individuals was carrying a long gun. Since it was dark outside, Lieutenant Rosenbery could not identify any of the men exiting the house. The males then walked southbound on 33rd Street, away from Lieutenant Rosenbery. Lieutenant Rosenbery heard, over the radio, other officers at the scene identifying themselves as police officers. He then observed the suspects running eastbound toward the Vercellinos' backyard, and in response, he ran eastbound. He could see individuals running but could not differentiate between the officers and the suspects. He eventually observed one subject wearing a gray long-sleeved shirt, but he lost

sight of this individual. Thus, he returned to the Vercellinos' residence to assist the K-9 officers with a perimeter search.

¶ 36 Lieutenant Rosenberg testified that during the K-9 search, Rahiam Shabazz was discovered hiding under a Jeep in a driveway of a house on 35th Street. Shabazz was wearing a black glove and all-black clothing and possessed a 9-millimeter handgun and two magazines belonging to Peter W. Lieutenant Rosenberg indicated that Byron Theus was also arrested and that Theus was wearing a gray long-sleeved shirt, which was similar to the shirt worn by the suspect that Lieutenant Rosenberg had chased. Lieutenant Rosenberg was not involved in the defendant's apprehension.

¶ 37 Lawrence Petrey, a police officer with the Decatur Police Department at the time of the incident, testified that as he approached the Vercellinos' residence, he observed four individuals walking west from the direction of the house. Officer Petrey's partner, Officer Brent Morey, ordered the individuals to stop. Instead, the four individuals took off running east into the backyards of the houses on 33rd Street. Officer Petrey followed them and noticed one individual wearing a black sweatshirt cutting south through the adjoining backyards and jumping over fences. He could see the person's silhouette and hear the person running. He then noticed the individual running east between two houses towards 34th Street. At this point, Officer Petrey lost sight of the person for 5 to 10 seconds. However, he followed the individual and observed the same person running southeast on 34th Street. He was positive that he was chasing the same individual as before because the person was traveling in the same direction and was wearing a black sweatshirt. Officer Petrey then observed the police dog apprehend the person. The person, who was identified as the defendant, was wearing a torn vinyl glove on his right hand and had \$1,267 in his pants pockets, which included nine \$2 bills.

¶ 38 Jamie Hagemeyer, a sergeant with the Decatur Police Department, testified that she was positioned south of the Vercellino residence when she observed four individuals walking from the front of the house and heading toward her. She noted that they were all wearing dark clothing, one was wearing a white mask, and one was carrying a black box. When an officer instructed the four individuals to stop, they took off running east through the yards. At first, she lost sight of them. However, she followed them through the backyards and observed one running southeast. She started chasing this person and was approximately 30 feet behind. At some point during the chase, she shined a light on the person and clearly saw his face. He then jumped over a fence, and she briefly lost sight of him. However, he was subsequently apprehended by the police dog. She identified the defendant as the person that she had chased.

¶ 39 Shortly after the defendant was arrested, an officer discovered a black Hyundai Elantra parked between 33rd and 34th Streets with its lights off and engine running. Inside the vehicle, Sergeant Hagemeyer discovered a box of vinyl gloves and Theus's identification. Theus was subsequently found inside the front door of a nearby apartment complex. A key fob for the Hyundai and some money, including \$2 bills, were found on Theus.

¶ 40 Joseph Sawyer, a sergeant with the Decatur Police Department, testified that he was walking north on 33rd Street toward the Vercellinos' residence when he heard over the radio that the suspects had fled and were running east. Sergeant Sawyer started running east towards 34th Street and observed an individual about 50 to 75 feet away running south through a backyard of a residence on 34th Street. He could not see the person, but he noted that the person was wearing a black hooded sweatshirt and black pants. He then chased the individual south, but the individual jumped over a fence into another backyard and ran east towards 34th Street. The individual reached the front yard of the house and then ran southeast down 34th Street. Sergeant Sawyer continued to

chase the individual until the person was apprehended by the police dog. Sergeant Sawyer knew that the individual he chased through the backyards was the same one apprehended by the police dog because that individual was the only person south of the house, and Sergeant Sawyer only lost sight of that person for about one second. Sergeant Sawyer identified the person as the defendant.

¶ 41 Kyle Daniels, a K-9 handler with the Decatur Police Department at the time of the incident, testified that he observed officers pursuing the defendant, who was running south. The defendant jumped over a fence, and Officer Daniels warned the defendant that if he did not stop, the police dog would be released. However, the defendant instead ran east toward 34th Street. Officer Daniels initially lost sight of the defendant but then saw him running southeast. Officer Daniels released the police dog, and the dog apprehended the defendant. The defendant was not armed. On cross-examination, Officer Daniels acknowledged that he did not see the suspects exiting the house and that he assumed that the individual jumping over the fence was the same person that he eventually apprehended.

¶ 42 James Tertocha, a sergeant with the Decatur Police Department, testified that he was positioned in the backyard of the house to the north of the Vercellinos' residence when he heard over the radio that the suspects had exited the house. He then heard other officers making verbal contact with the suspects and that the suspects were running east. Sergeant Tertocha saw the individuals and started chasing them. They continued running, throwing objects into the various yards as they ran. He could not see what they were throwing, and he did not stop his pursuit to find out. The group scattered, but Sergeant Tertocha eventually caught and arrested one of them, who was identified as Dondrion Austin. Austin had a loaded firearm on him. Sergeant Tertocha could not identify the other individuals. Once Sergeant Tertocha handed Austin over to another officer, Sergeant Tertocha searched the flight path for the objects that were thrown. In that search, Sergeant

Tertochoa discovered .22 rifle ammunition, long rifle ammunition, a revolver, a semiautomatic .40-caliber weapon, and a prescription pill bottle with Janet Vercellino's name on the bottle.

¶ 43 Jennifer Acosta-Talbot testified that she was employed at the Springfield Forensic Science Laboratory and that she specialized in forensic biology and DNA analysis. Acosta-Talbot conducted DNA testing on the grip of the semiautomatic pistol found in a backyard of a house on 34th Street. She found a mixture of at least three individuals, but she was able to identify a major male profile consistent with the defendant. Shabazz, Austin, and Theus were excluded. She also tested DNA samples taken from the textured area of the gun and found a mixture of at least two people. The major male profile was again consistent with the defendant, and Shabazz, Austin, and Theus were excluded. Thus, she could not exclude the defendant from being a contributor to the DNA samples from this gun.

¶ 44 Jeffrey Viccone testified that on November 20, 2018, he lived on Shadow Lane in Decatur. At around 7:30 p.m. that night, he was in his garage when a Black male in black clothing came into the garage, pointed a gun at him, and threatened to "blow his brains out." Approximately 10 seconds later, another armed Black male entered the garage. Jeffrey could only see part of the second man's face because this man was wearing a tightly drawn hood over his head. The men continued to threaten Jeffrey, took his wallet, and searched his pockets. At some point, two more Black males entered the garage, and these men wore silver masks. The masked men were unarmed. They threatened to kill Jeffrey, and one of the men repeatedly hit Jeffrey in the head with a gun.

¶ 45 At some point, Sharon V. opened the door from the garage to the house and observed what was happening. She then ran back inside the house, but three of the men followed her upstairs. The remaining man brought Jeffrey inside, had him lie down by the front door, and stayed with him. Jeffrey could hear the other men searching the house for guns and money. The men were upset

because there were no guns in the house, and they had not found much money. To get them to leave, Jeffrey said that he would show them where the money was kept. They then took Jeffrey upstairs to his bedroom, and he gave them money he had in a drawer. When Sharon V., who was lying on the bedroom floor, told them that there were no guns in the house, they threatened to rape her. At one point, one of them hit Jeffrey in the back of the neck with a gun and kicked him in the back. The men left after searching the bedroom. They took some money, a tablet, and cell phones. Jeffrey could not identify any of them.

¶ 46 Sharon V. testified that when she saw a man holding a gun to the back of Jeffrey's head, she tried to leave the house through the front door but was followed inside by three men. One held a gun to her face. She was ultimately taken to her bedroom and forced to lie facedown while the men searched the house for guns and money. She noted that the man who held a gun to her face was a Black male, and at least two of them wore masks. She thought there were four or five men there, but she could not identify any of them. They took Jeffrey's wallet and cell phone, some \$2 bills, and a tablet. On cross-examination, she acknowledged that she previously told police officers that she believed five men were present that night. She saw two of the men with guns but could not recall whether the others were armed.

¶ 47 Jennifer Wood, who lived four houses from the Viccones' residence at the time of the incident, testified that shortly before 7:30 p.m. on November 20, 2018, she was driving home when she observed five individuals walking down the street wearing winter coats with their hoods up. She noticed that one of them was Black, but she could not identify any of them. When she was almost home, she observed, in her rearview mirror, the brake lights of a car backing out of a driveway of a home across the street. She thought it was suspicious because she knew the house was empty. She could not see the make or model of the vehicle at this point. She circled the block

a couple of times but did not see the vehicle again. As she pulled into her driveway, she saw the same individuals run from behind the Viccone residence to a “dark silver” or “smoky grayish” four-door sedan that looked like a Hyundai Elantra. She could not tell how many individuals ran to the vehicle.

¶ 48 Sharon Green testified that on November 20, 2018, she lived on North Summit in Decatur. Shortly before 8 p.m., her adult son, Eric, briefly stopped by her house to pick up something. When Eric left, she noticed that the motion lights over the garage had not turned off, so she looked out the window, and observed that four Black men were holding Eric at gunpoint and bringing him to the door of the residence. The men were wearing dark clothing, and all four had firearms pointed at Eric’s neck. She heard them tell Eric to open the door to the house, but he did not. Sharon G. immediately opened the door, and the men entered the house and told her, her husband, and Eric to get on the kitchen floor. One of them hit Sharon G. with a gun on her left cheek.

¶ 49 The individuals told Sharon G.’s husband to get up and retrieve any money and guns. When he did not get up quickly enough, one of them pulled him by his hair and dragged him to a bedroom. Three of them went to the bedroom while the other man remained behind with her and Eric. Once they finished searching the bedrooms, they left the house. They took cell phones, Sharon G.’s purse and wallet, Christmas gifts, gift cards, cash, some jewelry, prescription pill bottles, and a firearm. She was unable to identify any of the men. On cross-examination, she noted that she may have told police that there were five individuals in her residence. However, she knew there were at least four there.

¶ 50 After the State rested its case, defense counsel presented the following testimony. The defendant testified that on the night in question, he was at his girlfriend’s residence in Decatur. Around 9 p.m. or 9:30 p.m., Shabazz called him asking to buy \$500 of marijuana. Shabazz was on

a side street between 34th and 33rd Street, which was near the defendant. Shabazz told the defendant to meet there. When the defendant arrived, Shabazz was standing outside a vehicle. The defendant noted that there were people inside the car, but at the time, he did not know who they were, and he did not know the vehicle type. He later realized, from reading the police reports, that the people in the vehicle were Theus, Austin, and Raymond Graham (Graham was the fifth person arrested in connection with the home invasions, but he was not convicted of the Vercellino home invasion).

¶ 51 Shabazz asked the defendant if the defendant wanted to buy a gun. The defendant then asked to see the gun, and Shabazz handed it to him. At first, the defendant handled the gun with his bare hands, but then Shabazz told the defendant not to touch it and gave the defendant a glove to wear. The defendant decided not to buy the gun and gave it back to Shabazz. Shabazz then gave the defendant \$250 for the marijuana and said that he had to go into the house and would give the defendant the rest of the money when he returned. Shabazz then left, and the others inside the vehicle left with him. The defendant stayed there until he saw a police car and suspected that he was being set up. He then went to the side of a house to discard the marijuana. As he was dumping out the marijuana, he heard someone say, “Freeze,” and he started to run because he did not want to go to jail for having marijuana on him. He was not in the vehicle at any point that evening with the four individuals, and he was not involved in the home invasions. The defense then rested. Following jury deliberations, the jury found the defendant guilty of four counts of home invasion, two counts of armed robbery, and one count of aggravated battery.

¶ 52 *3. Posttrial Proceedings and Sentencing*

¶ 53 On January 29, 2024, the defendant filed a motion for judgment notwithstanding the verdict or, in the alternative, for a new trial. The defendant argued, in pertinent part, that (1) the trial court

improperly admitted the other-crimes evidence where he was never identified as being involved in the other home invasions, and (2) the juvenile court improperly transferred him to criminal court.

¶ 54 At the March 5, 2024, sentencing hearing, the trial court heard arguments from counsel on the defendant's posttrial motion and denied the motion. The trial court then proceeded to the sentencing hearing. During the hearing, the trial court asked counsel for their positions on whether any of the defendant's convictions should merge. The State responded that the convictions on counts I and II (the home invasion involving Peter D.) should merge, but the other home invasion convictions (count III, which involved Jonathan, and count IV, which involved Peter W.) should not merge, as they involved different victims. The State also argued that the two convictions for armed robbery (counts V and VI) should not merge because they were separate offenses. Defense counsel argued that since it was one home invasion, the home invasion convictions should merge under the one-act, one-crime doctrine. Defense counsel also made the same argument regarding the armed robbery convictions. However, the trial court concluded that the convictions involving different victims would not merge and thus the defendant would be sentenced on three convictions for home invasion, two convictions for armed robbery, and one conviction for aggravated battery.

¶ 55 The State presented victim impact statements from the Vercellino family and asked the trial court to consider the other-crimes evidence offered at trial as aggravating evidence. Defense counsel presented the following mitigating testimony. Tomika Rehmann, a nurse and health service administrator over mental health at the Macon County jail, testified that she had seen the defendant a few times each month over the past 2½ years to address his mental health concerns. She noted that the defendant was very pleasant, and they discussed making better choices in the future, things he wished he had done differently, and things that he could do to be productive. She observed significant growth in him, and a significant improvement in his mental health.

¶ 56 Kizzy Gordon, the defendant's mother, testified that the defendant had an IEP in school, he had been on ADHD medication since kindergarten, and he struggled with his education. She noted that the defendant also struggled with personal events, explaining that he had been shot twice in two separate incidents prior to this incident and the residential burglaries. She noted that since the defendant had been in jail, he had changed dramatically and matured. She also noted that the defendant's life had been difficult, explaining that she was often absent due to addiction issues. Defense counsel then presented letters from the defendant's family and friends and a document showing the classes that the defendant had completed while in custody. The defendant then made a statement in allocution, in which he acknowledged being friends with the other individuals who were arrested for the home invasions but denied knowing about or participating in the crimes.

¶ 57 After the evidence in aggravation and mitigation was presented, the State argued for a total sentence of between 40 to 45 years in the IDOC, which included a discretionary 15-year firearm enhancement. Defense counsel argued for a sentence of between 10 to 15 years. Following arguments, the trial court found that given the totality of the circumstances, the 15-year firearm enhancement should be applied. The trial court then sentenced the defendant to concurrent terms of 18 years plus the 15-year firearm enhancement (a total of 33 years) on counts II through VI (the home invasions and armed robbery convictions). The trial court also sentenced the defendant to five years on count XIV (the aggravated battery conviction), to be served concurrently with the other sentences. Further, the trial court found that Peter D. had suffered great bodily harm and thus the defendant would serve 85% of his sentences on counts II and V. See 730 ILCS 5/3-6-3(a)(2)(iii) (West 2022).

¶ 58 In making this sentencing decision, the trial court considered the statutory factors in aggravation and mitigation, the arguments of counsel, the evidence presented, the victim impact

statements, the presentence report, and the defendant's statement in allocution. As for the mitigating factors, the trial court considered the defendant's youth, impetuosity, and maturity level, which included his ability to consider the risks and consequences of his behavior. The trial court acknowledged the defendant's mother's testimony about her own issues as well as the defendant's mental health and educational issues. However, the trial court found that this was not a situation where the defendant was unable to consider the risks and consequences of his behavior, as there was no evidence that he was subject to peer pressure. As for the defendant's potential for rehabilitation, the trial court acknowledged that he had completed anger management and the "Helping Men Recover" module while in custody.

¶ 59 The trial court also considered the circumstances of the offense, noting that four armed individuals unlawfully entered a house and put a gun in a six-year-old's mouth. The trial court found that the defendant participated in his defense and had a support system. Regarding the defendant's remorse, the trial court acknowledged the defendant's right to claim his innocence but found that he had not shown any remorse.

¶ 60 In aggravation, the trial court noted that although the defendant was 16 at the time of the offenses, he already had two residential burglary adjudications, and he had been placed on probation twice. The trial court indicated that the defendant was unsuccessfully terminated from his first probation, likely because he committed the second residential burglary. However, the trial court acknowledged that the defendant had successfully completed the second probation term. The trial court found that there was a need for deterrence, as "[w]e cannot have people armed with guns going into houses and robbing people for no reason whatsoever, looking for guns, looking for money." The trial court described the night as a "night of terror" and noted that it could not imagine what the family went through because of the home invasion.

¶ 61 On March 6, 2024, the defendant filed a motion to reconsider his sentence, arguing that his sentence was excessive, that the trial court erred in considering the other-crimes evidence, and that the trial court erred in imposing the discretionary 15-year firearm enhancement. On March 7, 2024, the trial court held a hearing on the defendant’s motion. After hearing counsels’ arguments, the trial court denied the motion, finding that the sentence was not excessive and that there was nothing in the case law saying that a defendant must be convicted of the other crimes before other-crimes evidence could be considered at sentencing. The defendant appeals.

¶ 62 II. ANALYSIS

¶ 63 On appeal, the defendant argues that (1) the juvenile court improperly transferred him to criminal court because the State presented insufficient evidence on the factors the juvenile court was required to consider for a discretionary transfer; (2) the trial court improperly admitted the other-crimes evidence; (3) two convictions for home invasion and one conviction for armed robbery should be vacated under the one-act, one-crime doctrine; and (4) his sentence was excessive.

¶ 64 A. Transfer to Criminal Court

¶ 65 The defendant first argues that the juvenile court improperly granted the State’s motion to transfer his case to criminal court. Specifically, he contends that the State failed to present evidence on the following factors that a juvenile court is required to consider when deciding on a transfer request: his background, the circumstances of the offenses as they related to him, the advantage of treatment through the DOJJ, his willingness to participate in available services, and the potential sentences that he faced in criminal court.

¶ 66 The Juvenile Court Act provides that minors generally cannot be prosecuted under the Criminal Code. 705 ILCS 405/5-120 (West 2016). However, the discretionary transfer provision

of the Juvenile Court Act provides that, upon the State’s motion, the juvenile court may enter an order permitting prosecution under the criminal laws if proceeding under the Juvenile Court Act is not in the best interests of the public, and there is probable cause to believe that the allegations in the State’s motion are true. *Id.* § 5-805(3)(a). The purpose of any transfer proceeding is to balance the best interests of the alleged juvenile offender, particularly as these interests relate to his potential for rehabilitation, against society’s legitimate interest in being protected from criminal victimization perpetrated by minors. *People v. Morgan*, 197 Ill. 2d 404, 424-25 (2001).

¶ 67 The Juvenile Court Act identifies various statutory factors the juvenile court must consider when deciding whether to permit prosecution under the criminal laws. See 705 ILCS 405/5-805(3)(b) (West 2016). In particular, section 5-805(3)(b) of the Juvenile Court Act provides that the juvenile court must consider the following factors:

- “(i) the age of the minor;

- (ii) the history of the minor, including:

- (A) any previous delinquent or criminal history of the minor,

- (B) any previous abuse or neglect history of the minor, and

- (C) any mental health, physical, or educational history of the minor or combination of these factors;

- (iii) the circumstances of the offense, including:

- (A) the seriousness of the offense,

- (B) whether the minor is charged through accountability,

- (C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

- (D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction;

(C) the adequacy of the punishment or services." *Id.*

¶ 68 When considering these factors, the juvenile court must give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency. *Id.* In deciding whether to transfer a juvenile to criminal court, a juvenile judge must receive and consider evidence regarding each statutory factor. *People v. Moore*, 2011 IL App (3d) 090993, ¶ 20. A decision to transfer a juvenile to criminal court requires "faithful adherence" to the statutory requirements governing transfer proceedings in light of the purpose of those requirements. *People v. Clark*, 119 Ill. 2d 1, 12 (1987). In addition to the statutory factors, the juvenile court must consider nonstatutory factors when making its decision, such as the potential term of the defendant's sentence as an adult. *Moore*, 2011 IL App (3d) 090993, ¶¶ 20, 27.

¶ 69 The decision to transfer a juvenile case to criminal court is reviewed under the abuse of discretion standard, although that discretion is limited and controlled by the Juvenile Court Act. *Morgan*, 197 Ill. 2d at 422-23, 428. A trial court abuses its discretion when its ruling is arbitrary,

fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court. *People v. Sutherland*, 223 Ill. 2d 187, 272-73 (2006). However, when reviewing a juvenile court’s order transferring a minor, this court does not reweigh the factors. *Morgan*, 197 Ill. 2d at 428. “Rather, to affirm an order transferring a minor to criminal court, this court must determine if there was sufficient evidence in the record as to each statutory factor to support the transfer order.” *Id.* Provided the juvenile court considers each of the statutory factors and any other relevant matters, the court’s decision is a product of sound judicial discretion which will not be disturbed on review. *People v. D.B.*, 202 Ill. App. 3d 194, 200 (1990).

¶ 70

1. *The Defendant’s History*

¶ 71 The defendant argues that the State failed to present sufficient evidence for the juvenile court to properly consider his history of delinquency. The defendant acknowledges that the State presented evidence that he had two prior residential burglary adjudications but argues that the State did not provide any specific factual details about either incident, including what happened during those incidents and his degree of participation. Similarly, he argues that although there was evidence presented that he had behavioral issues at school, which included threats to staff, profanity, “skipping,” disruptive-horseplay, and gross defiance, the State failed to present any specific factual information about those alleged incidents. Further, he contends that the State failed to present evidence of his history of abuse or neglect at his transfer hearing. Lastly, he argues that while the State informed the juvenile court that he had self-reported being treated for ADHD, anxiety, and depression, the State provided no additional information about such diagnoses or treatments.

¶ 72 In support, the defendant cites *People v. Bias*, 2024 IL App (4th) 230553-U, ¶ 127, in which the Fourth District concluded that the State’s reliance on broad, generic information about alleged

bad acts was not sufficient for the juvenile court to adequately consider the juvenile defendant's history of delinquency. There, the State presented evidence that the juvenile had two prior referrals with court services involving allegations of aggravated battery and battery, which led to an informal station adjustment, not an adjudication; had several office referrals while in school for disrespect, aggression, and bullying; and had been in two fights while in custody. *Id.* ¶ 126.

¶ 73 Based on a thorough review of the record, we find that the State presented sufficient information on the defendant's history of delinquency. As noted, the State presented evidence that the defendant had two prior adjudications for residential burglary. Unlike the juvenile defendant in *Bias*, the residential burglaries resulted in actual adjudications and thus the juvenile court was presented with conclusive, tangible evidence that the defendant had committed two offenses about one year prior to the present home invasion. In addition, we find that the juvenile court's finding that the present home invasion was a serious escalation from the defendant's prior history of residential burglaries was supported by the evidence.

¶ 74 As for the defendant's history of abuse or neglect, we note that, at the transfer hearing, the juvenile court mentioned that there was no presented history of abuse or neglect. However, the juvenile court then specifically noted that a juvenile case filed on the defendant's behalf was discussed in Mantay's report. Thus, the juvenile court considered the available information on the defendant's history of abuse or neglect. In addition, we note that the defendant does not identify any specific evidence of his history of abuse or neglect that should have been, but was not, considered by the juvenile court.

¶ 75 Moreover, we acknowledge that the State presented general information about the defendant's behavioral issues at school and his mental health diagnoses. However, we note that

regardless, the juvenile court was provided with sufficient information to consider this factor and find that it weighed in favor of transfer to criminal court.

¶ 76

2. Circumstances of the Offenses

¶ 77 The defendant first contends that the State failed to present sufficient evidence regarding the circumstances of the three home invasions as related to his conduct. In particular, the defendant contends that while Detective Wrigley testified as to the general allegations of what happened during the home invasions, the State presented no evidence as to the defendant's degree of participation beyond the fact that he was present and armed.

¶ 78 The defendant next argues that the State presented no evidence that he personally harmed or threatened anyone during any of the home invasions and thus the juvenile court's assertion that he was an active participant, rather than merely accountable for the others' actions, did not have any basis in evidence. Also, the defendant contends that the juvenile court's findings that the present home invasion was serious and committed in an aggressive and premeditated manner because the offenders invaded the homes while armed described most home invasions in general. Lastly, he contends that, pursuant to *Moore*, 2011 IL App (3d) 090993, ¶ 24, the juvenile court here erred in concluding that he personally possessed a deadly weapon, as there was no evidence that the firearm allegedly possessed by him was loaded and operable, that he used the firearm as a bludgeon, or that the firearm was capable of being used as a bludgeon.

¶ 79 At the transfer hearing, Detective Wrigley testified that he was the lead detective assigned to the three home invasions that occurred on the same night. He testified that during each home invasion, there were four suspects, and the suspects demanded money and guns. He also testified that at each home invasion, a suspect threatened to shoot one or more of the home occupants and hit at least one occupant in the head or face with a gun. Specifically, Detective Wrigley testified

that at the Vercellino home invasion, one of the suspects hit Peter D. on the head with a firearm, one of them placed a gun inside a six-year-old boy's mouth, and one of them threatened to shoot both Peter D. and Peter W. Similarly, at the Greens' residence, one suspect threatened to shoot Eric while one of them struck Sharon G. in the face with a gun, and at the Viccones' residence, one suspect threatened to shoot Jeffrey and struck him in the head with a gun. Given that there was evidence showing that at each home invasion, the suspects entered the homes while armed, demanded money and guns, and threatened and struck a home occupant with a gun, we conclude that the evidence was sufficient to support the juvenile court's findings that the home invasions were aggressive and premeditated and that the defendant was armed with a deadly weapon.

¶ 80 As for the defendant's involvement, Detective Wrigley testified that four individuals were observed exiting the Vercellinos' residence and that the defendant was apprehended in that area. One victim reported that all four suspects were armed. It was also reported that the suspects took money from the residence, and when the defendant was apprehended, he possessed a large amount of money. Also, as noted above, at each home invasion that occurred that night, four suspects were involved, and they demanded money and guns. Moreover, Detective Wrigley testified that during three suspects' police interviews, those suspects claimed the defendant was armed and involved in all three home invasions. Although Detective Wrigley did not have information as to the exact nature of the defendant's specific involvement, at a transfer hearing, the State need only present evidence sufficient to sustain a finding of probable cause. See *Morgan*, 197 Ill. 2d at 426. The evidence here showing that the defendant was present, armed, and subsequently discovered with a large amount of money upon apprehension was sufficient to warrant a reasonable belief that the defendant participated in the commission of the home invasions.

¶ 81

*3. Advantages of Treatment in the DOJJ and
the Defendant's Willingness to Participate in Available Services*

¶ 82 The defendant contends that the State failed to provide any evidence regarding the adequacy of the services available in the DOJJ in light of his history and present circumstances. The defendant acknowledges that the State presented a list of the various services and/or programs offered in the DOJJ and IDOC. However, the defendant argues that the State did not provide specific details as to what those programs entailed and the adequacy of those programs in light of his specific needs and circumstances. Thus, he argues that the juvenile court was given no guidance as to the advantages that the DOJJ or IDOC would have over the other in terms of his specific treatment.

¶ 83 In addition, the defendant argues that the State failed to present sufficient evidence as to his history of services and the reasonable likelihood that he could be rehabilitated in the juvenile system. Specifically, he argues that he had not been in DOJJ custody previously, so there was no direct evidence of his willingness to participate in available programming. However, the defendant notes that there was evidence that he had successfully completed prior substance abuse treatment and community service. He argues that no evidence was presented as to the circumstances surrounding his school absences or his unwillingness to participate in the IEP while in school. Further, he argues that there was no expert testimony or other evidence presented indicating whether there was sufficient time for his rehabilitation in the DOJJ.

¶ 84 A juvenile judge must evaluate information concerning the types of facilities available for the minor's treatment or rehabilitation and the likely effectiveness of those facilities in light of the minor's history and present circumstances. *Moore*, 2011 IL App (3d) 090993, ¶ 20. Looking at the evidence presented on these factors, we find sufficient information was presented for the juvenile court to determine that these factors weighed in favor of transfer to criminal court. At the transfer

hearing, the State presented evidence as to the various programs offered at the DOJJ and IDOC as well as of the services that the defendant had already been offered. The State also presented evidence of the defendant's history of compliance with his prior probation terms following his previous juvenile adjudications. Specifically, the defendant's first term of probation was unsuccessfully terminated due to the second residential burglary adjudication. Although the defendant successfully completed his second term of probation, shortly thereafter, he was charged with several more serious offenses in this case. He was also in residential substance abuse treatment for an extended period of time during both probation terms.

¶ 85 In addition, evidence was offered that the defendant suffered from depression, anxiety, and ADHD and that he had taken ADHD medication since kindergarten. There was also evidence presented that he was enrolled in high school for the 2018-19 school year, but he only attended three days. He had services offered through an IEP, but he did not take advantage of the offered services. The school's social worker specifically noted that the defendant did not meet his goals because of his lack of attendance.

¶ 86 After thoroughly considering the evidence, the juvenile court found that the defendant was unlikely to be rehabilitated in the juvenile system within 18 months because of his escalating behavior. In making this decision, the juvenile court acknowledged that there were services offered by the DOJJ, including the SPARCS program. However, the juvenile court noted that the IDOC also offered services and that the SPARCS program would be available to the defendant, as he would serve part of his sentence in the juvenile system. The juvenile court specifically mentioned the defendant's history of services, including services offered by the IEP, and his successful completion of substance abuse treatment. However, the juvenile court noted that the defendant had decided not to attend school and take advantage of the services offered through the IEP. Based on

the above, we find that the juvenile court received sufficient evidence and properly considered these statutory factors. In making this finding, we note that when reviewing a juvenile court's transfer order, we do not reweigh the transfer factors. See *Morgan*, 197 Ill. 2d at 428.

¶ 87

4. Adult Sentence

¶ 88 In addition to the defendant's claim that the State failed to present evidence on some of the statutory transfer factors, the defendant argues that the juvenile court was not properly presented with evidence on a critical nonstatutory factor: the potential term of his sentence as an adult. Our supreme court has stated that the minimum sentence or term of years a minor defendant would have to serve under the Criminal Code should be considered by a juvenile court when addressing and weighing the various transfer factors. *Moore*, 2011 IL App (3d) 090993, ¶ 27. The defendant here acknowledges that the juvenile court was informed that he was charged with multiple Class X felonies; that he was subject to a 15-year firearm enhancement; that he would be required to serve 85% of the sentence on some of the charged counts; and that if he was convicted of the charges with the highest penalties in criminal court, he would serve a minimum of 17.85 years (21 years at 85%). However, he contends that the juvenile court was not informed that (1) because he was under 18 years old at the time of the alleged offenses, the firearm enhancement was discretionary; (2) two of the charged offenses were subject to mandatory consecutive sentences because they were predicated on committing aggravated battery causing great bodily harm to an individual 60 years of age or older; and (3) all counts related to Peter D. and Jonathan were potentially extendable because of their ages.

¶ 89 Regarding this nonstatutory factor, we find that the juvenile court was provided with sufficient information to properly consider this factor at the transfer hearing. Specifically, the juvenile court was informed that the defendant was subject to a minimum sentence of 21 years if

sentenced in criminal court and that he was subject to a 15-year firearm enhancement. Although the juvenile court was not specifically informed that the firearm enhancement was discretionary, that two of the counts were subject to mandatory consecutive sentences, and that the sentences were potentially extendable due to the victims' ages, we note that a court is presumed to know the law regarding a potential sentence. See *Morgan*, 197 Ill. 2d at 431. This presumption is rebutted only when the record affirmatively shows the contrary. *People v. Cooks*, 271 Ill. App. 3d 25, 38 (1995). Here, the juvenile court knew that the defendant was being charged with multiple Class X offenses, including offenses predicated on aggravated battery involving serious bodily harm to a victim of a certain age, that one of the victims was 60 years old or older, and that another victim was 6 years old. There is no affirmative showing that the juvenile court was unaware of the sentencing implications of those facts. Thus, we find that the State presented sufficient information for the juvenile court to properly consider this nonstatutory factor.

¶ 90 Based on a thorough review of the record, we find that the juvenile court did not abuse its discretion in granting the State's motion to transfer the defendant for prosecution under the criminal law. The juvenile court conducted a full evidentiary hearing, heard arguments from counsel, and properly considered the various statutory and nonstatutory transfer factors. The juvenile court's decision reflects a balancing of the defendant's potential for rehabilitation against the public's interest in protection from serious criminal conduct.

¶ 91 B. Other-Crimes Evidence

¶ 92 The defendant next contends that the trial court improperly admitted the other-crimes evidence of the Viccone and Green home invasions because there was no evidence that he actually committed or participated in those offenses. Specifically, he argues that the State did not allege any facts independent of the charged home invasion indicating that he was involved in those other

crimes, such as witness testimony identifying him as an offender or forensic evidence connecting him to those home invasions.

¶ 93 Evidence of other crimes is not admissible to show a defendant's propensity to commit a crime. *People v. Placek*, 184 Ill. 2d 370, 385 (1998). Other-crimes evidence is admissible to show motive, intent, identity, lack of mistake, and *modus operandi*. *People v. Pikes*, 2013 IL 115171, ¶ 11. However, even when offered for a permissible purpose, other-crimes evidence will not be admitted unless the State first shows that a crime occurred and that defendant committed the crime or participated in its commission. *People v. Thingvold*, 145 Ill. 2d 441, 455 (1991). The proof that defendant committed the crime, or participated in its commission, need not be beyond a reasonable doubt, but the proof of defendant's involvement must be more than mere suspicion. *Id.* at 456. In addition, the other-crimes evidence will be excluded if its prejudicial effect substantially outweighs its probative value. *People v. Illgen*, 145 Ill. 2d 353, 365 (1991).

¶ 94 The admissibility of other-crimes evidence lies within the sound discretion of the trial court and will not be disturbed absent an abuse of that discretion. *Pikes*, 2013 IL 115171, ¶ 12. An abuse of discretion is found where the trial court's decision is arbitrary, fanciful, or unreasonable, or where no reasonable person would take the trial court's view. *People v. Donoho*, 204 Ill. 2d 159, 182 (2003).

¶ 95 The trial court in the present case admitted the other-crimes evidence for the limited purpose of establishing the defendant's identity, motive, and *modus operandi*. Even assuming, *arguendo*, that the trial court's admission of the other-crimes evidence was error, we find such error to be harmless. If a reviewing court finds that the admission of other-crimes evidence was erroneous, reversal is not automatic, as the error is subject to a harmless error analysis. *People v. Nieves*, 193 Ill. 2d 513, 530 (2000). When determining whether the admission of other-crimes

evidence is harmless beyond a reasonable doubt, the reviewing court must ask whether the other-crimes evidence was a material factor in defendant's conviction such that, without the evidence, the verdict likely would have been different. *People v. Clark*, 2015 IL App (1st) 131678, ¶ 65. If the error is unlikely to have influenced the jury, the admission of the evidence does not warrant reversal. *Id.* When the evidence of defendant's guilt is overwhelming, the improper admission of other-crimes evidence is harmless. *People v. Kendrick*, 2023 IL App (3d) 200127, ¶ 24.

¶ 96 Here, the defendant contends that the erroneous admission of the other-crimes evidence was not harmless where the evidence against him was hardly overwhelming. He notes that none of the occupants of the Vercellinos' residence identified him as an offender, the State did not present any evidence that any of the codefendants implicated him in the home invasion, there was no evidence of his fingerprints or DNA in the residence, and none of the police officers testified to actually seeing him exiting or running from the residence. He also notes that his testimony provided an explanation for why he was in the area during the home invasion, why he fled from the police, and why his DNA was found on one of the recovered guns.

¶ 97 After carefully considering the defendant's arguments, and thoroughly reviewing the record, we find that the verdict likely would not have been different had the other-crimes evidence not been admitted. Instead, we find that there was substantial evidence of the defendant's guilt independent of the other-crimes evidence. The evidence at trial demonstrated that, following the home invasion at the Vercellinos' residence, four individuals were seen exiting the front door. Once the nearby police officers identified themselves, all four individuals started running. Three of them ran eastbound while the fourth ran southbound. The defendant, who was wearing a black sweatshirt, was seen by at least three officers running through the backyards of the houses in the neighborhood. In particular, Sergeant Hagemeyer testified that he clearly saw the face of the

suspect who ran southbound and identified that suspect as the defendant. The defendant was apprehended shortly after the suspects were seen exiting the house.

¶ 98 When the defendant was arrested, he had \$1,267 in his pockets, which included several \$2 bills, and he was wearing a ripped latex glove on his hand. The defendant's possession of \$2 bills was notable because Peter D. testified that approximately \$2,000 was taken from his residence, which included \$2 bills. In addition, a latex glove was discovered stuck to a fence in a nearby yard; an officer observed the defendant jumping over that fence during the defendant's flight. Further, Acosta-Talbot examined DNA discovered on the grip of the semiautomatic pistol found in a backyard of a house on 34th Street and was able to identify a major male profile consistent with the defendant. She also tested the DNA samples taken from the textured area of the gun, and the major male profile was again consistent with the defendant.

¶ 99 Based on the foregoing, the other-crimes evidence was not a material factor in the defendant's conviction, such that there is a probability that the verdict would have been different absent that evidence. There was substantial evidence, irrespective of the other-crimes evidence, that the defendant committed the charged offenses. Thus, the admission of the other-crimes evidence was harmless.

¶ 100 C. One-Act, One-Crime Doctrine

¶ 101 The defendant contends that his three home invasion convictions and his two armed robbery convictions violate the one-act, one-crime rule. Although he acknowledges that he failed to include these arguments in his motion to reconsider his sentence, he nevertheless requests that we review them under the second prong of the plain-error doctrine.

¶ 102 Forfeited one-act, one-crime violations fall within the second prong of the plain-error rule because they implicate the integrity of the judicial process. *People v. Smith*, 2019 IL 123901, ¶ 14.

Under the one-act, one-crime rule, a criminal defendant may not be convicted of multiple offenses when those offenses are all based on precisely the same physical act. *People v. Rodriguez*, 169 Ill. 2d 183, 186 (1996). Whether a violation of the one-act, one-crime rule has occurred is reviewed *de novo*. *People v. Hagler*, 402 Ill. App. 3d 149, 152 (2010).

¶ 103

1. *Home Invasion Convictions*

¶ 104 The defendant contends that his three convictions for home invasion violate the one-act, one-crime rule because the convictions were based on a single entry into a single dwelling. Thus, he asks that we vacate his convictions and sentences on the two less serious home invasion convictions (counts III and IV). In response, the State concedes that our supreme court dictates that only one of the defendant's home invasion convictions may stand. The State also agrees with the defendant that, of the three home invasion convictions, count II is the more serious conviction and that we should vacate the convictions entered on counts III and IV.

¶ 105 In *People v. Cole*, 172 Ill. 2d 85, 101-02 (1996), our supreme court held that regardless of the number of home occupants, a defendant could only be convicted of one home invasion count where defendant made only one unauthorized entry into a single residence. As the defendant here made only one unauthorized entry into a single residence, we find, in accordance with *Cole*, that the defendant's multiple home invasion convictions violate the one-act, one-crime rule. Thus, only one of these convictions may ultimately stand. When two convictions violate the one-act, one-crime doctrine, the sentence should be imposed on the more serious offense, and the less serious offense should be vacated. *People v. Artis*, 232 Ill. 2d 156, 170 (2009). Here, although the three home invasion convictions are subject to the same sentencing range, count II is the most serious offense as it requires the defendant to serve 85% of the sentence. See *id.* (in determining the most

serious offense, a reviewing court compares the relative punishments prescribed by the legislature for each offense). Thus, we vacate the convictions and sentences imposed on counts III and IV.

¶ 106

2. Armed Robbery Convictions

¶ 107 The defendant contends that his armed robbery convictions also violate the one-act, one-crime rule because the charging instrument did not differentiate between the different acts of taking, *i.e.*, taking money and taking firearms. Specifically, he notes that count V charged him with knowingly taking property, being United States currency and firearms, from Peter D.'s presence, while count VI charged him with knowingly taking property, being currency and firearms, from Peter W.'s presence. The defendant also notes that, during closing arguments, the State indicated that the only difference between the two armed robbery counts was the alleged victim. He acknowledges that his conduct involved multiple acts but argues that the State never attempted to apportion the taking of the currency and the taking of the firearms between the two counts. As such, his two convictions were based on the same act of taking currency and firearms. Thus, he contends that only one conviction may stand and that count VI, as the less serious offense, must be vacated.

¶ 108 In response, the State argues that because there were two separate takings from two victims, money from Peter D.'s dresser and a firearm from Peter W.'s vehicle, the defendant is subject to two convictions for armed robbery. The State also argues that the prosecution did differentiate the armed robbery charges in the charging instrument and at trial, as it undeniably charged one count for items taken from Peter D. and one count for items taken from Peter W.

¶ 109 A person commits armed robbery when he knowingly takes property from the person or presence of another by the use of force or by threatening the imminent use of force while armed with a firearm. 720 ILCS 5/18-2(a)(2), 18-1 (West 2022). Multiple armed robbery convictions

cannot lie when there is a single taking of property, even when multiple individuals are present and threatened. *People v. Scott*, 2015 IL App (1st) 133180, ¶ 16; see *People v. Moore*, 214 Ill. App. 3d 938, 944 (1991) (holding robberies of two business establishments which involved two complaining witnesses each sufficient to support only two armed robbery convictions); see also *People v. Hunter*, 42 Ill. App. 3d 947, 951-52 (1976) (defendant may not be convicted of multiple armed robberies where defendant robbed a cash register in the presence of two people and did not take additional property from either person).

¶ 110 In support of his argument that one of his armed robbery convictions should be vacated, the defendant relies on *People v. Crespo*, 203 Ill. 2d 335 (2001). There, the indictment charged defendant with armed violence and aggravated battery after he stabbed the victim three times. *Id.* at 338-39. However, the indictment did not differentiate between the separate stab wounds. *Id.* at 342. Defendant was found guilty of both aggravated battery and armed violence, but argued on appeal that the aggravated battery conviction should be vacated because it stemmed from the same physical act of stabbing that supported the armed violence conviction. *Id.* at 339-40. The supreme court rejected the State's argument that each stabbing was a separate and distinct act capable of sustaining a separate conviction on its own. *Id.* at 343-44. In doing so, the supreme court held that although each stab wound could support a separate offense, the convictions of both aggravated battery and armed violence violated the one-act, one-crime doctrine because, in the indictment, the State failed to apportion the offenses among the various stab wounds and, during closing arguments, the prosecutor portrayed defendant's conduct as a single attack. *Id.* at 342-44. Applying *Crespo*, the defendant here argues that the State, for the first time on appeal, is attempting to apportion the separate acts of taking between the two counts and change its theory of the case.

¶ 111 However, looking at the charging instrument, we find that the defendant was charged with two separate takings from two different victims (Peter D. and Peter W.). In addition, the evidence at trial supported the charging instrument, as the testimony demonstrated that money and a firearm were taken from inside the residence while another firearm was also taken from Peter W.'s car. Thus, this was not a situation where there was a single taking of property with multiple individuals present and threatened. Accordingly, we find that the defendant's argument is without merit.

¶ 112 D. Excessive Sentence

¶ 113 Lastly, the defendant contends that his 33-year sentence was excessive, as the trial court failed to give due consideration to his youth and its attendant circumstances, his background, and his demonstrated potential for rehabilitation, and where there was no evidence that he personally harmed any of the victims during the home invasions. Specifically, he argues that the trial court failed to consider the following: (1) his youth and its associated circumstances; (2) his history of mental health issues and a learning disability; (3) that he was the only juvenile charged in the home invasion and was likely influenced by the older members; (4) that there was no evidence presented as to his degree of participation in the incident, other than his mere presence; and (5) that, since being arrested, he had demonstrated rehabilitative potential and, according to Rehmann, had showed significant growth during counseling. The defendant contends that the trial court gave cursory consideration to the mitigating evidence and instead focused primarily on the seriousness of the offense, effectively treating him as an adult offender. He also contends that the trial court erred in considering the other-crimes evidence and improperly emphasized a need for deterrence.

¶ 114 The Illinois Constitution mandates that all penalties be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship. Ill. Const. 1970, art. I, § 11; *People v. Maldonado*, 240 Ill. App. 3d 470, 485 (1992). The trial court

has the responsibility to impose a sentence that strikes the appropriate balance between the protection of society and rehabilitation of the offender. *People v. Cox*, 82 Ill. 2d 268, 280 (1980). Where, as here, a sentence imposed by the trial court is within the statutory limits for the offense, we will not disturb the sentence absent an abuse of discretion by the court. *People v. Coleman*, 166 Ill. 2d 247, 258 (1995). The trial court is given this level of deference because it is in a better position to weigh such factors as defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. *People v. Calhoun*, 404 Ill. App. 3d 362, 385 (2010). A sentence within the statutory limits will be deemed excessive and the result of an abuse of discretion where it is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense. *People v. Wyma*, 2020 IL App (1st) 170786, ¶ 94. Although a reviewing court has the power to reduce or alter a sentence, this power should be exercised cautiously and sparingly. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010).

¶ 115 The Unified Code of Corrections sets out certain statutory factors in aggravation and mitigation that a trial court must consider when imposing a sentence of imprisonment. 730 ILCS 5/5-5-3.1, 5-5-3.2 (West 2022). In fashioning the appropriate sentence, the court must carefully consider all of the factors in aggravation and mitigation, and other factors, such as defendant's age, demeanor, habits, mentality, credibility, criminal history, general moral character, social environment, and education as well as the nature and circumstances of the crime and of defendant's conduct in the commission of the crime. *Calhoun*, 404 Ill. App. 3d at 385. In addition, when sentencing a person who is under 18 years old at the time of the commission of the offense, the trial court must consider the following relevant mitigating factors: the person's age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior and the presence of cognitive or developmental disability; whether the

person was subject to outside pressure; the person's family, home environment, educational, and social background; the person's potential for rehabilitation; the circumstances of the offense; the person's degree of participation and specific role in the offense; whether the person was meaningfully able to participate in his defense; the person's prior juvenile or criminal history; and the person's expression of remorse. 730 ILCS 5/5-4.5-105(a) (West 2022).

¶ 116 Here, the defendant was convicted of committing home invasion and armed robbery, both Class X felonies, while armed with a firearm. 720 ILCS 5/19-6(a)(3), (c) (West 2022); 720 ILCS 5/18-2(a)(2), (b) (West 2022). As the defendant was under 18 at the time the offenses were committed, he was subject to a 15-year discretionary firearm enhancement. 730 ILCS 5/5-4.5-105(e) (West 2022). Thus, with the 15-year firearm enhancement, the prescribed sentencing range was 6 to 45 years in prison. See *id.* § 5-4.5-25(a) (Class X felonies have a sentencing range of 6 to 30 years). Exercising its discretion and applying the 15-year firearm enhancement, the trial court sentenced the defendant to 33 years in prison on the home invasion count and on each armed robbery count, to be served concurrently. The trial court also sentenced him to five years in prison on the aggravated battery conviction, which was also to be served concurrently. Thus, his 33-year sentence was within the prescribed sentencing range and below the State's recommendation of a total sentence between 40 to 45 years.

¶ 117 Before announcing the sentence, the trial court noted that it had considered the statutory aggravating and mitigating factors, counsels' arguments, the evidence presented, the victim impact statements, the presentence report, and the defendant's statement in allocution. In mitigation, the trial court considered the defendant's youth, impetuosity, and maturity level, including his ability to consider the risks and consequences of his behavior. The trial court acknowledged the defendant's mother's addiction issues and the defendant's mental health and educational issues.

However, noting that there was no evidence that the defendant was subject to peer pressure, the trial court found that he was not unable to consider the risks and consequences of his behavior. The trial court acknowledged that while in custody, he completed anger management and the “Helping Men Recover” module; he participated in his defense; and he had a support system. As for the circumstances of the offense, the trial court noted that four armed individuals unlawfully entered a house and put a gun in a six-year-old child’s mouth. The trial court, who had an opportunity to observe the defendant’s demeanor, found that he had not shown any signs of remorse.

¶ 118 In aggravation, the trial court acknowledged that the defendant was 16 at the time of the offense but noted that he already had two residential burglary adjudications and had twice been placed on probation. In addition, the trial court noted that the defendant was unsuccessfully terminated from his first probation after committing the second residential burglary, although he had successfully completed the second probation term. Referring to the night as a “night of terror” and acknowledging the resulting impact on the victims, the trial court noted a need for deterrence.

¶ 119 After carefully reviewing the record, we find no abuse of discretion in the trial court’s sentence. We acknowledge that the defendant was only 16 years old at the time of the incident. Although our supreme court has stated that minors possess a greater rehabilitative capacity, that does not displace the seriousness of the offense as the most important factor for a court to consider when balancing the retributive and rehabilitative purposes of punishment. *People v. Buffer*, 2019 IL 122327, ¶ 17; *Wyma*, 2020 IL App (1st) 170786, ¶ 99. In addition, as shown above, during sentencing, the trial court acknowledged the existence of mitigating factors and reviewed and considered the statutory factors applicable to juveniles. However, the existence of mitigating factors does not obligate the court to impose the minimum sentence. *People v. Madura*, 257 Ill.

App. 3d 735, 741 (1994). It is presumed that the court considered the presented mitigating evidence absent some indication, other than the sentence itself, to the contrary. *People v. Tye*, 323 Ill. App. 3d 872, 890 (2001). Further, as for the defendant's argument that the trial court improperly considered the other-crimes evidence, other than referring to the night as one "of terror," the trial court made no other mention of the other-crimes evidence when sentencing the defendant. Instead, the trial court focused on the seriousness and the circumstances of the charged offenses.

¶ 120 The defendant here essentially asks us to reweigh the evidence and factors and to arrive at a different sentencing determination. However, that is not our function. It is clear from the trial court's comments that it weighed and considered both the mitigating and aggravating factors, and we will not substitute our judgment for that of the trial court. Thus, we find, based on this record, that the trial court's sentencing decision was not an abuse of discretion.

¶ 121

III. CONCLUSION

¶ 122 For the reasons stated above, we vacate the defendant's convictions and sentences on counts III and IV (home invasion counts). The judgment of the circuit court is otherwise affirmed.

¶ 123 Affirmed in part and vacated in part.