2026 IL App (1st) 260977-U
No. 1-24-0977
Order filed November 24, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

SECOND DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

ANTWAN DICKERSON, Defendant-Appellant

Appeal from the Circuit Court of Cook County.
Honorable Aleksandra Gillespie, Judge, Presiding.
No. 21-CR-04117

PRESIDING JUSTICE D.B. WALKER delivered the judgment of the court.
Justices Reyes and Van Tine concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's convictions for aggravated unlawful use of a weapon are vacated pursuant to the one-act, one-crime rule. The trial court did not err in denying defendant's motion to quash arrest and suppress evidence. The evidence was sufficient to convict defendant of unlawful possession of a weapon by a felon. The unlawful possession of a weapon by a felon statute is not facially unconstitutional. Affirmed as modified.

¶ 2 Following a bench trial, defendant Antwan Dickerson was convicted of one count of unlawful possession of a weapon by a felon (UPWF)[1] and two counts of aggravated unlawful use of a weapon (AUUW) and sentenced to concurrent terms of seven years' imprisonment. On appeal, he contends that (1) the trial court erred in denying his motion to quash arrest and suppress evidence; (2) the evidence was insufficient to convict him of UPWF and AUUW; (3) his convictions violate the one-act, one-crime rule; and (4) the UPWF statute is unconstitutional. For the following reasons, we affirm as modified.

¶ 3 BACKGROUND

¶ 4 On March 24, 2021, defendant was charged by indictment with the following: one count of being an armed habitual criminal (720 ILCS 5/24-1.7(a) (West 2020)) (count I), one count of UPWF (720 ILCS 5/24-1.1(a) (West 2020)) (count II), one count of AUUW for not having been issued a firearm concealed carry license (CCL) (720 ILCS 5/24-1.6(a)(1), (3)(a-5) (West 2020)) (count III), another count of AUUW for not having been issued a firearm owner's identification (FOID) card (720 ILCS 5/24-1.6(a)(1), (3)(c) (West 2020)) (count IV), and one count of possessing a firearm with defaced identification marks (720 ILCS 5/24-5(b) (West 2020)) (count V). Before trial, the State nol-prossed count I, the armed habitual criminal count.

¶ 5 On June 24, 2022, defendant filed a motion to quash arrest and suppress evidence. At the hearing on defendant's motion, the following evidence was adduced. Chicago police officer

[1] Effective January 1, 2025, Public Act 103-822 renamed section 24-1.1(a) of the Criminal Code of 2012 from "Unlawful use or possession of weapons by felons ***" (sometimes referred to as "UUWF") to "Unlawful possession of weapons by felons ***." See Pub. Act 103-822 (eff. Jan. 1, 2025) (amending 720 ILCS 5/24-1.1). Although this offense and the indictment occurred before this effective date, we will refer to the statute by its current name.

Toajtan testified that he was on patrol with his partner, Officer Klier, in a marked police vehicle on Christmas Day 2020 when he stopped defendant's vehicle. Toajtan recounted that he smelled marijuana when defendant first lowered the vehicle's windows and that defendant admitted having smoked marijuana the previous day. Toajtan agreed, however, that he did not see defendant smoking marijuana, did not recall finding any marijuana in the vehicle, and did not recall observing hand-rolled cigarettes, pipes, or other items indicative of marijuana use.

¶ 6 Toajtan further testified that, before the stop, he observed defendant make "furtive movements" toward the front passenger area of the vehicle. Toajtan explained that he saw defendant "reach[] towards the right side of the passenger [*sic*] towards the floor of the vehicle." Toajtan further recounted that his "case report" stated that (1) after the vehicle made a complete stop, he observed "bouncing left to right," which Toajtan said was "consistent with the driver moving in the vehicle"; and (2) the driver was observed "reaching towards the floor of the vehicle."

¶ 7 After defendant was removed from the vehicle and handcuffed, Klier searched the vehicle and found a firearm under the front passenger seat. Toajtan admitted that defendant did not consent to the search and that, other than the odor of marijuana and defendant's allegedly furtive movements, Toajtan did not see him try to conceal anything in the vehicle while Toajtan was there.

¶ 8 On cross-examination, Toajtan agreed that he was on duty on Christmas Day 2020, "at approximately 211 East Chicago Avenue" in Chicago. Defendant then asked Toajtan, "Could you describe to the court what traffic violations did you observe the vehicle make around that time in that location?" Toajtan responded that there were "quite a few," namely, that the vehicle (1) was "driving irate" [*sic*] in the traffic lane, (2) was "bouncing from one edge of a lane to the other on multiple times," (3) had an expired registration, and (4) stopped on the pedestrian crosswalk at a red light. He also observed the driver, whose silhouette he could see through the tinted windows,

"bouncing" from left to right and extending his arm toward the front passenger area. Toajtan added that there was "a lot of lighting and with the light protruding inside the vehicle into the front, you can easily observe movements inside a vehicle from the back." Toajtan then stated that, based upon his experience, those movements were consistent with attempting to conceal contraband.

¶ 9 As Toajtan approached the vehicle after stopping it, all of the windows were lowered at his request. He testified that he detected the odor of burnt cannabis and was trained to distinguish burnt cannabis from fresh cannabis. According to Toajtan, defendant admitted smoking cannabis the previous day, or possibly one or two days earlier. Toajtan, however, did not see any cannabis or other contraband when he pointed his flashlight at the area beneath the front passenger seat. Toajtan further testified that, after learning the vehicle's registration was expired, he returned to the vehicle and asked defendant to exit so that he could conduct a narcotics investigation. When defendant reached toward the ignition, Toajtan believed he was attempting to start the vehicle and leave the scene, so Toajtan grabbed his hand. Toajtan testified that the area where Klier recovered the firearm (namely, beneath the front passenger seat) was accessible from the driver's seat and consistent with the location toward which he had observed defendant reaching.

¶ 10 During Toajtan's cross-examination, the trial court allowed the State to publish the video recording of the traffic stop from Toajtan's body-worn camera. The parties stipulated that the video accurately reflected the traffic stop. The recording begins when the officers get out of their car to approach defendant's vehicle, so it does not depict defendant's "furtive movements" immediately after the stop. The video recording shows that, after parking their car, the officers got out and walked over to defendant's vehicle and asked defendant to lower the windows. As Toajtan first approaches defendant (the driver and sole occupant of the car), the driver's side window is fully lowered. Toajtan explains to defendant that he had been pulled over because he stopped his vehicle

over the pedestrian crosswalk at an intersection. Defendant confirms that the vehicle was his and explains that the smell of "weed" emanating from the car was because defendant had smoked back at his house earlier. Toajtan then obtains defendant's license and proof of insurance and returns to his car with his partner.

¶ 11 After finding out that the vehicle registration had expired and that defendant was currently on parole, the video recording shows Toajtan returning to defendant and asking him to get out of the car. At this point, the driver's side window has been partially raised and is no longer fully lowered. Although the window is tinted, defendant's coat sleeve and other areas of the car are nonetheless visible from the exterior of the car through that portion of the tinted window. In response to the officer's request, defendant asks why he needs to get out of the car. Toajtan tells defendant that he wants to ask defendant "something." The audio is not entirely clear, but defendant appears to refuse the request. Toajtan and another officer then immediately open the driver's side door, Toajtan tells defendant not to start the car, and the two officers take hold of defendant's wrists. Defendant denies that he was reaching to start the car and states that he was reaching only to lock the doors. Defendant was then removed from the car.

¶ 12 On redirect examination, Officer Toajtan reiterated that he smelled the odor of cannabis while approaching defendant's vehicle and based upon that observation, he considered the encounter to be a narcotics investigation. He also clarified that defendant's parole status was "extra bonus" information relevant to officer safety but was not the reason he approached the vehicle or asked defendant to exit. Toajtan also testified that defendant reached toward the ignition after being asked to exit, which Toajtan interpreted as an attempt to start the vehicle and leave the scene. At that point, Toajtan grabbed defendant's right hand, and then Klier removed the keys from the ignition before later recovering the firearm from beneath the front passenger seat.

¶ 13 Following the presentation of evidence and the arguments of the parties, the trial court announced its findings. The court found overall that Toajtan testified "clearly and credibly." It found that Toajtan observed defendant commit several traffic violations, including driving with an expired registration, and while following defendant, saw him make a "bouncing motion" toward the front passenger area of the vehicle. The court further found that, after Toajtan walked up to the driver's side of the vehicle, he immediately smelled marijuana, and defendant stated that he had smoked at home. The court thus determined that the traffic violations, expired registration, furtive movements, and odor of marijuana supported the officers' investigation and that the circumstances developed into probable cause to search the area toward which defendant had reached. Since the handgun was recovered from that area, the court denied defendant's motion.

¶ 14 On September 5, 2023, defendant's bench trial began. The State called Toajtan's partner, Chicago Police Officer Klier, who testified that, at approximately 3:20 p.m. on December 25, 2020, he and Officer Toajtan[2] were on duty near 211 East Chicago Avenue when they observed defendant, the only occupant and driver of a vehicle, commit a traffic violation by driving over a nearby crosswalk. Klier said that defendant "took a while" to stop, and Klier saw him reach toward the front passenger-side area of the vehicle. Klier was seated in the front passenger seat of the squad car and confirmed that nothing obstructed his view. Klier further recounted seeing the vehicle "kind of shaking a bit" as defendant made the purported furtive movement. Klier and Toajtan then approached the vehicle from the passenger and driver sides, respectively. Klier heard Toajtan ask defendant who owned the vehicle, and defendant responded that "it was his vehicle."

¶ 15 Klier then stated that, after defendant was removed from the vehicle, Klier searched it. Klier began with the front passenger-side floorboard because he had observed defendant reaching

[2] The report of proceedings shows Klier's partner's name is transcribed as "Tohatan."

toward that area. Under the front passenger seat, Klier recovered a loaded Glock 32 handgun. He testified that the location of the firearm was consistent with the area toward which defendant had reached. Following defendant's arrest, Klier drove the vehicle to the police station and conducted an inventory search. He recovered a prescription bottle bearing defendant's name from the glove compartment and two "debit card/credit cards [*sic*]" also bearing defendant's name from the center console. Klier also identified body-camera footage depicting the traffic stop and testified that it accurately represented the events of December 25, 2020.

¶ 16 On cross-examination, Klier testified that the officers stopped defendant's vehicle because it had stopped on a crosswalk, and defendant was subsequently issued tickets for negligent driving, an expired vehicle sticker, and failure to produce a driver's license. Klier acknowledged, however, that defendant's license was apparently valid, but Klier did not recall whether defendant had produced it during the stop. Klier agreed that he had watched the video recording of the stop, and he testified that the vehicle's windows were only "[s]lightly" tinted and that he could see inside. Klier added that defendant was asked to lower the windows to obtain a better view.

¶ 17 Klier then described the vehicle as "bouncing" and defendant as making "furtive movements" toward the front passenger area. Klier acknowledged, however, that he did not see defendant's hands and did not recall whether defendant was wearing a seatbelt. Klier testified that he saw defendant "[b]ending at the waist" but then clarified that Klier saw defendant's shoulders "drop." Klier, however, conceded that his arrest report did not state that defendant had bent over, leaned toward the floorboard, or otherwise reached toward the passenger-side floorboard. He further conceded that his report did not state that defendant was removed from the vehicle because of "furtive movements," but he testified that the removal was based on both the odor of cannabis

and those movements. He also admitted that he never "observed" cannabis before defendant exited the vehicle and that neither cannabis nor paraphernalia was recovered during the search.

¶ 18 Klier also agreed that a computer check showed that the vehicle was registered to Dejah L. Wade, not defendant. He did not recall whether defendant was asked about ownership of the firearm, whether DNA or fingerprints were recovered from it, or whether documents found in the vehicle had names other than defendant's or the owner's. Klier conceded that the vehicle contained numerous papers, clothing, and other items and that he did not thoroughly examine all of those materials. Finally, Klier agreed that the prescription bottle and debit cards bearing defendant's name did not establish how many times defendant had driven the vehicle. On redirect examination, Klier confirmed that his arrest report stated that he observed the vehicle "bouncing from left to right" and defendant making "furtive movements" toward the front passenger area.

¶ 19 The State then moved to enter into evidence People's Exhibit 3, which the State indicated was a certified copy of defendant's prior conviction in case number "18CR0054001" for AUUW. Defendant did not object, and the trial court allowed the State's motion. The State then rested. Defendant moved for a directed verdict, which the court granted as to count V (possession of a firearm with defaced identification marks) but denied as to counts II through IV (UPWF and two counts of AUUW). Defendant elected not to testify, and the defense rested without presenting evidence. The parties then presented their closing arguments.

¶ 20 At the conclusion of closing arguments, the trial court announced its findings. The court found that Klier testified "clearly and credibly," rejecting defendant's argument that Klier's credibility had been impeached by discrepancies as to the wording in his arrest report. The court stated that the vehicle was pulled over "for several different reasons, including stopping in a crosswalk." The court further found that the case turned on the constructive possession of the

firearm and recounted that defendant (1) was the sole driver of the vehicle, (2) moved toward the passenger side when officers approached, and (3) stated that the vehicle belonged to him. The court further recounted that a pill bottle of defendant's was found in the glove compartment and two "debit/credit cards [*sic*]" in defendant's name were found in the center console. Based upon these findings, the court determined that defendant constructively possessed the firearm. The court then found defendant guilty of UPWF (count II) and both AUUW counts (III and IV).

¶ 21 The trial court subsequently sentenced defendant to concurrent terms of seven years' imprisonment on counts II, III, and IV following a sentencing hearing. This appeal follows.

¶ 22 ANALYSIS

¶ 23 Defendant was convicted of various counts of AUUW and UPWF. He challenges the denial of his motion to suppress, the sufficiency of the evidence underlying his convictions, the constitutionality of both statutes, as well as whether his AUUW convictions violate the one-act, one-crime rule. Since defendant's challenges with respect to the AUUW convictions and statute would be rendered moot if we vacated his AUUW convictions pursuant to the one-act, one-crime claim, we first discuss that contention of error.

¶ 24 The One-Act, One-Crime Rule

¶ 25 Defendant contends that his convictions for AUUW should be vacated under the one-act, one-crime doctrine because those convictions were carved from the same physical act as his UPWF conviction. The State agrees with defendant's contention of error.

¶ 26 Under one-act, one-crime principles, a defendant cannot be convicted of multiple offenses "carved from the same physical act," where "act" is defined as "any overt or outward manifestation which will support a different offense." *People v. King*, 66 Ill. 2d 551, 566 (1977). Where, as here, a defendant is convicted of multiple offenses based on possession of the same firearm, only

one conviction may stand. *People v. Grant*, 2017 IL App (1st) 142956, ¶ 33. We must vacate the less serious offense. *People v. Artis*, 232 Ill. 2d 156, 170 (2009). One-act, one-crime challenges are subject to *de novo* review. *People v. Artis*, 232 Ill. 2d 156, 161 (2009). Finally, a violation of one-act, one-crime principles challenges the integrity of the judicial process and therefore passes the second prong of plain error analysis. *In re Samantha V.*, 234 Ill. 2d 359, 378 (2009).

¶ 27 We agree with the parties. Under the facts of this case, the act underlying the AUUW counts is the same underlying act in the UPWF count: the possession of a single firearm. Furthermore, AUUW is the less serious offense; the sentencing range for AUUW is shorter than the range for UPWF. Compare 720 ILCS 5/24-1.1(e) (West 2020) with 720 ILCS 5/24-1.6(d)(3) (West 2020); see also *People v. Lee*, 213 Ill. 2d 218, 228 (2004) ("It is common sense that the legislature would provide greater punishment for crimes it deems more serious."). As such, defendant's convictions for AUUW cannot stand because they were carved from the same physical act. *King*, 66 Ill. 2d at 566. Therefore, pursuant to Supreme Court Rule 615(b)(1) (Ill. S. Ct. R. 615(b)(1) (eff. Jan. 1, 1967)), we direct the circuit clerk to vacate defendant's convictions for AUUW. See also *People v. McCray*, 273 Ill. App. 3d 396, 403 (1995) (holding that remand is unnecessary because the court may directly order the clerk to correct the mittimus).

¶ 28 The Motion to Suppress

¶ 29 Defendant contends that the trial court erred in denying his motion to quash arrest and suppress evidence. Defendant notes that, following changes to the law and controlling precedent, the odor of burnt cannabis no longer provides law enforcement with probable cause to search a car. Defendant argues that, since the narcotics search of defendant's car (resulting in the discovery of the illegal firearm) was "predicated on the odor of burnt cannabis," defendant's motion to

suppress should have been granted. Defendant then concludes that, since the State would not have proceeded to trial without this evidence, this court should reverse his convictions.

¶ 30 The fourth amendment to the United States Constitution, applicable to the states through the fourteenth amendment, prohibits, *inter alia*, "unreasonable searches and seizures." See U.S. Const., amends. IV, XIV; see also Ill. Const. 1970, art. I, § 6; *Mapp v. Ohio*, 367 U.S. 643, 654-55 (1961) (holding that the fourth amendment is applicable to the states via the fourteenth amendment). As a general rule, the amendment "explicitly requires" that police officers obtain a warrant, supported by probable cause, before searching persons or property. *People v. James*, 163 Ill. 2d 302, 311 (1994) (citing *Katz v. United States*, 389 U.S. 347, 356-57 (1967)).

¶ 31 Under the "automobile exception," however, law enforcement officers may undertake a warrantless search of a vehicle "if there is probable cause to believe that the automobile contains evidence of criminal activity that the officers are entitled to seize." *Id.* at 312. This exception to the warrant requirement was recognized for searches of automobiles, "because their transient nature often renders it impracticable to secure a warrant before the automobile escapes the jurisdiction in which the warrant must be sought." *People v. Hill*, 2020 IL 124595, ¶ 21. This exception, however, is "no broader and no narrower than a magistrate could legitimately authorize by warrant." *Id.* ¶ 22. Therefore, although a warrant is not required to search an automobile, officers must nevertheless have probable cause to search it. *Id.*

¶ 32 To establish probable cause, the State must show that the totality of the facts and circumstances known to the officer at the time of the search would justify a reasonable person in believing that the automobile contained contraband or evidence of criminal activity. *Id.* ¶ 23. In essence, probable cause deals with "probabilities, not certainties." *Id.* ¶ 24 (citing *Illinois v. Gates*, 462 U.S. 213, 231-32 (1982)). "It is a pragmatic, nontechnical analysis of 'everyday life on which

reasonable and prudent persons—not legal technicians—act.' " *Id.* ¶ 23 (quoting *People v. Jones*, 215 Ill. 2d 261, 274 (2005)).

¶ 33 In determining whether there is probable cause to search, police officers may rely on their law-enforcement training and experience to draw inferences that an untrained civilian might miss. *Id.* Accordingly, a reviewing court makes this determination through the standpoint of "an objectively reasonable officer." *Id.* This "flexible, commonsense standard" does not require that the officer's belief be either correct or more likely true than false. *Id.* ¶ 24 (quoting *Texas v. Brown*, 460 U.S. 730, 742 (1983)). Consequently, probable cause does not demand that an officer rule out any innocent explanations for suspicious facts. *Id.* (citing *District of Columbia v. Wesby*, 583 U.S. 48, 61 (2018)). Instead, it merely requires that the facts available to the officer (including the plausibility of an innocent explanation) "would warrant a reasonable [person] to believe there is a reasonable probability 'that certain items may be contraband or stolen property or useful as evidence of a crime.' " *Id.* (quoting *Brown*, 460 U.S. at 742).

¶ 34 Although we will uphold the trial court's factual findings on a motion to suppress unless they are against the manifest weight of the evidence, the ultimate question of whether the evidence should be suppressed is reviewed *de novo*. *People v. Jones*, 215 Ill. 2d 261, 267-68 (2005). "A finding is against the manifest weight of the evidence only if the opposite conclusion is clearly evident or if the finding itself is unreasonable, arbitrary, or not based on the evidence presented." *People v. Deleon*, 227 Ill. 2d 322, 332 (2008). Finally, a reviewing court may affirm the trial court's judgment on any grounds that the record supports. See *People v. Benson*, 2026 IL 131191, ¶ 44; see also *Leonardi v. Loyola University of Chicago*, 168 Ill. 2d 83, 97 (1995) ("As a reviewing court, we can sustain the decision of a lower court on any grounds which are called for

by the record, regardless of whether the lower court relied on those grounds and regardless of whether the lower court's reasoning was correct.").

¶ 35 In this case, the trial court did not err in denying defendant's motion to suppress. The evidence at the suppression hearing was as follows. Toajtan observed multiple traffic violations, including erratic driving in which the vehicle was observed "bouncing from one edge of a lane to the other on multiple times" and stopping on a pedestrian crosswalk at a red light. Toajtan further testified that, before the stop, he observed defendant make "furtive movements" toward the front passenger area of the vehicle. Specifically, Toajtan saw defendant "reach[]towards the right side of the passenger [*sic*] towards the floor of the vehicle." Toajtan's case report corroborated that Toajtan saw (1) the vehicle "bouncing left to right" (which he said was consistent with the driver moving within the vehicle) and (2) the driver reaching toward the floor of the vehicle. Toajtan then stated that, based upon his experience, those movements were consistent with attempting to conceal contraband. Toajtan added that lighting conditions allowed the officer to "easily observe movements" inside. After stopping the vehicle, Toajtan smelled marijuana when defendant first fully lowered the vehicle's windows, and defendant admitted having smoked marijuana the previous day. The officers discovered that the vehicle had an expired registration. Defendant refused lawful requests to get out of the car and attempted to leave the scene. When asked, defendant lied to the officers, denying that he was on probation at the time of the stop. Toajtan testified that the firearm's location underneath the front passenger seat was accessible from the driver's seat and consistent with the location toward which he had observed defendant reaching.

¶ 36 Finally, the video recording of the traffic stop from Toajtan's body-worn camera reveals defendant stating the vehicle was his and explaining that the smell of cannabis from the car was because defendant had smoked back at his house earlier. The recording also shows that defendant's

coat sleeve and other areas of the car are visible from the exterior of the car through that portion of the tinted window when the officers return to the vehicle and the driver's side window is partially raised and no longer fully lowered. Based upon the totality of these facts, (including the vehicle's expired registration, defendant's attempt to start the car, his false statement that he was not on parole, as well as the smell of burnt marijuana), the officers had probable cause to believe the vehicle contained evidence of criminal activity.

¶ 37 In particular, section 4 of the Cannabis Control Act states in part, "Except as otherwise provided in the Cannabis Regulation and Tax Act [the Regulation Act], *** it is unlawful for any person knowingly to possess cannabis." 720 ILCS 550/4 (West 2020). Section 10-5 of the Regulation Act then provides in part that, beginning on January 1, 2020, "notwithstanding any other provision of law, and *except as otherwise provided in this Act*," the possession, consumption, or use of cannabis for personal use that does not exceed certain limits "shall not be a criminal or civil offense ***." (Emphasis added.) 410 ILCS 705/10-5 (West 2020). Section 10-35, however, states that the exemption provided in section 10-5 does not apply to certain conduct, including "using cannabis *** in any motor vehicle." 410 ILCS 705/10-35(a)(3)(D) (West 2020). This conduct therefore remains subject to the Control Act's general prohibition against the possession of cannabis. See *People v. Redmond*, 2024 IL 129201, ¶ 58. Thus, someone who uses or possesses cannabis in a motor vehicle as described in section 10-35 commits an offense.

¶ 38 Section 11-502.15(a) of the Illinois Vehicle Code (the Vehicle Code) states, "No driver may use cannabis within the passenger area of any motor vehicle upon a highway in this State." 625 ILCS 5/11-502.15(a) (West 2020). The Vehicle Code defines "highway" in pertinent part as any public way. See *id.* § 1-126 (defining "highway" as "[t]he entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for

purposes of vehicular travel ***"). A violation of this section is a Class A misdemeanor. *Id.* § 11-502.15(d). At the time of the stop, defendant was on a "highway" as defined in section 1-126.

¶ 39 Engaging in a pragmatic, nontechnical analysis of everyday life through the lens of reasonable and prudent persons rather than legal technicians (see *Hill*, 2020 IL 124595, ¶ 23), the facts at the hearing and the law in effect at the time of the search raised at a minimum a reasonable probability that a search of defendant's car would yield evidence of crime, including the use of cannabis in a motor vehicle while on a highway. Consequently, since the totality of the facts and circumstances known to the officers at the time of the search justified their belief that the automobile contained contraband or evidence of criminal activity, the officers had probable cause to search defendant's vehicle. *Id.*

¶ 40 We cannot hold that the trial court's factual findings were unreasonable, arbitrary, or not based on the evidence presented, or that the opposite conclusion is clearly evident; as such, its findings were not against the manifest weight of the evidence. See *Deleon*, 227 Ill. 2d at 332. We note that the court did not appear to consider defendant's false statement that he was not on probation as an additional factor weighing in favor of probable cause, but we may affirm the court's judgment on any grounds that the record supports. See *Benson*, 2026 IL 131191, ¶ 44. Defendant's claim of error on this point is therefore without merit.

¶ 41 Moreover, defendant's citation to *People v. Stribling*, 2022 IL App (3d) 210098, is unpersuasive. There, the court held that the smell of burnt cannabis, *alone*, "coupled with the defendant's statement that someone (he did not state that it was himself) had smoked in the vehicle 'a long time ago,' " was not enough to establish probable cause. *Id.* ¶ 28. Here, by contrast, the smell of burnt cannabis in addition to defendant's "furtive movements" toward the floor of the front passenger seat sufficiently corroborated a reasonable (albeit subsequently mistaken)

suspicion that defendant either had used cannabis while in a motor vehicle upon a "highway" in violation of the Vehicle Code, which established probable cause to conduct the narcotics search that revealed the illegal firearm. Defendant's reliance upon *Stribling* is thus unavailing.

¶ 42 Sufficiency of the Evidence

¶ 43 Defendant also contends that the State failed to prove him guilty of possession of the handgun. Specifically, defendant argues that the State failed to show that he had knowledge of the gun, defeating the State's claim that he had constructive possession of the firearm. Defendant further challenges Klier's testimony that he was able to see defendant's "furtive movements" through the rear window into the vehicle because the windows were only "slightly" tinted. Defendant counters that the video recording of the stop shows that "the window is dark and nothing can be seen through it." Defendant adds that Klier's statement that defendant's movements inside the car allegedly shook the vehicle is not credible, and he faults Klier for failing to include in the arrest report that Klier saw defendant's shoulders "drop" through the tinted back window.

¶ 44 When presented with a challenge to the sufficiency of the evidence, this court must determine " 'whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (Emphasis in original.) *People v. De Filippo*, 235 Ill. 2d 377, 384-85 (2009) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). It is not the function of this court to retry the defendant. *People v. Evans*, 209 Ill. 2d 194, 209 (2004). Rather, it is for the trier of fact to assess the credibility of the witnesses, determine the appropriate weight of the testimony, and resolve conflicts or inconsistencies in the evidence. *Id.* at 211. As a result, mere allegations that a witness was not credible will not justify reversal. *Id.* at 211-12. In essence, we will not reverse a conviction

unless the evidence is "so unreasonable, improbable[,] or unsatisfactory that it raises a reasonable doubt of defendant's guilt." *Evans*, 209 Ill. 2d at 209.

¶ 45 As discussed, *supra*, defendant's AUUW convictions must be vacated because they violate the one-act, one-crime rule. Consequently, we examine whether the evidence was sufficient to establish a violation of the UPWF statute. Section 24-1.1(a) of the Criminal Code of 2012 (Code) provides in relevant part that a person commits unlawful possession of a weapon by a felon if he, having been convicted of a felony under the laws of this State, knowingly possesses a firearm. See 720 ILCS 5/24-1.1(a) (West 2020). Defendant notes that the State introduced a certified copy of his prior felony conviction at trial, and he does not raise any challenge with respect to that prior felony conviction. Instead, defendant argues that the State failed to prove that "he was knowingly in possession of the gun beyond a reasonable doubt."

¶ 46 Possession may be actual or constructive. *People v. Jones*, 2023 IL 127810, ¶ 30. Here, the firearm was found near defendant and not on his person, so the State had to show that defendant had constructive possession of the weapon. To do so, the State must prove that the defendant (1) knew contraband was present and (2) exercised immediate and exclusive control over the area where the contraband was found. *Id.* (citing *People v. Wise*, 2021 IL 125392, ¶ 28).

¶ 47 Defendant, the sole occupant and driver of the vehicle, does not argue that he did not exercise immediate and exclusive control over the vehicle where the firearm was found; rather, he focuses his argument on whether he had knowledge that the firearm was present. Knowledge is a question of fact to be determined by the trier of fact and is generally proved through circumstantial evidence. *Id.* ¶¶ 27, 30. Proof that a defendant had control over the premises where contraband is located gives rise to an inference of knowledge and, therefore, possession. *Id.* ¶ 30 (citing *People v. Givens*, 237 Ill. 2d 311, 335 (2010)). "Factors from which knowledge may be inferred include

(1) the visibility of the weapon from the defendant's position inside the vehicle, (2) the period of time in which the defendant had an opportunity to observe the weapon, (3) gestures by the defendant that indicate an effort to retrieve or hide the weapon, and (4) the size of the weapon." *People v. Wade*, 2025 IL App (1st) 231683, ¶ 27 (citing *People v. Bailey*, 333 Ill. App. 3d 888, 891-92 (2002)). The *Bailey* factors do not, however, constitute an exhaustive list for determining whether a vehicle occupant knew that contraband was present. See *Bailey*, 333 Ill. App. 3d at 892 (directing courts to consider "any other relevant circumstantial evidence of knowledge"). Moreover, persuasive authority from this court holds that the *Bailey* factors "are more pertinent in cases involving a question of whether defendant, among multiple occupants, might have had constructive possession of a weapon, or where the firearm was not fully concealed within a hidden compartment." *People v. Spears*, 2022 IL App (1st) 201290-U, ¶ 43.

¶ 48 Proof of ownership can, under certain circumstances, be evidence of possession. See *People v. Clodfelder*, 172 Ill. App. 3d 1030, 1032, 1034 (1988). Nonetheless, it is well established that, when contraband is found in a car, "it is *control* of the vehicle rather than ownership of the vehicle which is pertinent to proof of control of the area in which [the contraband is] found." (Emphasis added.) *People v. Chavez*, 327 Ill. App. 3d 18, 26 (2001) (citing *People v. Whalen*, 145 Ill. App. 3d 125, 130-31 (1986)); see also *People v. Bogan*, 2017 IL App (3d) 150156, ¶ 32 ("It is not unreasonable to believe that some persons give up complete control of their vehicle, in some way or another, yet remain on the registration—and thus remain the technical owner.").

¶ 49 In this case, viewing the evidence in the light most favorable to the State, as we must (see *De Filippo*, 235 Ill. 2d at 384-85), there was sufficient evidence establishing that defendant had constructive possession of the weapon. Klier testified that, in the afternoon of Christmas 2020, he and Toajtan saw defendant, the sole occupant and driver of a vehicle, stop over a crosswalk at an

intersection. Defendant took "a while" to stop, during which time Klier clearly saw the vehicle shake somewhat as defendant reached toward the front passenger-side area. Defendant stated that it was his vehicle. Klier searched the front passenger-side area and recovered a handgun that was underneath the front passenger seat. Klier's subsequent inventory search of the car revealed a prescription bottle and two debit/credit cards, all bearing defendant's name. Klier also identified body-camera footage of the stop, testified that the lightly tinted windows allowed him to see inside the vehicle, and stated that his arrest report indicated that the vehicle was bouncing and defendant moved toward the front passenger area. On these facts, the State established that defendant had both knowledge that the firearm was present and immediate and exclusive control over the area in which it was found, thus establishing constructive possession. See *Jones*, 2023 IL 127810, ¶ 30.

¶ 50 Although defendant argues, *inter alia*, that Klier's testimony is unreliable because the video recording appears to show opaque window tinting, these matters were already before the trial court, whose responsibility is to weigh witness credibility and resolve conflicts of inconsistencies in the evidence. See *Evans*, 209 Ill. 2d at 211. It is not our function to retry defendant. See *id.* at 209. Furthermore, on this specific point, it is commonly known that a camera cannot faithfully replicate precisely what the human eye can perceive. See, *e.g.*, *United States v. Avila*, 615 F. Supp. 3d 846, 864 n.11 (N.D. Ill. 2022) ("It is admittedly difficult to see through the back windshield. Still, a picture does not always capture what the human eye can see. (Try visiting the Grand Canyon.) And a photograph does not always show the full picture."), *aff'd*, 106 F.4th 684, 695 (7th Cir. 2024) (holding that there was no reason to overturn the district court's finding that the video footage did not show everything the human eye could see and that there was "nothing 'contrary to the laws of nature' in the officers' testimony that they could see through the back windows [*sic*]"). Since the evidence is not "so unreasonable, improbable or unsatisfactory that it

raises a reasonable doubt of defendant's guilt," we may not reverse his conviction. See *Evans*, 209 Ill. 2d at 209. Accordingly, we reject defendant's contention of error on this point.

¶ 51 Nonetheless, defendant relies upon *Bailey*, *People v. Hampton*, 358 Ill. App. 3d 1029 (2005), and *People v. Crumpton*, 2024 IL App (1st) 221651, in support of his claim. Defendant's reliance, however, is misplaced.

¶ 52 At the outset, *Bailey* and *Crumpton* are distinguishable because in each case, the defendant was one of several occupants of a vehicle. See *Bailey*, 333 Ill. App. 3d at 891; *Crumpton*, 2024 IL App (1st) 221651, ¶ 3. In *Bailey*, another individual was driving, the defendant was sitting in the front passenger seat (under which the officers found a handgun), and the officers did not see the defendant make any gestures that indicated he was trying to hide the gun. *Bailey*, 333 Ill. App. 3d at 890, 892. Here, defendant was the sole occupant and driver of the car, and the officers observed defendant making a "furtive movement."

¶ 53 In *Hampton*, the defendant did not make any movements to conceal the gun and had only driven the car "for a few minutes." *Hampton*, 358 Ill. App. 3d at 1033. Additionally, a PlayStation video game console and other personal property were found in the backseat of the car, but the State presented no evidence to connect those items to the defendant. *Id.* at 1033-34. Here, unlike in *Hampton*, defendant's response that the vehicle was his implies defendant's regular use and thus control (if not outright ownership) of the car. See *Bogan*, 2017 IL App (3d) 150156, ¶ 32. In addition, defendant's prescription bottle for cephalexin (an antibiotic) as well as two debit/credit cards in his name were found in the glove compartment and center console, respectively, further buttressing the inference that defendant regularly used the car because these items would not be kept in those two separate areas if the vehicle had only been used a single time, as in *Hampton*.

¶ 54 In *Crumpton*, the stop occurred shortly after midnight, and there were five occupants, including the defendant, who was sitting in the front passenger seat. *Crumpton*, 2024 IL App (1st) 221651, ¶ 3. The firearm was not in plain view, even when the seat had been pushed back; instead, the officer found the weapon under the defendant's seat, "with the barrel facing forward." *Id.* ¶ 5. The *Crumpton* court observed that there was no evidence that anyone in the car made a movement to place the gun there, and it was unclear whether it had been placed there from the front passenger seat or from the rear seat. *Id.* ¶¶ 5, 14, 16. The court added that the orientation of the gun (namely, with the barrel facing forward) implied a greater "likelihood" that one of the three individuals in the back seat of the car placed the firearm under the defendant's front passenger seat. *Id.* ¶ 16.

¶ 55 Notably, the *Crumpton* court stated, "This situation substantially differs from other constructive possession cases where convictions were affirmed because police were able to see defendants make movements toward the location where a gun was hidden." *Id.* ¶ 14. That distinction applies here: the stop took place during daylight hours, defendant was the sole occupant and driver of the vehicle (vitiating the likelihood that any backseat occupants had secreted the weapon), and critically, the officers *did* see both (1) the car "bouncing" consistent with an occupant's movement within and (2) defendant dropping his shoulder and reaching down and toward the front passenger area of the car, precisely the location where the firearm was found. Accordingly, defendant's reliance upon *Bailey*, *Hampton*, and *Crumpton* is unavailing.

¶ 56 Constitutionality of the UPWF Statute

¶ 57 Finally, defendant contends that the AUUW and UPWF statutes facially violate the Second Amendment pursuant to *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022). Since we have already held that defendant's AUUW convictions must be vacated because they violate the one-act, one-crime rule, our discussion is limited to his challenge to the UPWF

statute. See *In re Alfred H.H.*, 233 Ill. 2d 345, 351 (2009) ("As a general rule, courts in Illinois do not decide moot questions, render advisory opinions, or consider issues where the result will not be affected regardless of how those issues are decided.").

¶ 58 In relevant part, the UPWF statute makes it a felony to "knowingly possess on or about [one's] person *** any firearm *** if the person has been convicted of a felony under the laws of this State ***." 720 ILCS 5/24-1.1(a) (West 2020). The Second Amendment states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II.

¶ 59 As noted above, defendant contends that the UPWF statute is facially unconstitutional. A facial challenge is "the most difficult challenge to mount." *People v. Davis*, 2014 IL 115595, ¶ 25. To establish that a statute is facially unconstitutional, defendant must show that "there are no circumstances in which the statute could be validly applied." *Id.* The constitutionality of a statute is a question of law that we review *de novo*. *Id.* ¶ 26.

¶ 60 In *Bruen*, the Court announced a new two-step analytical framework to evaluate the constitutionality of a challenged firearm regulation: first, we must determine whether the Second Amendment's "plain text" covers the individual's conduct; if so, then the State must justify the regulation by "demonstrating that it is consistent with the Nation's historical tradition of firearm regulation." *Bruen*, 597 U.S. at 24.

¶ 61 Courts in this state have reached conflicting conclusions about *Bruen*'s threshold inquiry. Some hold that felons are categorically excluded from the Second Amendment's protections, while others hold that a felon's possession of a firearm falls within the scope of the amendment and thus warrants an historical inquiry under the second step of the *Bruen* test. Compare, *e.g.*, *People v. Baker*, 2023 IL App (1st) 220328, ¶ 37 (because felons are not "law

abiding citizens," they are not protected by the Second Amendment, and *Bruen*'s historical-tradition analysis "does not apply" to them), *appeal pending*, No. 130174 (Nov. 3, 2023), with *People v. Brooks*, 2023 IL App (1st) 200435, ¶¶ 88-89 ("How the defendant's prior felony might impact his second amendment right to possess a firearm is more properly evaluated under the second step's historical tradition analysis."), *appeal pending*, No. 130153 (Oct. 30, 2023).

¶ 62 We need not take a position in this split, however. Even assuming, *arguendo*, that, pursuant to *Brooks*, defendant falls within the scope of the Second Amendment's protection (*i.e.*, his convicted-felon status does not categorically prohibit him from possessing a firearm, contrary to the holding in *Baker*), his argument would nonetheless fail under the second prong of the *Bruen* analysis: laws that prohibit felons from possessing firearms are consistent with our historical tradition of firearm regulation. See *Brooks*, 2023 IL App (1st) 200435, ¶¶ 88-89. To be sure, this court has repeatedly examined—and rejected—this precise claim. See, *e.g.*, *People v. Travis*, 2024 IL App (3d) 230113, ¶¶ 27-33; *People v. Stephens*, 2024 IL App (5th) 220828, ¶¶ 34-39; *People v. Lashley*, 2026 IL App (1st) 241099-U, ¶¶ 10-17; *People v. Cooks*, 2026 IL App (1st) 232112-U, ¶ 67; see also *Brooks*, 2023 IL App (1st) 200435, ¶¶ 68-101 (rejecting as-applied challenge to AHC statute, holding that the prohibition on firearm possession by a nonviolent felon is consistent with historical tradition). We agree that the historical analysis set forth in these cases satisfies the second step of the *Bruen* test and defendant offers nothing to persuade us that the UPWF statute is facially unconstitutional. We thus reject his final claim of error.

¶ 63 CONCLUSION

¶ 64 For the foregoing reasons, we direct the circuit clerk to vacate defendant's convictions for aggravated unlawful use of a weapon because they violate the one-act, one-crime rule. The trial court did not err in denying defendant's motion to quash arrest and suppress evidence. The

evidence was sufficient to convict defendant of unlawful possession of a weapon by a felon. Finally, the unlawful possession of a weapon by a felon statute is facially constitutional. Accordingly, we affirm the judgment of the trial court as modified.

¶ 65 Affirmed as modified.