

1-11-1163

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

<i>In re</i> ALJANI F., A MINOR)	Appeal from the
(THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
)	Cook County.
Petitioner-Appellee,)	
)	
v.)	No. 11 JD 388
)	
ALJANI F., a minor,)	Honorable
)	Lori M. Wolfson,
Respondent-Appellant).)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Presiding Justice Hoffman and Justice Karnezis concurred in the judgment.

ORDER

- ¶ 1 *Held:* No error appears on the record when, although the respondent was adjudicated delinquent for four offenses, the trial court properly "merged" those findings for purposes of sentencing.
- ¶ 2 Following a hearing, respondent Aljani F. was adjudicated delinquent for robbery, battery, theft, and aggravated battery, and committed to the Department of Juvenile Justice. On appeal, he contends that the "one-act, one-crime" rule was violated because he was adjudicated delinquent for four offenses based upon the same physical act. We affirm.
- ¶ 3 The petition for adjudication of wardship of the respondent stemmed from a January 2011, incident during which the respondent grabbed an iPhone from the victim Leo Gonzalez. The petition alleged that the respondent committed: (1) robbery in that he took an iPhone from the victim by the use of force or threat of force; (2) theft in that he obtained by threat, control of the iPhone and

intended to deprive the victim of the use of the iPhone; (3) aggravated battery in that he made physical contact of an insulting or provoking nature with the victim in that he grabbed the iPhone from the victim's hand; and (4) battery in that he knowingly made physical contact of an insulting or provoking nature with the victim in that he grabbed the iPhone from the victim's hand.

¶ 4 Following a hearing in the circuit court of Cook County, the respondent was adjudicated delinquent as to all charges. The court then merged the counts for sentencing and committed the respondent to the Department of Juvenile Justice. The order of commitment indicated that robbery was the "committing charge."

¶ 5 On appeal, the respondent contends that the trial court erred when it adjudicated him delinquent for robbery, battery, theft, and aggravated battery because all four offenses were based upon the same physical act of grabbing the victim's iPhone. Therefore, the respondent asks this court to vacate the adjudications for delinquency for battery, theft, and aggravated battery.

¶ 6 Initially, the respondent acknowledges that this issue was not raised below, and, consequently is forfeited for purposes of this appeal. See, e.g., *People v. Enoch*, 122 Ill. 2d 176, 186 (1988). However, he asks this court to review his contention for plain error. The plain error doctrine allows a reviewing court to address forfeited errors "when either (1) the evidence is close, regardless of the seriousness of the error, or (2) the error is serious, regardless of the closeness of the evidence" *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005). He argues that because violations of the one-act, one-crime rule affect the integrity of the judicial process, the second prong of the plain error test has been satisfied. See *In re Samantha V.*, 234 Ill. 2d 359, 378-79 (2009) (respondent satisfied the burden to show plain error under the second prong of the plain error test, as it is "well established that a one-act, one-crime violation affects the integrity of the judicial process").

¶ 7 The first step in determining whether the plain error doctrine applies is to determine whether any reversible error occurred (*People v. Patterson*, 217 Ill. 2d 407, 444 (2005)), because without reversible error, there can be no plain error (*People v. Williams*, 193 Ill. 2d 306, 349 (2000)).

¶ 8 The State admits that the record reveals that it "never sought to distinguish between" the respondent's acts of grabbing the iPhone, struggling with the victim over the iPhone, and taking the iPhone. However, the State argues that while the trial court found the respondent guilty of all charges, the court properly merged these findings into a single adjudication for purposes of the order of commitment, and, consequently, there is no error for this court to correct.

¶ 9 The one-act, one-crime doctrine prohibits multiple convictions based on "precisely the same physical act." *People v. Nunez*, 236 Ill. 2d 488, 494 (2010); see also *In re Samantha V.*, 234 Ill. 2d at 372-73 (finding that the one-act, one-crime rule applies to juvenile proceedings).

¶ 10 *In re Samantha V.*, a factually similar case, is instructive. There, although the trial order indicated that the respondent was found guilty of two counts of aggravated battery, the sentencing order did not make reference to the offense for which the respondent was found delinquent. *In re Samantha V.*, 234 Ill. 2d at 366. Our supreme court found that the one-act, one-crime rule had been violated when the respondent was adjudicated delinquent for two counts of aggravated battery and the trial court failed to merge the counts or otherwise indicate on the record that the respondent's adjudication of delinquency was based upon only one count of aggravated battery. *Id.*

¶ 11 In the instant case, a careful review of record indicates that although the trial court found the respondent guilty as to all four counts, the trial court then properly "merged" those findings for sentencing (*Id.* at 378), and the respondent's order of commitment reflects that robbery was the "committing charge." Although respondent argues that four "convictions" were entered against him, a conviction requires both a finding of guilt and a sentence. See 730 ILCS 5/5-1-12 (West 2010) ("Judgment" means an adjudication by the court that the defendant is guilty or not guilty, and if the adjudication is that the defendant is guilty, it includes the sentence pronounced by the court"); see also *People v. Holmes*, 405 Ill. App. 3d 179, 186 (2010) (holding that even if one viewed the defendant's guilty plea as an adjudication by the court that he was guilty, that adjudication did not meet the statutory definition of a "judgment" until a sentence was pronounced by the trial court).

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Here, there were four findings of guilt, but the trial court imposed sentence on only the single count of robbery. As the trial court properly merged its findings and indicated on the record that the respondent's adjudication of delinquency was based upon only one charge, the one-act, one-crime rule was not violated. *In re Samantha V.*, 234 Ill. 2d at 378. Absent error, there can be no plain error (*Williams*, 193 Ill. 2d at 349), and this court must honor respondent's procedural default.

¶ 12 For these reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 13 Affirmed.