No. 131745

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- PATRICK WADE, Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, No. 1-23-1936. There on appeal from the Circuit Court of Cook County, Illinois, No. 21 CR 07719. Honorable Steven G. Watkins, Judge Presiding.

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLANT

JAMES E. CHADD
State Appellate Defender

DOUGLAS R. HOFF
Deputy Defender

BROOKE A. WINTERHALTER
Assistant Appellate Defender
Office of the State Appellate Defender
First Judicial District
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
1stdistrict.eserve@osad.state.il.us

COUNSEL FOR DEFENDANT-APPELLANT

ORAL ARGUMENT REQUESTED

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CYNTHIA A. GRANT
SUPREME COURT CLERK

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NATURE OF THE CASE

Patrick Wade was convicted of two counts of aggravated criminal sexual assault and two counts of aggravated kidnaping after a jury trial and was sentenced to an aggregate 40 years in prison. This is a direct appeal from the judgment of the court below. No issue is raised challenging the charging instrument.

ISSUE PRESENTED FOR REVIEW

Whether the presence of multiple aggravating factors can transform a single felony offense—here, kidnaping—into multiple aggravated felony convictions.

STATUTES INVOLVED

720 ILCS 5/10-1 (West 2018) – Kidnaping[1]

(a) A person commits the offense of kidnaping when he or she knowingly:

(1) and secretly confines another against his or her will;

(2) by force or threat of imminent force carries another from one place to another with intent secretly to confine that other person against his or her will; or

(3) by deceit or enticement induces another to go from one place to another with intent secretly to confine that other person against his or her will.

(b) Confinement of a child under the age of 13 years, or of a person with a severe or profound intellectual disability, is against that child's or person's will within the meaning of this Section if that confinement is without the consent of that child's or person's parent or legal guardian.

(c) Sentence. Kidnaping is a Class 2 felony.

720 ILCS 5/10-2 (West 2018) – Aggravated kidnaping

(a) A person commits the offense of aggravated kidnaping when he or she commits kidnaping and:

(1) kidnaps with the intent to obtain ransom from the person kidnaped or from any other person;

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

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

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

(5) commits the offense of kidnaping while armed with a dangerous weapon, other than a firearm, as defined in Section 33A-1 of this Code;

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[1]In Section 5/10-1, kidnaping is spelled "kidnapping." In Section 5/10-2, it is spelled "kidnaping." For consistency, this brief spells kidnaping with one "n" as is done in Section 5/10-2—the Section underlying Wade's convictions.

(6) commits the offense of kidnaping while armed with a firearm;

(7) during the commission of the offense of kidnaping, personally discharges a firearm; or

(8) during the commission of the offense of kidnaping, personally discharges a firearm that proximately causes great bodily harm, permanent disability, permanent disfigurement, or death to another person.

As used in this Section, "ransom" includes money, benefit, or other valuable thing or concession.

(b) Sentence. Aggravated kidnaping in violation of paragraph (1), (2), (3), (4), or (5) of subsection (a) is a Class X felony. A violation of subsection (a)(6) is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(7) is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court. A violation of subsection (a)(8) is a Class X felony for which 25 years or up to a term of natural life shall be added to the term of imprisonment imposed by the court. An offender under the age of 18 years at the time of the commission of aggravated kidnaping in violation of paragraphs (1) through (8) of subsection (a) shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

A person who has attained the age of 18 years at the time of the commission of the offense and who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense. An offender under the age of 18 years at the time of the commission of the second or subsequent offense shall be sentenced under Section 5-4.5-105 of the Unified Code of Corrections.

STATEMENT OF FACTS

Patrick Wade was arrested in May 2021 after DNA testing linked him to a sexual assault that occurred on June 3, 2018. (C. 54–58.) Thereafter, a grand jury returned an eight-count indictment, including six counts of aggravated criminal sexual assault and two counts of aggravated kidnaping. (C. 19–27.)

The case proceeded to a jury trial on Counts 1, 2, 7, and 8. (R. 106.) Counts 1 and 2 alleged that Wade committed aggravated criminal sexual assault by: (a) committing an act of sexual penetration between (i) Wade's penis and J.T.'s sex organ (Count 1), and (ii) Wade's penis and J.T.'s anus (Count 2), and (b) causing bodily harm to J.T., to wit: bruising and abrasions to her sex organ. (C. 20–21.) Count 7 alleged that Wade committed aggravated kidnaping:

> [I]n that he, knowingly by force or threat of imminent force, carried J.T. from one place to another with intent to secretly confine J.T., and [ ] Wade committed another felony upon J.T., to wit: criminal sexual assault, contact between [ ] Wade's penis and J.T.'s sex organ[.]

(C. 26.) Count 8 alleged that Wade committed aggravated kidnaping:

> [I]n that he, knowingly by force or threat of imminent force, carried J.T. from one place to another with intent to secretly confine J.T., and [ ] Wade committed another felony upon J.T., to wit: criminal sexual assault, contact between [ ] Wade's penis and J.T.'s anus[.]

(C. 27.)

At trial, J.T. testified to the events of June 3, 2018. That evening, after getting ready for bed she got into an argument with her mother and left home. (R. 292–95.) As she was walking, she passed a man wearing all blue walking in the opposite direction. The man said something to J.T., but she did not respond. She kept walking. (R. 300–01.) As she continued walking, she heard footsteps behind her. She turned around and the man in blue was there. He stepped in front

of her and said something like: "[H]i, how are you, what are you doing, why are you out here, who are you." (R. 302–03.) J.T. did not answer and tried to get away. (R. 303.) She ran down an alley. (R. 304–05.) At the end of the alley, J.T. heard footsteps and saw the man in blue. He caught up to J.T., took out his phone, and told her to use it. (R. 305–06.) J.T. did not respond. She was scared. She walked down another alley, and when she got to the mouth of the alley, the man shifted toward her. He put an arm on her back and a hand on her hair. (R. 306–08.) J.T. told him to leave her alone, but he continued to walk with her. (R. 307–09.)

When J.T. and the man reached an open gate, the man pushed J.T. inside the gate and she fell over. (R. 309.) J.T. got up, but the man pushed her back down and fell on top of her. (R. 310.) J.T. screamed for help. (R. 310–11.) The man put his hand over her mouth and told her to shut up or he would kill her. (R. 311.) The man removed J.T.'s shorts. (R. 311.) He put his penis in her anus. He removed his penis from her anus and put it in her vagina. (R. 312–14.) A few minutes later, someone else came outside and spooked the man in blue. He ran. J.T. grabbed her shorts, put them on, ran towards a man she saw getting into his car, and banged on the car for help. (R. 316–17.) The man inside the car came out and took J.T. into his home. They called the police, and J.T. was taken to the hospital where a sexual assault kit was completed. (R. 318–19, 326–27, 376–77.)

Detective Anthony Lewis testified that he met with J.T. and her mother at the hospital after the assault. (R. 396.) The next day, Lewis took J.T. and her mother to the scene to go over the route and then returned to the scene alone to look for evidence. (R. 397.) While there, Lewis spoke with a neighbor, Orlando Potts, who observed J.T. and the man in blue walking into the alley. (R. 398, 404–05, 352–55.) Lewis arranged for J.T. to have an interview at the Child Advocacy Center

and to meet with a police sketch artist to create a sketch of the suspect. Lewis posted a community alert with the sketch. (R. 398, 409–10; Def. Ex. 1.) Lewis received anonymous tips after posting the community alert, but he did not develop a suspect. (R. 411–12.) The case was suspended pending DNA testing. (R. 406.)

The parties stipulated that a stain was removed from J.T.'s underwear/shorts and preserved for DNA analysis. (R. 442–43.) A DNA expert testified that Wade's DNA was included in this stain. (R. 444–48, 455–56.) Lewis created a photo array with Wade's photograph. J.T. looked at the array and identified someone other than Wade as her attacker. (R. 407–09; Def. Ex. 2B.)

In closing, the State argued that it had proven the kidnaping portion of aggravated kidnaping because:

> [Wade] followed [J.T.]. He chased her. He grabbed her, guided her to another area before forcefully pushing her. And then he held her down in that secluded area where nobody could see. . . .
>
> This wasn't in the public alley anymore. This was in an area where nobody could see. Confining her, she couldn't get away. She tried to. She fought and screamed and tried to get away from the defendant and he kept her there and put her through the horrific details that she has to remember for the rest of her life. He didn't stop her and pull her aside when she was running on the regular street to get away from him. He waited until he had her in a secluded area that he could confine her in, and he didn't let her go until somebody else showed up . . .

(R. 484–85.) Following arguments, the court instructed the jury that to sustain the aggravated kidnaping charge, the State must prove four propositions: (1) "That the defendant acted knowingly;" (2) "That the defendant, by force or threat of imminent force, carried [J.T.] from one place to another place;" (3) "That when the defendant did so, he intended secretly to confine [J.T.] against her will;" and (4) "That the defendant committed criminal sexual assault upon [J.T.]." (CI. 45; R. 515.) It further instructed that: "The defendant is charged in different ways

with the offense of Aggravated Kidnaping." (CI. 46; R. 516.)

The jury found Wade guilty on all counts—two counts of aggravated criminal sexual assault and two counts of aggravated kidnaping. (CI. 22–25; R. 524–25.) The court sentenced Wade to two consecutive 15-year prison terms on Counts 1 and 2 (aggravated criminal sexual assault) to be served consecutive to two concurrent 10-year prison terms on Counts 7 and 8 (aggravated kidnaping). (C. 181; R. 575.)

On direct appeal, Wade raised two issues: (1) that trial counsel was ineffective in their agreed response to a jury question during deliberations; and (2) that one of the two aggravated kidnaping convictions should be vacated because there was only one kidnaping. The appellate court rejected both arguments and affirmed. *People v. Wade*, 2025 IL App (1st) 231936-U (unmodified order, Mar. 27, 2025). Regarding the second issue, the appellate court agreed that there was only one kidnaping, but held that because the aggravating factors were different, multiple convictions for aggravated kidnaping were not improper. *Id.*, ¶¶ 41–43. The appellate court rejected Wade's petition for rehearing, but issued a modified order clarifying its interpretation of this Court's decision in *People v. Turner*, 128 Ill. 2d 540, 577 (1989). *People v. Wade*, 2025 IL App (1st) 231936-U (modified order, Apr. 10, 2025).

This Court granted leave to appeal on September 24, 2025.

ARGUMENT

An aggravating factor cannot be used to transform a single felony act into multiple felony convictions. As a result, when only one kidnaping is committed, only one aggravated kidnaping conviction may stand.

Patrick Wade was convicted of and sentenced to prison for two counts of aggravated kidnaping based on a single kidnaping. (C. 181; R. 575.) The only difference between the two aggravated kidnaping counts was the factor used to enhance the offense from kidnaping to aggravating kidnaping. (*Compare* C. 26; *with* C. 27.) Using an aggravating factor in this manner—to create multiple convictions for a single underlying offense—defies logic.

It also violates the law. Pursuant to both the unit of prosecution and the one-act, one-crime doctrine, when there is only one kidnaping, there can be only one aggravated kidnaping conviction. The unit of prosecution for aggravated kidnaping is kidnaping—that is, for each aggravated kidnaping conviction, there must be a separate kidnaping. 720 ILCS 5/10-2(a) (West 2018); *People v. Lavallier*, 187 Ill. 2d 464, 469 (1999) (where statute's purpose is to enhance underlying offense, unit of prosecution requires separate underlying offense). In addition, under the one-act, one-crime doctrine, only one offense may be carved from a single criminal act—here, the act of kidnaping. *People v. King*, 66 Ill. 2d 551, 566 (1977) ("Prejudice results . . . in those instances where more than one offense is carved from the same physical act."); *In re Samantha V.*, 234 Ill. 2d 359, 376–77 (2009) (different theories of criminal culpability are not separate "acts" for one-act, one-crime purposes).

Accordingly, this Court should reverse the appellate court's decision affirming both aggravated kidnaping convictions and remand this case to the trial court to vacate one of Wade's two aggravated kidnaping convictions.

Standard of Review

A statute's allowable unit of prosecution is a question of statutory interpretation that is reviewed *de novo*. *People v. Keys*, 2025 IL 130110, ¶ 76. Whether multiple convictions violate the one-act, one-crime doctrine is a question of law that is reviewed *de novo*. *People v. Smith*, 2019 IL 123901, ¶ 15.

Under the second prong of the plain error rule, courts may review errors that were not properly preserved if they affect the integrity of the judicial process. Ill. S. Ct. Rule 615(a); *People v. Harvey*, 211 Ill. 2d 368, 389 (2004). Wade did not challenge his surplus aggravated kidnaping conviction in the trial court. However, because "the potential for a surplus conviction and sentence affects the integrity of the judicial process," the error may be reviewed under the second prong of the plain error rule. *Harvey*, 211 Ill. 2d at 389; see also *Smith*, 2019 IL 123901, ¶ 14 (one-act, one-crime violations affect the integrity of the judicial process thereby constituting second-prong plain error); *People v. Carter*, 213 Ill. 2d 295, 299–300 (2004) (same for unit of prosecution violations), *superseded, on other grounds, by statute as stated in People v. Almond*, 2015 IL 113817, ¶¶ 38–40.

A. The aggravated kidnaping statute allows only one conviction per kidnaping.

In the appellate court and in his petition for leave to appeal, Wade addressed his surplus aggravated kidnaping conviction as a one-act, one-crime violation, not a unit of prosecution violation. Nonetheless, this Court may review the unit of prosecution question because it is a "threshold question" to the one-act, one-crime issue, and thus, inextricably intertwined with the issue raised below and in his petition for leave to appeal. See *People v. Hartfield*, 2022 IL 126729, ¶ 67.

"When an issue is not specifically mentioned in a party's petition for leave

to appeal, but it is 'inextricably intertwined' with other matters properly before the court, review is appropriate." *People v. Peterson*, 2017 IL 120331, ¶ 67. Such is the case here. Because the unit of prosecution is a "threshold" question to the one-act, one-crime issue, the two issues are "inextricably intertwined." See *Hartfield*, 2022 IL 126729, ¶ 67 (addressing unit of prosecution for aggravated discharge of a firearm even though error was initially raised as one-act, one-crime violation); *Carter*, 213 Ill. 2d at 301 ("One-act, one-crime principles apply only if the statute is construed as permitting multiple convictions."). Accordingly, it is appropriate and necessary to review the unit of prosecution here. *Id.*; *Peterson*, 2017 IL 120331, ¶ 67; *People v. McKown*, 236 Ill. 2d 278, 310–11 (2010) (appropriate to review issues not included in petition for leave to appeal when inextricably intertwined with issues that were included); *In re Rolandis G.*, 232 Ill. 2d 13, 37 (2008) (same).

Turning to that issue now, the unit of prosecution refers to "what act or course of conduct the legislature has prohibited for purposes of a single conviction and sentence." *Hartfield*, 2022 IL 126729, ¶ 67. This is a question of statutory interpretation. *Id.*, ¶ 68. The fundamental rule of statutory interpretation is to ascertain and give effect to the legislature's intent, which is best indicated by the statutory language, given its plain and ordinary meaning. *Keys*, 2025 IL 130110, ¶ 77. Statutes are viewed as a whole, construing "words and phrases not in isolation but relative to other pertinent statutory provisions." *Hartfield,* 2022 IL 126729, ¶ 68. In the unit of prosecution context, courts assess the statutory language "to determine what precisely has been prohibited by the legislature and in what unit of time, actions, or instances that crime is committed once." *Id.*, ¶ 83.

If the statute does not contain clear language authorizing multiple convictions,

the rule of lenity applies and the statute is construed in the defendant's favor. *Hartfield,* 2022 IL 126729, ¶ 69; *United States v. C.I.T. Credit Corp.*, 344 U.S. 218, 221–22, 226 (1952) (explaining the rule of lenity and applying it to construe law in question as permitting only one conviction per course of conduct). The question then, is whether the legislature has, "clearly and without ambiguity," provided that each violation be punished as a "single criminal unit." *Bell v. United States*, 349 U.S. 81, 83–84 (1955). If the legislature has not done so, "doubt will be resolved against turning a single transaction into multiple offenses." *Id.*

Here, following a single kidnaping of a single person, Wade was convicted of two counts of aggravated kidnaping. (C. 26–27, 181, CI. 22–25; R. 524–25, 575.) This is not permitted by the aggravated kidnaping statute. It states:

> (a) A person commits the offense of aggravated kidnaping when he or she commits kidnaping ***and***:
>
> (1) [aggravating factor];
>
> . . .
>
> (3) inflicts great bodily harm, other than by the discharge of a firearm, or commits another felony upon his or her victim;
>
> . . . ***or***
>
> (8) [aggravating factor].

720 ILCS 5/10-2(a) (West 2018) (emphasis added).

While the aggravated kidnaping statute does not expressly define the unit of prosecution, its use of the word "***and***" following the phrase "commits kidnaping" shows that two elements are required to commit the offense one time: (1) a kidnaping ***and*** (2) an aggravating factor. Absent either element, there can be no aggravated kidnaping. *Id.*; *see also Hartfield,* 2022 IL 126729, ¶ 88 (absent an express definition,

the unit of prosecution may still be discerned from clear statutory language). The legislature used the word "or" between each of the different aggravating factors, meaning the presence of any one of these factors aggravates a kidnaping to the enhanced offense of aggravated kidnaping. 720 ILCS 5/10-2(a). However, the presence of multiple factors means nothing without multiple kidnapings. Indeed, the statute requires *both* a kidnaping *and* an aggravating factor to commit the offense once. 720 ILCS 5/10-2. Absent a kidnaping, there is no aggravated kidnaping.

As this Court recently explained, "[t]he unit of prosecution analysis is controlled by what the statute seeks to prohibit." *Keys*, 2025 IL 130110, ¶ 84. Here, that is kidnaping, and it is punished more severely when specified factors are present. *See* 720 ILCS 5/10-2. Indeed, the plain and ordinary meaning of an "aggravating factor" is "a fact or situation that increases the degree of liability or culpability for a criminal act." Black's Law Dictionary (12th ed. 2024) (defining "aggravating factor" by reference to "aggravating circumstance," the definition set forth above, under "circumstance"). An aggravating factor does not create a new offense nor does it multiply a singular offense into multiple aggravated offenses. By definition, an aggravating factor *adds* to an existing offense. It does not create. It does not multiply. And nothing in the aggravated kidnaping statute suggests that a different meaning applies to the term here. See 720 ILCS 5/10-2; *Keys*, 2025 IL 130110, ¶ 77 (courts apply ordinary meaning when interpreting statutory language). Given its plain meaning, an aggravating factor cannot be the basis for a new aggravated kidnaping conviction. Rather, each aggravated kidnaping conviction requires a separate kidnaping. *Hartfield*, 2022 IL 126729, ¶ 83 (unit of prosecution asks: "in what unit of . . . actions. . . that crime is committed once[?]").

This conclusion is consistent with this Court's analysis in *People v. Lavallier*, 187 Ill. 2d 464, 469 (1999). There, the defendant was convicted of two counts of aggravated driving under the influence of alcohol (DUI) based on a single act of DUI, which injured two people—each its own aggravating factor. *Lavallier*, 187 Ill. 2d at 466–67. When assessing whether the unit of prosecution for aggravated DUI allowed for two convictions, this Court explained that the aggravated DUI statute was enacted to "enhance misdemeanor DUI to a Class 4 felony" when "aggravating circumstances are present." *Id.* at 469. Because the "focus" of the statute was to punish those "who both drive under the influence of alcohol . . . and have an accident resulting in a motor vehicle accident with injuries to another," this Court held that causing injuries to multiple people "aggravates the underlying DUI offense from a misdemeanor to a felony, but it does not constitute, in these circumstances, a separate offense for each person injured." *Id.* So too here.

The purpose of the aggravated kidnaping statute is to enhance the punishment for kidnaping from a Class 2 felony to a Class X felony when certain aggravating factors are present. *Compare* 720 ILCS 5/10-2(b) (aggravated kidnaping, Class X felony); *with* 720 ILCS 5/10-1(c) (kidnaping, Class 2 felony). As in *Lavallier*, the presence of multiple aggravating factors does not constitute "a separate offense for each [aggravating factor present]." 187 Ill. 2d at 469. Rather, the aggravated kidnaping statute allows only one conviction per kidnaping. 720 ILCS 5/10-2.

Allowing multiple convictions based on a single kidnaping of a single person would also lead to absurd and unjust results. *See People v. Garcia*, 241 Ill. 2d 416, 421 (2011) (courts presume the legislature did not intend absurd or unjust results). Consider, for example, aggravating factor (a)(4), which turns a kidnaping into

an aggravated kidnaping when someone "wears a hood, robe, or mask or conceals his or her identity." 720 ILCS 5/10-2(a)(4). If a defendant kidnaped a single person on a single occasion while wearing a hood, robe, and mask, and concealing their identity, and the unit of prosecution for aggravated kidnaping turned on the aggravating factors, the government could secure four aggravated kidnaping convictions against that defendant. As a result, that defendant's record would be worse than a defendant who wore a robe and kidnaped two different people on two different dates (or a defendant who wore a robe and kidnaped three people on three dates). Because courts presume that the legislature did not intend such unjust results, each aggravated kidnaping conviction requires its own kidnaping. See *Garcia*, 241 Ill. 2d at 421; *Hartfield*, 2022 IL 126729, ¶ 83.

In sum, both the aggravated kidnaping statute and this Court's precedent lead to the unmistakable conclusion that where there is only one kidnaping of only one person, there can be only one aggravated kidnaping conviction. See 720 ILCS 5/10-2; *Keys*, 2025 IL 130110, ¶ 84; *Lavallier*, 187 Ill. 2d at 469.

B. When there is only one act of kidnaping, only one aggravated kidnaping conviction is permissible.

The one-act, one-crime issue presented here only becomes relevant if this Court finds that the aggravated kidnaping statute allows multiple convictions for a single kidnaping. *People v. Hartfield*, 2022 IL 126729, ¶ 67 ("Only if we conclude that defendant has committed the offense four times will we move on to consideration of the one-act, one-crime rule.").

Under the one-act, one-crime doctrine, multiple convictions are improper if they are based on precisely the same physical act or acts. *People v. Artis*, 232 Ill. 2d 156, 161 (2009); *King*, 66 Ill. 2d at 566. In this context, an "act" is defined

as "any overt or outward manifestation which will support a different offense." *People v. Smith*, 2019 IL 123901, ¶ 18 (quoting *King*, 66 Ill. 2d at 566).

The one-act, one-crime analysis contains two steps. First, the court determines whether there was one act or multiple acts. If there was only one act, multiple convictions are improper. *Smith*, 2019 IL 123901, ¶ 15. If there were multiple acts, the court must determine whether any offenses are lesser-included offenses. If there are lesser-included offenses, multiple convictions are improper. *Id*.

This case begins and ends at the first step. As the appellate court found, there was only one "act" of kidnaping. See *People v. Wade*, 2025 IL App (1st) 231936-U, ¶ 41 ("[W]e agree with defendant that there was a single kidnapping."). Thus, only one aggravated kidnaping conviction is proper. *King*, 66 Ill. 2d at 566. To the contrary, however, the appellate court here held that the aggravating factors constituted additional "acts" such that there was no one-act, one-crime violation. *Wade*, 2025 IL App (1st) 231936-U, ¶¶ 41–44; (St. App. Supp. Br.). This was wrong.

Over forty years of precedent, fundamental fairness, and the particular facts of this case all demonstrate the opposite: aggravating factors are not "acts" under the one-act, one-crime doctrine.

First, this conclusion is required by the Court's 1977 decision in *King* and the more than forty years of precedent that follow. In *King*, this Court explained that only one offense can be carved "from the same physical act," 66 Ill. 2d at 566, and an "act" is "any overt or outward manifestation which will support a different offense," *id*. There, the Court evaluated defendant's convictions for burglary and rape, and held that because they were "based on separate acts, each requiring proof of a different element," two convictions were proper. *Id*.

An aggravating factor, however, does not fit this definition of "act." Rather, it is a factor that increases the penalty for a specific offense. See Black's Law Dictionary (12th ed. 2024) ("aggravating factor"). Using an aggravating factor to create two offenses from a single un-aggravated offense requires what *King* prohibits: carving multiple offenses "from the same physical act," 66 Ill. at 566. Moreover, an "aggravating factor," although it could constitute an offense in its own right, is not sufficient to support a different version of the offense charged. Thus, an aggravating factor is not an "act" under *King*.

In *King*, the Court analyzed two distinct crimes: burglary and rape. It did not analyze enhanced versions of the same crime. The act underlying the burglary was the unlawful entrance, and the act underlying the rape was the assault. 66 Ill. 2d at 555. Each offense had an act sufficient to sustain it. That is not the case with an aggravating factor—it is not sufficient to sustain the charged offense.

King's reliance on *People v. Scott*, 43 Ill. 2d 134 (1969), when defining the doctrine's parameters confirms that aggravating factors are not "acts" for purposes of the one-act, one-crime analysis. *King*, 66 Ill. 2d at 562. In *Scott*, this Court was asked to determine how many burglary convictions were permissible in a case where the defendant was charged with and found guilty of three different versions of the offense: (i) burglary with intent to commit theft, (ii) burglary with intent to commit rape, and (iii) burglary with intent to commit deviate sexual conduct. 43 Ill. 2d at 144. This Court determined that the relevant "act" for a burglary conviction was the unlawful entry, and because the defendant committed only one unlawful entry (related to the charges under attack), there could be only one burglary conviction. *Id*. This was true even though the defendant committed three

other crimes after that unlawful entry. *Id.* at 137–38, 144. Like the unlawful entry that was necessary to create a burglary in *Scott*, the kidnaping—not the aggravating factors—is the relevant "act" for one-act, one-crime purposes here.

Similarly, this Court's decision in *People v. Turner*, 128 Ill. 2d 540 (1989), confirms that aggravating factors cannot be used to turn a single kidnaping offense into multiple aggravated kidnaping convictions. In *Turner*, the defendant was convicted of, *inter alia*, aggravated kidnaping, kidnaping, and unlawful restraint. 128 Ill. 2d at 548–49. In response to the defendant's one-act, one-crime argument, the State argued that there were "sufficient intervening occurrences" to establish "separate acts" and permit multiple convictions. *Id.* at 577. Specifically, it asserted: "[T]he kidnaping occurred when the victim was stopped, placed in the defendant's car and brought to the cornfield. * * * The unlawful restraint occurred when the victim was taken out of the car and brought to the cornfield. [And] the aggravated kidnaping occurred in the cornfield," where the victim was sexually assaulted and murdered. *Id.* This Court disagreed and held there was "one ongoing event" sufficient to sustain one aggravated kidnaping charge. *Id.* Accordingly, it vacated the defendant's kidnaping and unlawful restraint convictions because they were based on the same "act" as the aggravated kidnaping, even though that aggravated kidnaping required proof of a distinct *aggravating* factor—there, "either great bodily harm, criminal sexual assault, robbery, or aggravated criminal sexual assault upon the victim." *Id.* This Court did not consider that necessary aggravating factor a separate "act" for one-act, one-crime purposes. *Id.*

In *People v. Artis*, 232 Ill. 2d 156, the Court reaffirmed *King*'s validity. *Id.* at 168. There, the defendant argued that the Court should vacate one of his two

aggravated criminal sexual assault convictions under the one-act, one-crime doctrine because they were based on the same act of penetration but aggravated by two different factors (burglary and home invasion). *Artis*, 232 Ill. 2d at 159–60. The State conceded the one-act, one-crime issue in the appellate court, but asked this Court to abandon the doctrine. *Id*. The Court refused to do so, explaining that one-act, one-crime violations adversely affect the integrity of the judicial process, and remanded the case to the circuit court to vacate one of the defendant's two aggravated criminal sexual assault convictions. *Id*. at 168. Because the State in *Artis* conceded the one-act, one-crime issue below, this Court did not specifically address the issue considered here—whether an aggravating factor can be used to carve multiple offenses from the same physical act. *Id*. at 177–78.

This Court's subsequent decisions, however, make clear that "different theories of criminal culpability," such as aggravating factors, cannot be used to skirt the one-act, one-crime doctrine. *In re Samantha V.*, 234 Ill. 2d 359, 377 (2009) (citing *People v. Crespo*, 203 Ill. 2d 335, 342 (2001)). In *Samantha V.,* this Court considered whether two aggravated battery adjudications violated the one-act, one-crime doctrine because they were based on the same ***battery*** but aggravated by two distinct factors: causing great bodily harm and committing battery on a public way. *Id*. at 377–78. In assessing the parties' one-act, one-crime arguments, this Court looked to the "acts" constituting the ***battery***, not the aggravating factors, which it described as different "theories of criminal culpability." *Id*. at 376–77. And it held that two separate adjudications violated the one-act, one-crime doctrine because the State had not parsed the defendant's acts of battery into multiple charges, but rather charged them collectively as one battery. *Id*. As *Samantha*

V. makes clear, it is the underlying offense, not the aggravating factors, that constitute the "act" for one-act, one-crime purposes.

In *People v. Coats*, 2018 IL 121926, this Court held that the defendant's separate convictions for armed habitual criminal and armed violence did not violate the one-act, one-crime doctrine, even though gun possession was common to both offenses. *Coats*, 2018 IL 121926, ¶ 17. Under *King*, the defendant's armed violence conviction required two "acts"—drug possession and gun possession; thus, the two crimes were not carved from the same "act." *Coats*, 2018 IL 121926, ¶ 17. While *Coats* may appear to suggest that an aggravating factor that also constitutes an offense could be an "act" for one-act, one-crime purposes, such an interpretation would require ignoring this Court's subsequent warning that it was ***not*** addressing "multiple counts of the same offense." *Id*. ¶ 24. Indeed, regarding multiple counts of the same offense, *Coats* reaffirmed that "separate theor[ies] of the same offense" do not create multiple "acts" for one-act, one-crime purposes. *Id*., ¶¶ 22–23.

By way of example, the Court noted that statutorily there are three ways to commit murder—intentional, knowing, and felony murder—and even though felony murder "involves an additional physical act" beyond the act causing death, that act is not "a separate offense but, rather, a separate theory of the same offense." *Id*., ¶ 23. The same is true with respect to aggravating factors. They are not additional "acts" under *King*. Aggravating factors are separate theories under which someone commits the same offense. See *Samantha V.*, 234 Ill. 2d at 377.

Similarly, this Court's decision in *Smith* does not change the analysis. 2019 IL 123901. There, the Court was evaluating whether co-defendants' convictions for aggravated battery and robbery violated the one-act, one-crime doctrine. *People*

v. Smith, 2019 IL 123901, ¶ 17. The evidence showed that one of the co-defendants (the other was found accountable for his actions) approached a senior citizen walking towards a bank, punched him in the side, took his money, and fled. *Smith*, 2019 IL 123901, ¶¶ 4–6. On appeal, the defendants argued that the aggravated battery and robbery charges were carved from the same "act," punching the senior citizen, in violation of the one-act, one-crime doctrine. *Id.,* ¶ 17. This Court rejected that argument and held that the robbery required an additional act—taking the senior citizen's money. *Id*., ¶¶ 23, 35. In doing so, the Court assessed how the offenses at issue were defined and charged. Because robbery required the additional element of *taking* property and because defendants were charged with *taking* property, the Court held that "taking the property from [the senior citizen] provide[d] a separate act [from the punch] upon which to support the robbery offense." *Id*. ¶ 23. Applying that reasoning to an aggravating factor, there is no "separate act" to support a second offense. Indeed, the elements are the same: an underlying offense and an aggravating factor. To comply with the one-act, one-crime doctrine, there must be a separate underlying offense. *Cf. Smith*, 2019 IL 123901, ¶ 23.

In sum, beginning in 1977 with *King*, this Court's precedent confirms that when there is just one underlying offense (here, kidnaping), aggravating factors cannot transform that single offense into multiple aggravated (kidnaping) offenses. See *King*, 66 Ill. 2d at 566; *Turner*, 128 Ill. 2d at 577; *Artis*, 232 Ill. 2d at 165–68; *Samantha V.*, 234 Ill. 2d at 377–78. In fact, aside from this case, the appellate court has continuously reached the same conclusion: where there is only one kidnaping, there can be only one aggravated kidnaping conviction (regardless of the aggravating factors). See*, e.g.*, *People v. Trexler*, 2021 IL App (4th) 200457-U,

¶¶ 44–46 (remanding for further post-conviction proceedings on one-act, one-crime challenge because "Illinois courts of review have treated the offense of kidnaping as an 'ongoing event' in which the physical act involved is the defendant's exercise of continuous control over the victim"); *People v. Boyd*, 366 Ill. App. 3d 84, 100 (1st Dist. 2006) (accepting State's concession that two aggravated kidnaping convictions, aggravated by two separate felonies (aggravated criminal sexual assault and armed robbery), violated one-act, one-crime rule); *People v. Curry*, 296 Ill. App. 3d 559, 569 (1st Dist. 1998) (accepting State's concession that two aggravated kidnaping convictions, aggravated by two separate felonies (armed robbery and aggravated battery), violated one-act, one-crime rule); *People v. Klinkhammer*, 105 Ill. App. 3d 747, 749–50 (3d Dist. 1982) (vacating one of defendant's two aggravated kidnaping convictions, aggravated by two separate felonies (armed robbery and murder)); *People v. Armstrong*, 43 Ill. App. 3d 586, 598–99 (1st Dist. 1976) (two aggravated kidnaping convictions, aggravated by two separate felonies (rape and deviate sexual assault), violated one-act, one-crime rule).

Second, underlying the holding in *King* and its progeny is the notion that extra or surplus convictions result in unfair and undue prejudice to the defendant because someone looking at the defendant's record could mistakenly think the defendant committed two distinct criminal acts, when in fact there was only one. See*, e.g., King*, 66 Ill. 2d at 566 (explaining this prejudice); *Artis*, 232 Ill. 2d at 165–68 (same). This is the prejudice that would enure if the State could use aggravating factors to multiply a single offense into multiple aggravated offenses.

This Court examined the one-act, one-crime rule's purpose in *Artis*, when it declined the State's invitation to abandon it, by examining three of its earlier

cases: *People v. Davis*, 156 Ill. 2d 149 (1993); *People v. Harvey*, 211 Ill. 2d 368 (2004); *In re W.C.*, 167 Ill. 2d 307 (1995). See *Artis*, 232 Ill. 2d at 165–68. In doing so, the Court explained that permitting multiple convictions to be carved from the same physical act prejudices defendants beyond the immediate case and affects the integrity of the judicial process. For example, if the defendant had a subsequent criminal case, the defendant's record could be cited at a bond or sentencing hearing and would include two prior convictions, suggesting two prior criminal acts, when in reality there was just one. *Id.* (examining *Davis*, 156 Ill. 2d 149; *Harvey*, 211 Ill. 2d 368; and *W.C.*, 167 Ill. 2d 307). Even though a thorough review of the record would show only one criminal act, this Court found the possible misconception too problematic to allow. *Artis*, 232 Ill. 2d at 168 (examining *W.C.*, 167 Ill. 2d at 342–43). Setting future legal encounters aside, the prejudicial affect of one-act, one-crime violations becomes even worse. For example, criminal records are often used to evaluate employment, housing, and loan applications. In these instances, however, it is far less likely that the evaluator would have the complete prior record.

The prejudice evaluated in *Artis* becomes particularly obvious when looking at a case like this, where the only difference between the two aggravated kidnaping convictions is the aggravating factor. In these cases, if the one-act, one-crime doctrine did not exist, the defendant's record would show two convictions for an aggravated offense, which implies that the defendant committed the underlying offense twice, when in reality he committed it just once. This is precisely the undue prejudice the one-act, one-crime doctrine was designed to prevent. *Artis*, 232 Ill. 2d at 165–68. Accordingly, the prejudice that concerned this Court in *King*, *Artis, Davis*, *Harvey,* and *W.C.*, compels the same conclusion: aggravating factors cannot be used to

transform a single underlying offense into multiple aggravated convictions.

Third, given the particular facts of this case, only one aggravated kidnaping conviction is proper. Throughout this case, the State has never—not in the charging instrument, not at trial, not in arguments, and not in its appellate briefs—asserted that there was more than one act of kidnaping. In Counts 7 and 8 of the indictment, the State charged Wade with the same kidnaping—including the same date, the same state of mind, the same victim, and the same theory (asportation)—enhanced by two different aggravating factors (criminal sexual assault based on penetration of J.T.'s sex organ and criminal sexual assault based on penetration of J.T.'s anus). The aggravated kidnaping charges were identical except for the aggravating factor. (C. 26–27.) Likewise, at trial, the State presented evidence to support a single kidnaping and argued in closing that there was one kidnaping. (R. 309–16 (J.T.'s testimony that the man pushed her into the alley, assaulted her, and then fled); R. 484–85 (State's closing argument that kidnaping occurred once: when the man pushed J.T. into the secluded area and assaulted her).) Finally, in its appellate brief, the State agreed there was just one asportation. (St. App. Supp. Br. at 5.)

In addition to this single kidnaping, the State also charged Wade with, and secured convictions for, two counts of aggravated criminal sexual assault based on (i) the penetration of J.T.'s sex organ (Count 1) and (ii) the penetration of J.T.'s anus (Count 2), and the aggravating factor of causing bodily harm. (C. 20–21; CI. 22–23.) These two criminal sexual assaults underlying Counts 1 and 2 are the same assaults used to enhance Counts 7 and 8 from kidnaping into aggravated kidnaping. (*See* C. 26–27.) As a result, not only are these aggravating factors not "acts" that can sustain separate aggravated kidnaping charges for one-act, one-crime

purposes, but they are also lesser-included offenses of Counts 1 and 2. (CI. 24–25.) Thus, due to Wade's convictions in Counts 1 and 2, the factors used to aggravate the kidnaping in this case could not stand alone as separate criminal convictions. See *King*, 66 Ill. 2d at 566 (lesser-included offenses violate one-act, one-crime rule).

Given the particular circumstances here, where the State has only ever alleged three criminal acts (two criminal sexual assaults and one kidnaping), only three criminal convictions are permissible. As a result, for this reason as well, one of Wade's two aggravated kidnaping convictions must be vacated. See *Coats*, 2018 IL 121926, ¶ 20 (affirming *People v. McLaurin*, 184 Ill. 2d 58, 105–07 (1998), and with respect to that decision, stating, "[u]nder the circumstances, not only did the offense of residential burglary share the common act of unlawful entry, there was no additional act that could support a separate offense because the act of setting the fire had already been attributed to the murder conviction").

Here, the State charged Wade with a single kidnaping, introduced evidence to support a single kidnaping, and argued that a single kidnaping occurred. Both the State and appellate court agreed with this. *People v. Wade*, 2025 IL App (1st) 231936-U, ¶ 41 ("[W]e agree with defendant that there was a single kidnapping."); (St. App. Supp. Br. at 5). Nonetheless, the State argued below and the appellate court held that because there were two distinct aggravating factors, two aggravated kidnaping convictions were permissible. *People v. Wade*, 2025 IL App (1st) 231936-U, ¶¶ 41–44; (St. App. Supp. Br.). In doing so, the appellate court effectively allowed lesser-included offenses to stand on their own as "acts." This, too, demonstrates the one-act, one-crime problem in this case. Given these circumstances—where the aggravating factors are distinct offenses and where the defendant was also

convicted of aggravated versions of those distinct offenses—the aggravating factors used here cannot transform a single kidnaping offense into multiple aggravated kidnaping convictions.

To put it in finer terms: here, the State charged Wade with, and tried him for, committing three acts: (1) penetrating J.T.'s sex organ, (2) penetrating J.T.'s anus, and (3) kidnaping J.T. It charged these acts in different ways, but at bottom, it put Wade on trial for committing three criminal acts—not four. As such, there can be only three convictions, not four. That is precisely what Wade is seeking: vacatur of one of these four convictions.

Because the one-act, one-crime doctrine does not allow the State to flout its principles by relying on different theories of criminal culpability, *Samantha V.*, 234 Ill. 2d at 377, because the one-act, one-crime doctrine was created to ensure defendants are not prejudiced by multiple convictions based on a singular act, *Artis*, 232 Ill. 2d at 165–68, and because the particular facts of this case resulted in four convictions for just three criminal acts, only one of Wade's two aggravated kidnaping convictions may stand. The other violates the one-act, one-crime doctrine.

C. This Court should remand Wade's case to the trial court to vacate one of his two aggravated kidnaping convictions.

No matter how this case is assessed: Patrick Wade has an improper surplus aggravated kidnaping conviction that must be vacated. However, because it is not clear which of his two aggravated kidnaping convictions is the more serious, this case must be remanded to the circuit court with directions that it vacate the less serious of Wade's two aggravated kidnaping convictions.

When multiple convictions result in a surplus conviction, convictions for the less serious offense shall be vacated. See *People v. Garcia*, 179 Ill. 2d 55, 71

(1997). To make this determination, courts look to the prescribed penalties, as common sense dictates that the legislature would prescribe greater punishment for the offense it deems the more serious. *Artis*, 232 Ill. 2d at 170. If the punishments are identical, the offense with the more culpable mental state is considered the more serious. *Artis*, 232 Ill. 2d at 170–71. If the mental states are also identical, the matter should be remanded to the trial court to determine which offense is more serious and to vacate the conviction and sentence on the other. *Id*. at 177. Such is the case here. Counts 7 and 8 have the same sentencing ranges and the same mental states. (See C. 27–28; 720 ILCS 5/10-2.) It is not clear from either the punishment or the mental state which count is the more serious offense. Accordingly, this case should be remanded to the circuit court to determine which aggravated kidnaping conviction is the more serious offense and to vacate the conviction and sentence on the other. *Artis*, 232 Ill. 2d at 177.

CONCLUSION

For the foregoing reasons, Patrick Wade, defendant-appellant, respectfully requests that this Court reverse the decision of the appellate court and remand this case to the circuit court with directions that it determine which of the two aggravated kidnaping convictions should be vacated.

Respectfully submitted,

DOUGLAS R. HOFF
Deputy Defender

BROOKE A. WINTERHALTER
Assistant Appellate Defender
Office of the State Appellate Defender
First Judicial District
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
1stdistrict.eserve@osad.state.il.us

COUNSEL FOR DEFENDANT-APPELLANT

CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 27 pages.

/s/ Brooke A. Winterhalter
BROOKE A. WINTERHALTER
Assistant Appellate Defender

APPENDIX TO THE BRIEF

Patrick Wade No. 131745

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Impounded Common Law Record ("C.I.")

Report of Proceedings ("R.")

Sentence to Illinois Department of Corrections **CCG N305**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS

v.

Patrick Wade
Defendant

Case Number 21CR0771901
Date of Birth 11/27/1984
Date of Arrest 05/19/2021
IR Number 1299884 **SID Number** 45006550

ORDER OF COMMITMENT AND SENTENCE TO ILLINOIS DEPARTMENT OF CORRECTIONS

The above named defendant having been adjudged guilty of the offense(s) enumerated below is hereby sentenced to the Illinois Department of Corrections as follows:

Count	Statutory Citation	Offense	Years	Months	Class	Consecutive	Concurrent
001	720 ILCS 5/11-1.30(a)(2)	AGG CRIM SEX ASLT/BODILY HARM	15		X	X	
002	720 ILCS 5/11-1.30(a)(2)	AGG CRIM SEX ASLT/BODILY HARM	15		X	X	
007	720 ILCS 5/10-2(a)(3)	AGG KIDNAPING/INFLICT HARM	10		X		X
008	720 ILCS 5/10-2(a)(3)	AGG KIDNAPING/INFLICT HARM	10		X		X

On Count _____ defendant having been convicted of a class _____ offense is sentenced as a class _ offender pursuant to 730 ILCS 5/5-4.5-95(b).

On Count _____ defendant is sentenced to an extended term pursuant to 730 ILCS 5/5-8-2.

The Court finds that the defendant is entitled to receive credit for time actually served in custody for a total credit of _____ years and 868 days, as of the date of this order. Defendant is ordered to serve 3 years Mandatory Supervised Release.

IT IS FURTHER ORDERED that the above sentence(s) be concurrent with the sentence imposed in case numbers(s) _____ _____ _____ _____

AND: consecutive to the sentence imposed under case number(s) _____ _____ _____ _____

IT IS FURTHER ORDERED THAT COUNT 7 IS CONSECTIVE TO COUNT 1 & 2, 85% SENT.

IT IS FURTHER ORDERED that the Clerk provide the Sheriff of Cook County with a copy of this Order and that the Sheriff take the defendant into custody and deliver him/her to the Illinois Department of Corrections and that the Department take him/her into custody and confine him/her in a manner provided by law until the above sentence is fulfilled.

Dated October 4, 2023

Certified by: _____
Deputy Clerk L. Moffett

Verified by: _____

Judge Watkins, Steven G 2117
Judge's No.

ENTERED
10/4/2023
Iris Y Martinez
Clerk of the Circuit Court
DEPUTY CLERK L. Moffett

IRIS Y. MARTINEZ, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Printed: 10/4/2023 2:34 PM

C 181

Notice of Appeal (05/16/22) CCCR 0603

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

☐ PEOPLE OF THE STATE OF ILLINOIS

v.

PATRICK WADE

No. 21CR0771901

Trial Judge Hon. Judge Steven Watkins

Court Reporter various

Attorney APD Marissa Claxon

Appeal Check Date

Appeal Bond

NOTICE OF APPEAL

ENTERED
OCT 12 2023
IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

An appeal is taken from the order or judgment described below:

Appellant's Name: Patrick Wade

Appellant's Address: IDOC (ID# R70545)

Appellant's Attorney: Office of the State Appellate Defender

Address: 203 N. La Salle Blvd, Chicago, IL 60601

Primary Email: TBD

Secondary Email: _____ Tertiary Email: _____

Offense: Aggravated Criminal Sexual Assault (two counts), Aggravated Kidnapping (2 counts)

Judgment: Guilty of All counts

_____ on a _____

Date: Verdict - 7/12/2023, Sentencing - 10/4/2023

Sentence: 15 + 15 + 10 (all consecutive) +10 (concurrent) = total 40 years

Date Notice Filed: _____

Patrick Wade Appellant

VERIFIED PETITION FOR REPORT OF PROCEEDINGS AND COMMON LAW RECORD

Under Supreme Court Rules 605-608 Appellant requests the Court to order; (1) the Official Court Reporter to transcribe an original and the copy of the proceedings, file the original with the Clerk and deliver the copy to the Appellant, or upon Appellant's written request to the Appellant's attorney of record, and (2) the Clerk to prepare the Record on Appeal.

The Appellant, being duly sworn, states that at the time of his/her conviction, s/he was and s/he now is unable to pay for the Record or an appellate lawyer.

Patrick Wade Appellant

SUBSCRIBED and SWORN TO before me this _____ day of _____

_____ Notary Public

ORDER

IT IS ORDERED; 1. Office of the State Appellate Defender appointed as counsel on appeal, and 2. the Record and Report of Proceedings be furnished to appellant without fees.

July 10-12	2023				
October 4	2023				

ENTERED:

Dated: _____ _____

Judge Judge's No.

I acknowledge receipt: _____ Court Reporter

IRIS Y. MARTINEZ, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

2025 IL App (1st) 231936-U
Order filed: March 27, 2025
Modified Upon Denial of Rehearing: April 10, 2025

FIRST DISTRICT
FOURTH DIVISION

No. 1-23-1936

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. PATRICK WADE, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Cook County. No. 21 CR 7719 Honorable Steven G. Watkins, Judge, presiding.

PRESIDING JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hoffman and Lyle concurred in the judgment.

ORDER

¶ 1 *Held*: Defendant's convictions for aggravated criminal sexual assault and aggravated kidnaping are affirmed, where defendant failed to show either that he was provided ineffective assistance of counsel or that one of his two convictions for aggravated kidnaping violated the one-act, one-crime doctrine.

¶ 2 Defendant-appellant, Patrick Wade, appeals from his convictions for aggravated criminal sexual assault and aggravated kidnaping, asserting on appeal that: (1) he was provided ineffective assistance of counsel with respect to providing a response to a jury question, and (2) one of his convictions for aggravated kidnaping must be vacated under the one-act, one-crime doctrine. For the following reasons, we affirm.

¶ 3 In April 2021, defendant was charged by indictment with six counts of aggravated criminal sexual assault and two counts of aggravated kidnaping, with all the charges arising from an incident involving the victim, J.T., allegedly occurring on or about June 3, 2018. The matter proceeded to a jury trial held in July 2023, on two counts each of aggravated criminal sexual assault and aggravated kidnaping.

¶ 4 At trial, J.T. testified that she was 18 years old, and that she and her family used to live in Chicago. On the evening of June 3, 2018, when J.T. was 13 years old, J.T. and her mother argued when her mother found J.T. using her phone when she was not supposed to be doing so. J.T.'s mother told J.T. to leave the home and go to her grandmother's house next door.

¶ 5 J.T. left the apartment, but did not go to her grandmother's house. J.T felt overwhelmed and wanted to take a walk, so she headed towards a nearby Save-A-Lot store because she knew people who worked there, and she thought it would help her clear her head. J.T. did not bring anything with her, and she was dressed in her pajamas. It was dark out at the time.

¶ 6 On the way to the store, J.T. encountered a man wearing a blue outfit. J.T. described the man as having brown skin, a larger body than her, and a boxy face. She thought he had brown eyes, but she was not sure. The man tried to speak with J.T. but she just kept walking. The man followed her, and J.T. turned and walk away from the man because she did not want to speak with him and she wanted to get away from him. J.T. went down an alley, heard footsteps behind her as she reached the end of the alley, and turned down another alley to head towards Save-A-Lot. She then saw that the man was following her.

¶ 7 The man caught up with J.T. and continued to speak to her, and he eventually took hold of J.T. with one arm on her back and the other grasping her neck and hair. J.T. told the man to leave her alone, but he continued to guide her down the alley until they reached a gangway with an open

gate next to a garage. J.T. testified that the man got more aggressive as they neared the garage, and that he then pushed J.T. through the gate into the gangway, knocking her over. J.T. landed with her knees on concrete, and the man pushed her back down again when she got up and tried to flee out the gate. The man got on top of J.T., covered J.T.'s mouth, and threatened to kill her when she started screaming for help.

¶ 8 The man first took off J.T.'s shorts and again threatened to kill her if she did not stop screaming. After he removed J.T.'s shorts, the man lifted her leg and put his penis into her anus. This hurt J.T., who continued to fight back. The man removed his penis from J.T.'s anus and then put it into her vagina, which also hurt J.T. She was still screaming for help, so the man put his hand over her mouth. The man moved his body in a "wave-like" form while he had his penis in her vagina.

¶ 9 J.T. continued screaming for help throughout the assault, and eventually someone called out from a window "what's going on?" Two or three minutes later a man came out into the alley speaking loudly on his phone. J.T. testified that the man who assaulted her stopped when he heard the man speaking loudly on the phone, and that he got up, pulled up his pants, and ran around the side of the house.

¶ 10 J.T. grabbed her shorts and put them back on, and then ran out into the alley towards the man speaking on the phone who was getting into his car. J.T. banged on his window and asked him for help because someone had just raped her. The man got out of his car and asked J.T. who had raped her. At this point, a person came out from behind the garage and said, "oh he ran that way," but J.T. recognized this person as the man who assaulted her, pointed at him, and said "that's him." The man then fled the scene and J.T. did not see him again. The police arrived on scene and

J.T. spoke with them. J.T. then got into an ambulance and went to the hospital. There, J.T. spoke with doctors and nurses.

¶ 11 J.T. further testified that she ran down the alley, but that the man caught up with her by the end. J.T. testified that the man did not drag her back into the alley, but just grabbed her back and hair, and then "shifted" her towards the gangway. The man's demeanor did not change until after she turned the corner in the alley and got to the gate next to the garage. At that point, he grabbed her and pushed her through the gate. The sexual assault took place in the gangway behind the gate, and lasted for several minutes.

¶ 12 Orlando Potts testified that he was living in a nearby building on June 3, 2018. Potts was in his room smoking marijuana out of an open window that overlooked the alley. Potts testified that his use of marijuana did not impair his ability to see or hear the events in the alley that evening. While smoking out the window, Potts saw a man and a girl walking down the alley. He could not see their faces, but said the girl was short and the man was tall. The man was holding the girl next to him while they walked. When the two reached the side of a garage, the man "yanked" the girl around the side of the garage where Potts could no longer see them.

¶ 13 After the pair disappeared around the side of the garage, he heard a scream and then a woman yell, "I can't breathe." Potts described the scream as "a scream you ain't going to forget." He shouted out the window, but he did not hear any response. The next thing that Potts observed was the man walking through the gangway pulling up his pants. The girl then came out into the alley screaming that she had been raped. The girl ran to a neighbor's house and Potts did not see anything after that. Potts spoke with a detective about the incident.

¶ 14 Dr. Moon Hee Hur, an assistant professor of pediatrics at the University of Chicago Comer Children's hospital, testified that she saw J.T. on June 3 and June 4, 2018, while she was working

as a pediatric resident in the emergency room. Dr. Hur met with J.T. in a private exam room. She first took J.T.'s medical history, during which Dr. Hur learned that J.T. had left her home after a fight with her mom. After leaving her home, a man followed J.T. J.T. ran away, but the man dragged her into an alley, put his hands over her mouth, and said he would kill her if she said anything. The man put his tongue in J.T.'s mouth, took off her shorts and put his penis in her anus and vagina, and put his mouth on J.T.'s breasts. The sexual assault continued for several minutes before someone yelled and the man ran away. J.T. was then able to get help from a neighbor.

¶ 15 Dr. Hur performed a physical and visual examination of J.T. and ordered basic blood work and other tests. Dr. Hur also performed a Sexual Assault Evidence Collection Kit on J.T. Through these examinations, Dr. Hur learned that J.T. had an abrasion on her right knee, a bruise on the entrance to her vagina, and an abrasion to the area between J.T.'s vagina and anus. Dr. Hur collected vaginal and anal swabs from J.T. while a nurse collected oral swabs. Based on her training and experience, Dr. Hur diagnosed J.T. with sexual assault of a child by bodily force by an unknown person, with injury due to physical assault, abdominal wall pain, and an abrasion of her right lower knee.

¶ 16 Detective Anthony Lewis testified that on June 3, 2018, he was assigned to investigate a sexual assault involving J.T. Lewis arranged for J.T. to undergo a specialized interview at the Children's Advocacy Center. He also had a sketch artist sit down with J.T. to prepare a sketch of the suspect. After this, Lewis waited for the results from the rape kit.

¶ 17 Lewis thereafter received a lab report from the Illinois State Police Crime Lab on May 15, 2020. The report led Lewis to identify defendant as a suspect in the case. Lewis arrested defendant on May 18, 2021. Lewis identified defendant in court as the man he arrested for sexually assaulting J.T. and testified that defendant was thirty-three years old at the time of the offense.

¶ 18 On cross-examination, Lewis testified Potts did not tell Lewis he saw a girl being dragged, but instead told him that the two were walking side by side. Potts also did not tell Lewis that he saw the man yank the girl behind the garage or that he saw a man walk out from behind the garage and zip up his pants.

¶ 19 Lewis further testified on cross-examination that his investigation was placed in a suspended status after he completed his investigatory steps, pending any results from the Illinois State Police Crime Lab. The sketch that Lewis had J.T. complete was put out in a community alert. The community alert resulted in several tips but none of them related to defendant. The investigation did not have any further developments until 2020, when the DNA results from the Illinois State Police lend him to defendant. After defendant was identified as a suspect, Lewis obtained his photo and put it into a photo array; J.T. identified a person other than defendant in that photo array.

¶ 20 DNA evidence presented at trial established that, while male DNA was detected in the vaginal and anal samples, neither sample was suitable for comparison. However, a DNA sample obtained from J.T.'s shorts was a match for defendant. Defendant was included as a contributor to the male profile identified in the non-sperm portion of the sample at a probability rate of 1 in 3.3 nonillion unrelated individuals. Defendant was included as a contributor to the male profile identified in the sperm portion at a probability rate of 1 in 700 nonillion unrelated individuals.

¶ 21 Following closing arguments, the court instructed the jury on the law. For the aggravated kidnaping charges, the court instructed the jury pursuant to Illinois Pattern Jury Instructions, Criminal, No. 8.05A (approved Dec. 8, 2011) (hereinafter IPI Criminal No. 8.05A). The instruction stated that the State was required to prove the following propositions:

"First Proposition: That the defendant acted knowingly; and

Second Proposition: That the defendant, by force or threat of imminent force, carried [J.T.] from one place to another place; and

Third Proposition: That when the defendant did so, he intended secretly to confine [J.T.] against her will; and

Fourth Proposition: That the defendant committed criminal sexual assault upon [J.T.].”

¶ 22 After receiving the instructions from the court, the jury retired to deliberate. Approximately 30 minutes after beginning deliberations, the jury sent a note to the court. The note asked: “Can the word ‘carried’ from the 2nd proposition be defined? What actions may be considered ‘carried.’ ”

¶ 23 After reading the questions aloud to the parties, the court noted that “clearly [the jurors] are talking about the charge of aggravated kidnaping. . . . [T]he second proposition on each [of the aggravated kidnaping instructions] uses the language ‘carry [J.T.] from one place to another place.’ ” The court stated: “I don’t believe that there’s a definition of the word ‘carry’ in the IPI criminal.” The court further opined that the word “carried” is “a commonsense kind of word to me.” Therefore, the court stated: “My thought is simply to inform them that you have been provided with all the necessary instructions.” The State responded by requesting that the court tell the jurors “you have the evidence, you have the law, please keep deliberating.” Defense counsel responded with: “Judge, we’re in agreement with that.” In accordance with the parties’ request, the court responded to the jury’s questions by writing: “You have evidence. You have the law in order to reach a verdict.”

¶ 24 As the court tendered the response back to the deputy, the jury sent out an additional note. This note asked to review certain testimony and asked a question about some of the lab test results.

In response to the questions about obtaining the transcripts of testimony, the court responded: "Rely on your memory." In response to the question about the lab results, the court informed the jury: "You have the evidence. You have the law. Continue to deliberate."

¶ 25 At the conclusion of trial, the jury found defendant guilty of two counts each of aggravated criminal sexual assault and aggravated kidnaping. At a subsequent sentencing hearing, the court sentenced defendant to 15 years' imprisonment for each of the two aggravated criminal sexual assault convictions, and 10 years' imprisonment for each of the two aggravated kidnaping convictions. The sentences for the aggravated criminal sexual assault convictions were to run consecutively to one another, and consecutively to two concurrent sentences for the aggravated kidnaping convictions. Defendant subsequently filed a motion to reconsider, which was denied.

¶ 26 Defendant timely appealed, and in his initial briefs asserted only that he was provided ineffective assistance of counsel with respect to the response provided to the jury's question about the definition of "carried." This court thereafter granted defendant's motion to assert a second claim on appeal, and the parties thereafter filed supplemental briefs addressing defendant's additional, alternative claim that one of his convictions for aggravated kidnaping must be vacated under the one-act, one-crime doctrine.

¶ 27 We first address defendant's ineffective assistance of counsel claim. To assert a claim of ineffective assistance of counsel, a defendant must establish both that (1) "counsel's representation fell below an objective standard of reasonableness" and (2) "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984). "A defendant has the burden to satisfy both prongs of the *Strickland* test, and the failure to satisfy either of these prongs precludes a finding of ineffectiveness." *People v. Simpson*, 2015 IL 116512, ¶ 35. We conclude that even if

we assume that defendant could satisfy the first prong of the *Strickland* test, he has not established the second, prejudice prong.

¶ 28 As to the prejudice prong, our supreme court has recognized:

> " 'In assessing prejudice under *Strickland*, the question is not whether a court can be certain counsel's performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently.' " [Citation.] Instead, *Strickland* asks whether it is 'reasonably likely' the result would have been different. [Citation.] A defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. [Citation.] A reasonable probability is a probability sufficient to undermine confidence in the outcome. [Citation.] *Strickland* requires a defendant to 'affirmatively prove' that prejudice resulted from counsel's errors." *People v. Lewis*, 2022 IL 126705, ¶ 46.

¶ 29 As our supreme court has also recognized:

> "Generally, jurors are entitled to have their questions answered. [Citations.] When the jury asks a question on a point of law, when the original instructions are incomplete, or when the jurors are manifestly confused, the court has a duty to answer the question and clarify the issue in the minds of the jurors. [Citations.] Further, under certain circumstances, a circuit court has the duty to answer a jury's question even if the jury received proper instructions. [Citation.] When a jury makes explicit its difficulties, the court should resolve them with specificity and accuracy. [Citations.] The failure to answer or the giving of a response that provides no answer to the question of law posed has been held to be prejudicial error." *Id*. ¶ 58.

¶ 30 Here, the jury was provided with IPI Criminal No. 8.05A, which in relevant part required the jury to find: "That the defendant, by force or threat of imminent force, carried [J.T.] from one place to another place." As the parties acknowledged below and again on appeal, the pattern jury instructions themselves do not provide a definition of the word "carried." Rather, in support of his contention that he was prejudiced by the failure to provide a definition of "carried," defendant relies upon the definition utilized by the appellate court in *People v. Casiano*, 212 Ill. App. 3d 680, 687 (1991). Specifically, defendant notes that in *Casiano*, the court cited to the dictionary to conclude that "the word 'carry' itself not only means to move while supporting a load, but also to 'escort, lead, guide,' 'convey,' or 'take.' " *Id*. (citing Webster's Third New International Dictionary 343 (1981)). Defendant essentially contends that there is a reasonable probability that, if this definition had been provided to the jury, the result of his trial would have been different. We disagree.

¶ 31 Indeed, had the jury been provided with such a definition, it would have been specifically informed that the requirement that it find that defendant carried J.T. from one place to another could be satisfied by evidence that defendant escorted, led, guided, conveyed or took J.T. from one place to another before the sexual assault. Such a definition matches the evidence in this case. J.T. testified that defendant took her by the back and neck and then forced her out of the alley and into a gangway out of site, where he proceeded to rape her. J.T. specifically testified that defendant "guided" her through the alley, physically "shifted" her toward him, and then "pushed" her from the alley to the gangway. This evidence was corroborated by Potts' eyewitness testimony that he saw defendant and J.T. walking with defendant's arms on her "like a couple" before he "yanked" her out of sight behind a garage. If anything, providing such a definition would have made it even *more likely* that the jury would have convicted defendant of aggravated kidnaping. As such, we

conclude that defendant has failed to affirmatively prove prejudice and therefore his claim of ineffective assistance of counsel must be rejected. *Simpson*, 2015 IL 116512, ¶ 35.

¶ 32 In reaching this conclusion, we reject defendant's reliance upon several other cases in support of his assertion of prejudice resulting from the failure of his trial counsel to provide a different response to a jury question. While defendant cites to *People v. Landwer*, 279 Ill. App. 3d 306 (1996), *People v. Childs*, 159 Ill. 2d 217 (1994), *People v. Oden*, 261 Ill. App. 3d 41 (1994), *People v. Kamide*, 254 Ill. App. 3d 67 (1993), and *People v. Brouder*, 168 Ill. App. 3d 938 (1988), none of these cases involved an assertion of ineffective assistance of counsel requiring a defendant to " 'affirmatively prove' that prejudice resulted from counsel's errors.' " *Lewis*, 2022 IL 126705, ¶ 46. Nor do we find persuasive defendant's reliance on *Lewis*, 2022 IL 126705, ¶¶ 71, 85, as in that case the court specifically concluded that "defense counsel's acquiescence and failure to challenge the court's answers to the jury's questions was one of multiple errors that substantiates defendant's ineffective assistance of counsel claim" and that the "cumulative effect of defense counsel's three errors established his deficient performance." No such cumulative error is even alleged in this case. Finally, while defendant is correct that prejudice resulting from counsel's failure to offer a clarifying definition in response to a jury's question was found in both *People v. Sperry*, 2020 IL App (2d) 180296, ¶¶ 14-18, and *People v. Coots*, 2012 IL App (2d) 100592, ¶ 54, in each case this was only after defendant identified a specific IPI definitional instruction that should have been provided and demonstrated specific prejudice resulting from the failure to provide that definition. That is not the situation presented here.

¶ 33 We now turn to defendant's contention that one of his convictions for aggravated kidnaping must be vacated under the one-act, one-crime doctrine. The application of the one-act, one-crime rule is a question of law that is reviewed *de novo*. *People v. Johnso*n, 237 Ill. 2d 81, 97 (2010).

¶ 34 As an initial matter, we note that defendant never raised this argument in the trial court. However, we will nevertheless consider this argument, as "a violation of the one-act, one-crime doctrine affects the integrity of the judicial process, thus satisfying the second prong of the plain-error analysis." *People v. Span*, 2011 IL App (1st) 083037, ¶ 81.

¶ 35 In *People v. King*, 66 Ill.2d 551, 566 (1977), our supreme court set forth what has come to be known as the one-act, one-crime doctrine. As originally formulated, that doctrine concerned the potential for prejudice in the imposition of multiple convictions, and specifically provided:

> "Prejudice results to the defendant only in those instances where more than one offense is carved from the same physical act. Prejudice, with regard to multiple acts, exists only when the defendant is convicted of more than one offense, some of which are, by definition, lesser included offenses. Multiple convictions and concurrent sentences should be permitted in all other cases where a defendant has committed several acts, despite the interrelationship of those acts. 'Act,' when used in this sense, is intended to mean any overt or outward manifestation which will support a different offense. We hold, therefore, that when more than one offense arises from a series of incidental or closely related acts and the offenses are not, by definition, lesser included offenses, convictions with concurrent sentences can be entered." *Id*.

¶ 36 As our supreme court has more recently noted:

> "Decisions following *King* have explained that the one-act, one-crime doctrine involves a two-step analysis. [Citation.] First, the court must determine whether the defendant's conduct involved multiple acts or a single act. Multiple convictions are improper if they are based on precisely the same physical act. Second, if the conduct involved multiple acts, the court must determine whether any of the offenses are lesser-

included offenses. If an offense is a lesser-included offense, multiple convictions are improper." *People v. Miller*, 238 Ill.2d 161, 165 (2010).

¶ 37 Here, defendant solely argues that his two convictions for aggravated kidnaping violate the first step of the one-act, one-crime analysis as they were purportedly based on precisely the same physical act. We must therefore determine the number of acts at issue here. If we conclude that the conduct underlying defendant's convictions for aggravated kidnaping comprised a single physical act, defendant could not properly be convicted of the two offenses for that single act. *Id*.

¶ 38 For purposes of the first-step analysis, an "act" has been defined as any overt or outward manifestation that will support a different offense. *King*, 66 Ill.2d at 566. Our supreme court has "explained a defendant could be convicted of two offenses when a common act is part of both offenses. 'As long as there are multiple acts as defined in *King*, their interrelationship does not preclude multiple convictions * * *.' (Emphasis omitted.)" *People v. Price*, 2011 IL App (4th) 100311, ¶ 26 (quoting *People v. Rodriguez*, 169 Ill.2d 183, 189 (1996)).

¶ 39 As relevant here, a "person commits the offense of kidnapping when he or she knowingly *** by force or threat of imminent force carries another from one place to another with intent secretly to confine that other person against his or her will." 720 ILCS 5/10-1(a)(2) (West 2018). In turn, and as also relevant here, a "person commits the offense of aggravated kidnaping when he or she commits kidnapping and *** inflicts great bodily harm, other than by the discharge of a firearm, or commits another felony upon his or her victim." 720 ILCS 5/10-2(a)(3) (West 2018). The predicate other felonies here were the two alleged instances of criminal sexual assault.

¶ 40 Specifically, Count 7 and Count 8 each alleged that defendant committed aggravated kidnaping by committing the offense of kidnapping and committed another felony on his victim during the kidnapping. Count 7 alleged the defendant, by force or the threat of force, carried J.T.

from one place to another with the intent to secretly confine her and committed criminal sexual assault against her by making contact between his penis and J.T.'s vagina. Count 8 alleged the defendant, by force or the threat of force, carried J.T. from one place to another with the intent to secretly confine her and committed criminal sexual assault against her by making contact between his penis and J.T.'s anus. Thus, to obtain defendant's convictions, the State was required to prove not only that a kidnapping occurred, but also that during the kidnapping, defendant committed two different and separate acts of sexual contact. Each of those acts of sexual contact were separate physical acts. Even though defendant's asportation or carrying of J.T. and his anal and vaginal contact of her all occurred in close proximity in time and were thus interrelated, those acts were all separate and they do not become a singular act simply by virtue of when the acts occurred.

¶ 41 Thus, we agree with defendant that there was a single kidnapping, and that single kidnapping was a common act forming part of both offenses of aggravated kidnaping. However, we do not agree that this single common act results in a one-act, one crime violation with respect to his two convictions for aggravated kidnaping. Again, as charged here, both aggravated kidnaping charges required the State to prove, in addition, that defendant committed yet another felony upon J.T. 720 ILCS 5/10-2(a)(3) (West 2018). The State did so here, presenting evidence of two, separate instances of criminal sexual assault occurring during the kidnapping.

¶ 42 In reaching this conclusion, we again reject defendant's reliance upon several other cases. On appeal, defendant cites to *People v. Turner*, 128 Ill. 2d 540, 577 (1989), however, in that case the court addressed the defendant's argument that his "convictions for unlawful restraint and kidnapping cannot stand because they are lesser included offenses of aggravated kidnapping." As discussed above, here defendant makes no such lesser included offense argument. Moreover, while the court in *Turner* did state generally that in that case "[t]here was one ongoing event and it is

sufficient to sustain a charge of aggravated kidnapping," it did so in the context of addressing the interrelationship of the charged offenses of aggravated kidnaping, kidnapping, and unlawful restraint. *Id*. The *Turner* decision did not consider the issue presented here, in which there were two, separate predicate felonies underlying two, separate charges of aggravated kidnaping. The same is true for defendant's reliance upon *People v. Kittle*, 140 Ill. App. 3d 951, 957 (1986) ("As we conclude that unlawful restraint was a lesser included offense of kidnapping and that both the confinement and the detainment were closely related acts, under *People v. King* *** the conviction for unlawful restraint should be vacated.").

¶ 43 We also reject defendant's reliance upon *People v. Curry*, 296 Ill. App. 3d 559, 569 (1998). The decision in that case was based upon the State's concession that one of two aggravated kidnaping convictions must be vacated and was therefore reached without any meaningful analysis. *Id*. A similar concession by the State formed the basis of two other decisions cited by defendant. See *People v. Boyd*, 366 Ill. App. 3d 84, 100 (2006), and *People v. Romaine*, 2021 IL App (1st) 172478-U, ¶ 62. Finally, we also find unpersuasive defendant's reliance upon *People v. Klinkhammer*, 105 Ill. App. 3d 747, 750 (1982). While in that case the court did vacate one of two convictions for aggravated kidnaping convictions, it did so after a very abbreviated analysis that did not consider in any way our supreme court's recognition that a defendant can be "convicted of two offenses when a common act is part of both offenses. 'As long as there are multiple acts as defined in *King*, their interrelationship does not preclude multiple convictions * * *.' (Emphasis omitted.)" *Price*, 2011 IL App (4th) 100311, ¶ 26 (quoting *Rodriguez*, 169 Ill.2d 183, 189 (1996)).

¶ 44 We therefore conclude that defendant has failed to demonstrate that his two convictions for aggravated kidnaping violate the first step of the one-act, one-crime analysis, as they were not based on precisely the same physical act. Moreover, we need not continue to consider the second

step analysis in this case because of defendant's failure to make any argument as to that issue. Ill. S. Ct. R. Rule 341(h)(7) (eff. Oct.1, 2020) (Points not argued in appellate brief are forfeited). Even if we were to consider this issue, we note that "[s]ection 2–9 of the Criminal Code of 1961 defines a lesser-included offense as an offense established by proof of lesser facts or mental state, or both, than the charged offense." *Miller*, 238 Ill. 2d at 165-66 (citing 720 ILCS 5/2–9 (West 2004)). Here, the two offenses challenged by defendant are each aggravated kidnaping, and one count of aggravated kidnaping is, by definition, not a lesser included offenses of another count of aggravated kidnaping based on a separate act.

¶ 45 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 46 Affirmed.

No. 131745

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, -vs- PATRICK WADE, Defendant-Appellant.	)))))))))))	Appeal from the Appellate Court of Illinois, No. 1-23-1936. There on appeal from the Circuit Court of Cook County, Illinois , No. 21 CR 07719. Honorable Steven G. Watkins, Judge Presiding.

NOTICE AND PROOF OF SERVICE

Mr. Kwame Raoul, Attorney General, 115 S. LaSalle St., Chicago, IL 60603, eserve.criminalappeals@ilag.gov;

Ms. Eileen O'Neill Burke, State's Attorney, Cook County State's Attorney Office, 300 Daley Center, Chicago, IL 60602, eserve.criminalappeals@cookcountysao.org;

Mr. Patrick Wade, Register No. R70545, Hill Correctional Center, 600 South Linwood Road, Galesburg, IL 61401

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On January 27, 2026, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellant in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

/s/Lisa Corona
LEGAL SECRETARY
Office of the State Appellate Defender
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
Service via email is accepted at
1stdistrict.eserve@osad.state.il.us