

No. 131745

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the Appellate Court of Illinois, First District,
)	No. 1-23-1936
Plaintiff-Appellee,)	
)	There on Appeal from the Circuit Court of Cook County, Illinois,
v.)	No. 2021 CR 07719
)	
PATRICK WADE,)	The Honorable
)	Steven G. Watkins,
Defendant-Appellant.)	Judge Presiding.

**BRIEF OF PLAINTIFF-APPELLEE
PEOPLE OF THE STATE OF ILLINOIS**

KWAME RAOUL
Attorney General of Illinois

JANE ELINOR NOTZ
Solicitor General

KATHERINE M. DOERSCH
Criminal Appeals Division Chief

LAUREN E. SCHNEIDER
Assistant Attorney General
115 South LaSalle Street
Chicago, IL 60603
(773) 505-5275
eserve.criminalappeals@ilag.gov

*Counsel for Plaintiff-Appellee
People of the State of Illinois*

E-FILED
3/25/2026 9:40 AM
CYNTHIA A. GRANT
SUPREME COURT CLERK

TABLE OF CONTENTS

NATURE OF THE ACTION	1
ISSUE PRESENTED FOR REVIEW	1
JURISDICTION	1
STATUTES INVOLVED	1
STATEMENT OF FACTS	3
A. Trial Evidence, Convictions, and Sentence	3
B. Direct Appeal	4

POINTS & AUTHORITIES

STANDARDS OF REVIEW	5
<i>People v. Hartfield</i> , 2022 IL 126729	5
<i>People v. Keys</i> , 2025 IL 130110	5
<i>People v. Smith</i> , 2019 IL 123901	5
ARGUMENT	5
<i>People v. Hartfield</i> , 2022 IL 126729	5
A. The unit of prosecution for aggravated kidnapping is properly before this Court, and defendant’s forfeiture may be reviewed for plain error.	6
<i>People v. Almond</i> , 2015 IL 113817	8
<i>People v. Artis</i> , 232 Ill. 2d 156 (2009)	9
<i>People v. Clark</i> , 2016 IL 118845	9
<i>People v. Guy</i> , 2025 IL 129967	7, 8
<i>People v. Hartfield</i> , 2022 IL 126729	7, 8
<i>People v. Harvey</i> , 211 Ill. 2d 368 (2004)	9
<i>People v. Keys</i> , 2025 IL 130110	8

People v. Smith, 2019 IL 123901 9

B. The aggravated kidnapping statute permits one conviction per kidnapping of a single victim. 9

People v. Almond, 2015 IL 113817 10

People v. Hartfield, 2022 IL 126729.....*passim*

People v. Keys, 2025 IL 130110.....9-10, 13

People v. Lavallier, 187 Ill. 2d 464 (1999) 12

People v. Scott, 43 Ill. 2d 135 (1969) 11

People v. Turner, 128 Ill. 2d 540 (1989) 11

United States v. Godinez, 998 F.2d 471 (7th Cir. 1993) 11

720 ILCS 5/10-1 11

720 ILCS 5/10-2 10

C. This case should be remanded to the circuit court with directions to vacate the less serious of the two aggravated kidnapping convictions. 13

People v. Artis, 232 Ill. 2d 156 (2009) 14

People v. Garcia, 179 Ill. 2d 55 (1997) 13

CONCLUSION..... 14

RULE 341(c) CERTIFICATION OF COMPLIANCE

CERTIFICATE OF FILING AND SERVICE

NATURE OF THE ACTION

A jury found defendant guilty of two counts of aggravated criminal sexual assault and two counts of aggravated kidnapping, and the circuit court sentenced him on all four counts to an aggregate 40-year term of imprisonment. Defendant appeals from the appellate court's judgment affirming his convictions over his claim that one of his aggravated kidnapping convictions should be vacated because, as relevant here, the aggravated kidnapping statute does not authorize separate aggravated kidnapping convictions for each aggravating circumstance present during a single kidnapping. No issue is raised regarding the charging instrument.

ISSUE PRESENTED FOR REVIEW

Whether one of defendant's aggravated kidnapping convictions should be vacated because the aggravated kidnapping statute permits only one conviction for each act of secretly confining a victim against her will and does not permit multiple convictions for each aggravating circumstance present during a single kidnapping.

JURISDICTION

Jurisdiction lies under Supreme Court Rules 315(a) and 604(a). This Court allowed defendant's petition for leave to appeal on September 24, 2025.

STATUTES INVOLVED

720 ILCS 5/10-1 (2018) – Kidnapping

- (a) A person commits the offense of kidnapping 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. Kidnapping is a Class 2 felony.

720 ILCS 5/10-2 (2018) – Aggravated Kidnapping¹

- (a) A person commits the offense of aggravated kidnapping when he or she commits kidnapping and:
- (1) kidnaps with the intent to obtain ransom from the person kidnapped 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 kidnapping while armed with a dangerous weapon, other than a firearm, as defined in Section 33A-1 of this Code;
 - (6) commits the offense of kidnapping while armed with a firearm;
 - (7) during the commission of the offense of kidnapping, personally discharges a firearm; or

¹ Although Section 10-2 spells kidnapping with a single “p,” this brief adopts the more common, modern spelling, “kidnapping.” *See* Kidnapping, Black’s Law Dictionary (12th ed. 2024); *see also* F.J. Dundon, *Spelling Rules and ‘Kidnaped’: Double P Is Held to Be Only Correct Form Despite Opposing Views*, N.Y. TIMES, Jan. 1, 1933, at E5.

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

STATEMENT OF FACTS

A. Trial Evidence, Convictions, and Sentence

On a June evening in 2018, defendant encountered his 13-year-old victim, J.T., walking alone in her neighborhood. R299-301.² When she refused to talk with him and tried to get away, he followed her into an alley, took her to a gangway, pushed and held her down on the ground, and sexually assaulted her by penetrating her vagina and anus with his penis. R301-15. A DNA sample taken from a semen stain in J.T.'s pajama shorts matched defendant. R442-48, 455-56.

Defendant was charged with two counts of aggravated criminal sexual assault under 720 ILCS 5/11-1.30(a)(2) — one charging contact between defendant's penis and J.T.'s sex organ, and the other charging contact between defendant's penis and J.T.'s anus, C20-21 — and two counts of

² "R" denotes the report of proceedings; "C" the common law record; "CI" the impounded common law record; "Def. Br." defendant's opening brief; and "A" defendant's appendix.

aggravated kidnapping under 720 ILCS 5/10-2(a)(3), with each count predicated on a criminal sexual assault — one charging contact between defendant's penis and J.T.'s sex organ, and the other charging contact between defendant's penis and J.T.'s anus, C26-27.

A jury found defendant guilty on all counts, C122-25; R524-25, and the circuit court sentenced him to consecutive 15-year terms for each aggravated criminal sexual assault conviction, to be served consecutively to concurrent 10-year terms for each aggravated kidnapping conviction (for an aggregate sentence of 40 years), C181; R575. Defendant neither objected at sentencing nor in either of his post-judgment motions to the entry of judgment on both aggravated kidnapping convictions. *See* R542-78; C168-69, 188-89.

B. Direct Appeal

On appeal, defendant argued, as relevant here, that one of his aggravated kidnapping convictions must be vacated under the one-act, one-crime rule because both convictions were based on the same act of kidnapping. A6 ¶ 2, A15 ¶ 33. The appellate court reviewed the forfeited issue for plain error, A16 ¶ 34, found that no clear error occurred, A18 ¶ 41, and affirmed, A19-20 ¶¶ 44-46. To resolve the alleged violation of the one-act, one-crime rule, the appellate court applied the two-step test set forth in *People v. King*, 66 Ill. 2d 551, 566 (1977), which asks first whether defendant's conduct comprised one or more physical acts, then whether any offenses were lesser-included offenses. A16-17 ¶¶ 35-36. Applying this test, the appellate court concluded that defendant's two aggravated kidnapping

convictions were based on the common act of kidnapping but distinct physical acts of sexual penetration. A17-18 ¶¶ 37-41. Accordingly, the appellate court held that defendant's aggravated kidnapping convictions did not violate the one-act, one-crime rule because "they were not based on precisely the same physical act," and neither conviction was a lesser-included offense of the other. A19-20 ¶ 44.

STANDARDS OF REVIEW

Whether multiple convictions violate the one-act, one-crime rule is a question of law reviewed de novo. *People v. Smith*, 2019 IL 123901, ¶ 15. An offense's unit of prosecution — the "threshold question to reaching the one-act, one-crime rule," *People v. Hartfield*, 2022 IL 126729, ¶¶ 67-68 — is a question of statutory interpretation, which is also reviewed de novo, *People v. Keys*, 2025 IL 130110, ¶ 76.

ARGUMENT

An offense's unit of prosecution is a "threshold question to reaching the one-act, one-crime rule." *Hartfield*, 2022 IL 126729, ¶ 67. Although defendant argued in the appellate court and in his petition for leave to appeal (PLA) that his two convictions for aggravated kidnapping violated the one-act, one-crime rule, he did not argue until his opening brief to this Court that one of those convictions should be vacated because the aggravated kidnapping statute permits only one conviction for each act of secretly confining a person against her will.

The People agree that defendant's new argument is correct. The plain language of the aggravated kidnapping statute reflects the General Assembly's intent that aggravated kidnapping is committed once per act of kidnapping, rather than once per aggravating circumstance present in a single kidnapping. And here, defendant kidnapped J.T. only once, although he committed two other felonies against her during that single kidnapping.

Moreover, the People also agree that this Court may review the challenged entry of judgment on the surplus aggravated kidnapping conviction because defendant's new unit-of-prosecution argument is inextricably intertwined with his one-act, one-crime argument. And although defendant forfeited this issue in the circuit court, the entry of judgment on a surplus conviction constitutes second-prong plain error. Accordingly, this Court should vacate the relevant portion of the appellate court's opinion and remand the case to the circuit court with directions to vacate the less serious of defendant's two aggravated kidnapping convictions.

A. The unit of prosecution for aggravated kidnapping is properly before this Court, and defendant's forfeiture may be reviewed for plain error.

Defendant omitted his present argument regarding the proper unit of prosecution for aggravated kidnapping in the circuit court, appellate court, and his PLA. He did not present any argument in the circuit court that he had been sentenced based on a surplus conviction. A16 ¶ 34. Then, when defendant raised the surplus-conviction issue for the first time in the appellate court, he framed it as a one-act, one-crime violation, and he

repeated this framing in his PLA. Nevertheless, this Court may review the challenged entry of judgment on the surplus aggravated kidnapping conviction because defendant's new argument is inextricably intertwined with his one-act, one-crime argument, which defendant properly presented in the appellate court and his PLA. And the entry of judgment on a surplus conviction constitutes second-prong plain error, so defendant's forfeiture of this issue in the circuit court may be reviewed for plain error.

First, the unit-of-prosecution argument is "inextricably intertwined" with the one-act, one-crime argument that defendant raised in the appellate court and his PLA, so this Court may consider both questions. *See People v. Guy*, 2025 IL 129967, ¶ 59 ("review of an issue not specifically mentioned in a petition for leave to appeal will be appropriate when that issue is 'inextricably intertwined' with other matters properly before the court") (internal quotations and citations omitted). Indeed, an offense's unit of prosecution is a "threshold question to reaching the one-act, one-crime rule." *Hartfield*, 2022 IL 126729, ¶ 67 (citing *People v. Almond*, 2015 IL 113817, ¶ 33). "The unit of prosecution of an offense refers to what act or course of conduct the legislature has prohibited for purposes of a single conviction and sentence." *Id.* In *Hartfield*, before reaching the one-act, one-crime rule, the Court analyzed the offense of aggravated discharge of a firearm to determine whether that statute commanded a single conviction *per discharge* or a single conviction *per person* in the direction of a discharge. *Id.* Likewise, in

Almond, the Court proceeded to a one-act, one-crime analysis only after determining that the statute at issue authorized separate convictions for the simultaneous possession of a firearm and ammunition in a single loaded firearm. *See* 2015 IL 113817, ¶ 45; *see also Keys*, 2025 IL 130110, ¶¶ 73-75 (threshold unit-of-prosecution analysis was required to determine whether concealment-of-a-homicidal-death statute authorized one or multiple convictions for concealing the same death by multiple acts, as well as whether dismemberment statute authorized one or multiple convictions for dismembering the same body by multiple acts).

Accordingly, as defendant correctly argues, *see* Def. Br. 9-10, this Court can consider the one-act, one-crime rule's application only if it first concludes that the aggravated kidnapping statute authorizes separate aggravated kidnapping convictions for each aggravating circumstance present during a single kidnapping, *see Hartfield*, 2022 IL 126729, ¶ 67. Because defendant argued in the appellate court and his PLA that his two aggravated kidnapping convictions violate the one-act, one-crime rule, the threshold question of the aggravated kidnapping statute's unit of prosecution is also properly before this Court. *See Guy*, 2025 IL 129967, ¶ 59.

Second, although defendant failed to raise either the unit-of-prosecution or the one-act, one-crime argument in the circuit court, both concern "the potential for a surplus conviction and sentence," which "affects the integrity of the judicial process, thus satisfying the second prong of the

plain error rule.” *People v. Harvey*, 211 Ill. 2d 368, 386 (2004). That is, this Court has held that the entry of judgment on a surplus conviction is akin to structural error and requires reversal even when a defendant has failed to preserve the argument. *See People v. Clark*, 2016 IL 118845, ¶¶ 46-47. Accordingly, if the circuit court clearly erred by entering judgment on a surplus aggravated kidnapping conviction, that error would constitute second-prong plain error and be subject to reversal despite defendant’s forfeiture in the circuit court. *See, e.g., Smith*, 2019 IL 123901, ¶ 14 (one-act, one-crime violation is second-prong plain error); *People v. Artis*, 232 Ill. 2d 156, 165-66 (2009) (same); *Harvey*, 211 Ill. 2d at 389 (same).

B. The aggravated kidnapping statute permits one conviction per kidnapping of a single victim.

The People also agree with defendant that the aggravated kidnapping statute permits only one conviction for each act of confining a victim against her will. Because defendant kidnapped J.T. only once, the circuit court clearly erred in entering judgment on two aggravated kidnapping convictions. *See* Def. Br. 10-14.

“The unit of prosecution is ‘aimed at determining how many times the same offense has been committed in a particular course of conduct.’” *Keys*, 2025 IL 130110, ¶ 76 (quoting *Hartfield*, 2022 IL 126729, ¶ 73). To determine the unit of prosecution, courts “look to the language of the [pertinent statute] to determine whether the legislature established the unit

of prosecution.” *Id.* (citing *People v. Torres*, 2024 IL 129289, ¶ 31; *Hartfield*, 2022 IL 126729, ¶ 68).

Here, the General Assembly clearly intended that aggravated kidnapping is committed once per act of secretly confining a single victim against her will, rather than once per aggravating circumstance. Unlike some statutes, the aggravated kidnapping statute does not expressly define its unit of prosecution. Compare 720 ILCS 5/10-2, with, e.g., *Hartfield*, 2022 IL 126729, ¶ 87 (child pornography statute expressly provides unit of prosecution by stating that the “possession of each individual film, videotape, photograph, or other similar visual reproduction or depiction by computer in violation of this Section constitutes a single and separate violation” and that possession of multiple copies of an identical depiction likewise constitutes a single offense) (citing 720 ILCS 5/11-20.1(a-5)); *Almond*, 2015 IL 113817, ¶¶ 35-36 (unlawful-use-of-a-weapon-by-a-felon statute expressly provides unit of prosecution by stating that “[t]he possession of each firearm or firearm ammunition in violation of this Section constitutes a single and separate violation”) (citing 720 ILCS 5/24-1.1).

Instead, the aggravated kidnapping statute provides that a person commits that offense when he or she “commits kidnapping” and one of the aggravating circumstances listed in 720 ILCS 5/10-2(a)(1)-(8) is fulfilled. See 720 ILCS 5/10-2(a). “Kidnapping,” in turn, is defined as “knowingly” doing one of three things: (1) “secretly confin[ing] another against his or her will,”

or (2) “by force or threat of imminent force carr[ying] 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 induc[ing] another to go from one place to another with intent secretly to confine that other person against his or her will.” 720 ILCS 5/10-1(a). Moreover, kidnapping is an “ongoing event,” *People v. Turner*, 128 Ill. 2d 540, 577 (1989), which “does not end until the victim is free,” *United States v. Godinez*, 998 F.2d 471, 473 (7th Cir. 1993).

Thus, a person commits the offense of aggravated kidnapping when he or she commits one of the three defined acts of kidnapping while an aggravating circumstance is present, and that single offense continues until the victim is free. And nothing in the statute’s structure suggests that the commission of multiple aggravating circumstances during a single kidnapping supports multiple aggravated kidnapping convictions. *See* Def. Br. 11. Rather, the presence of an aggravating circumstance elevates kidnapping to aggravated kidnapping. But the presence of additional aggravating circumstances during the same predicate kidnapping does not create additional offenses of aggravated kidnapping.

This conclusion is consistent with the unit-of-prosecution analysis that this Court has applied in analyzing similarly structured statutes. For example, in *People v. Scott*, 43 Ill. 2d 135 (1969), “the defendant was charged with three counts of burglary in that he intended to commit three separate crimes as part of his unlawful entry.” *Hartfield*, 2022 IL 126729, ¶ 78 (citing

Scott, 43 Ill. 2d at 137). But Scott’s three burglary convictions predicated on the same unlawful entry could not stand because “the primary concern in a burglary indictment is with the unlawful entry,” so “the single entry in that case could only support a single conviction regardless of whether the defendant intended to commit multiple crimes” once inside the home. *Id.* (quoting *Scott*, 43 Ill. 2d at 144). Similarly, in *People v. Lavallier*, 187 Ill. 2d 464 (1999), Lavallier could not receive two aggravated DUI convictions because “the single act of driving drunk was not transformed into multiple felonies by virtue of the fact that multiple people were injured as a result.” *Hartfield*, 2022 IL 126729, ¶ 78 (citing *Lavallier*, 187 Ill. at 469). By that same reasoning, here, the two separate aggravating felonies defendant committed while kidnapping J.T. did not transform the single act of kidnapping into multiple aggravated kidnapping offenses.

In sum, the aggravated kidnapping statute’s plain language and structure reveal the General Assembly’s intent that an offender commits aggravated kidnapping if (1) he commits the single act of kidnapping of a single victim, from start to finish, and (2) one or more aggravating circumstances is present. That multiple aggravating circumstances are present during a single kidnapping cannot support multiple aggravated kidnapping convictions.

Moreover, even if the statute were ambiguous as to the unit of prosecution for aggravated kidnapping, the rule of lenity would apply to

resolve the ambiguity in defendant's favor. *See Keys*, 2025 IL 130110, ¶ 79 (ambiguity as to unit of prosecution for dismemberment statute resolved in defendant's favor); *Hartfield*, 2022 IL 126729, ¶ 83 ("If the legislature fails to indicate the unit of prosecution, either by an express definition, clear language, or by some unambiguous design of the offense . . . doubt will be resolved against construing the statute as supporting multiple instances of the same offense based on the same exact act.").

Finally, because the threshold unit-of-prosecution question is dispositive, the Court need not apply the two-step one-act, one-crime analysis set forth in *People v. King*, 66 Ill. 2d 551 (1977). *See Hartfield*, 2022 IL 126729, ¶ 67 ("Only if [the Court] conclude[s] that defendant has committed the offense four times will [the Court] move on to consideration of the one-act, one-crime rule."); *see also* Def. Br. 14. Accordingly, the People agree with defendant that one of his surplus aggravated kidnapping convictions should be vacated.

C. This case should be remanded to the circuit court with directions to vacate the less serious of the two aggravated kidnapping convictions.

The People also agree with defendant that this Court should remand this case to the circuit court with directions to vacate the less serious of defendant's two aggravated kidnapping convictions. Def. Br. 25-26; *People v. Garcia*, 179 Ill. 2d 55, 71 (1997) (when multiple convictions result in a surplus conviction, the conviction for the less serious offense should be vacated). Typically, it is relatively simple to identify the less serious offense,

for the more serious offense will have the greater penalty, and if the penalties are the same, then the more serious offense will have the more culpable mental state. *Artis*, 232 Ill. 2d at 170-71. But where, as here, “it cannot be determined which of two or more convictions based on a single physical act is the more serious offense, the cause will be remanded to the trial court for that determination.” *Id.* at 177.

CONCLUSION

For these reasons, the People respectfully request that this Court vacate the relevant portion of the appellate court’s judgment and remand to the circuit court with directions to vacate the less serious of defendant’s two aggravated kidnapping convictions.

March 25, 2026

Respectfully submitted,

KWAME RAOUL
Attorney General of Illinois

JANE ELINOR NOTZ
Solicitor General

KATHERINE M. DOERSCH
Criminal Appeals Division Chief

LAUREN E. SCHNEIDER
Assistant Attorney General
115 South LaSalle Street
Chicago, Illinois 60603
(773) 505-5275
eserve.criminalappeals@ilag.gov

Counsel for Plaintiff-Appellee

RULE 341(c) 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 containing 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(a), is 14 pages.

/s/ Lauren E. Schneider
LAUREN E. SCHNEIDER
Assistant Attorney General

CERTIFICATE OF FILING AND SERVICE

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 March 25, 2026, the foregoing **Brief of Plaintiff-Appellee People of the State of Illinois** was filed with the Clerk of the Illinois Supreme Court using the Court's electronic filing system, which provided service to the following:

Carolyn R. Klarquist
Brooke A. Winterhalter
Office of the State Appellate Defender,
First Judicial District
203 N. LaSalle St., 24th Floor
Chicago, Illinois 60601
1stdistrict.eserve@osad.state.il.us

Counsel for Defendant-Appellant

/s/ Lauren E. Schneider
LAUREN E. SCHNEIDER
Assistant Attorney General
Office of the Illinois Attorney General
115 South LaSalle Street
Chicago, Illinois 60603
(773) 505-5275
eserve.criminalappeals@ilag.gov

Counsel for Plaintiff-Appellee