

failed to prove him guilty beyond a reasonable doubt on count I. Because we conclude that the court erred by failing to answer the jury's question on a matter on law, we reverse and remand.

¶ 4

I. BACKGROUND

¶ 5 In August 2010, the State charged defendant, who was then 38 years old, with (1) criminal trespass to a residence (720 ILCS 5/19-4(a)(2) (West 2010)) (count I), (2) battery (720 ILCS 5/12-3(a)(2) (West 2010)) (count II), and (3) criminal damage to property (720 ILCS 5/21-1(1)(a) (West 2010)) (count III). In December 2010, the State added an additional count of criminal damage to property (count IV). The following is a brief synopsis of the pertinent evidence presented at defendant's February 2011 trial.

¶ 6

A. The State's Evidence

¶ 7 On August 13, 2010, Karen Rouse left the home she shared with her children, Brianna Bottles (then 18 years old) and Bret Rouse (then 16 years old), to attend a sporting event in Michigan. Because her children would not be accompanying her to the event, Karen asked her neighbor, Valerie Baker—who lived across the street—to monitor her home and children. Karen left her sports utility vehicle (SUV) and her car in her driveway. With Karen's permission, Valerie parked her SUV in Karen's driveway.

¶ 8

The following evening, Brianna heard a knock at the front door to Karen's home. When Brianna opened the door, defendant—whom she had met through Bret—began shoving her by bumping his body into hers, claiming that Brianna had called him a child molester. As defendant shoved Brianna, he entered her home. Brianna stated that she did not invite defendant into the home because she was alone. Brianna testified that defendant was "mad." Brianna acknowledged that it was possible that Bret may have invited defendant and another friend, Lee

Bachman, to come to her home that evening.

¶ 9 Valerie, who was on her front porch at that time, observed defendant push past Brianna and enter Karen's home. Valerie immediately crossed the street, entered the home, and demanded that defendant leave. Defendant responded by running away. Brianna and Valerie (1) estimated that defendant was in the home for about two to three minutes and (2) defendant was alone when he entered Karen's home.

¶ 10 Bret testified that in June 2010, he was introduced to defendant by a friend. Thereafter, Bret would "hang out" at defendant's home, which was located in the same subdivision as Karen's home. On August 14, 2010, Bret visited defendant and Bachman at defendant's home. While there, Bret stated that he invited Bachman to Karen's home later that day but "did not ask anyone else to come over." That same evening, Bret was in the backyard of Karen's home when he heard screaming from the front yard. After reaching the front yard, Bret learned that defendant had been in the home but had left. Bret did not see Bachman that night. One hour later, Bret saw defendant walking down the driveway of Karen's home. After calling the police, Bret observed that the tires on Karen's car and SUV, as well as the tires on Valerie's SUV, had been slashed. Bret did not see defendant slash the tires.

¶ 11 Several police officers testified about their arrest of defendant the day after the incident and that during that arrest, the police recovered a fold-out knife.

¶ 12 B. Defendant's Evidence

¶ 13 Defendant testified that on August 14, 2010, Bret came to his home and invited him, Bachman, and another friend to a party at Karen's home that night. Defendant later walked with Bachman to Karen's home. After knocking on the front door, Brianna answered and invited

them into the home. Defendant observed several people in the home and exchanged tense words with one individual, who told defendant that, "you probably ought to leave." About this time, defendant felt Valerie's hands on his shoulders. Valerie then told defendant that he should "get the 'F' out of the house or the cops were coming." Defendant and Bachman voluntarily left Karen's home without incident and did not return. Defendant denied initiating any physical contact during this encounter.

¶ 14 C. The Jurors Questions to the Court, Their Verdict,
and the Trial Court's Sentence

¶ 15 Sometime after the jury began deliberating, the trial court addressed the parties as follows:

"THE COURT: ***

Counsel, the Court has received a question from the jurors.

I have made a copy for each of you. It reads as follows: [']What constitutes authority in criminal trespass? Can the children, Brianna and Bret, give authority, or does it have to be a parent to enter the house?['] ***

[THE STATE]: Your honor, I did have a chance to look at that question momentarily. I guess the State's position is that, absent *** language in the [Illinois Pattern Jury Instructions (IPI)] indicating that an additional instruction should be given, I believe that the jury should just be instructed to rely upon the law they

have been given as in the instructions they have already been tendered.

THE COURT: [Defense Counsel]?

[DEFENSE COUNSEL]: *** I believe the valid case law in Illinois at this time is that a child can give authority to enter a residence. There are multiple cases that hold that, and I would suggest that as an answer to the second question, yes, a child can give authority."

¶ 16 After reviewing the committee comments of the IPI instructions that were given to the jury and determining that those specific comments did not call for further clarifying guidance, the trial court answered the jury's questions as follows:

"You have been given all relevant instructions pertaining to the offense of criminal trespass to a residence. You are directed to rely upon those instructions in reaching your verdict."

¶ 17 Thereafter, the jury (1) convicted defendant of criminal trespass to a residence and battery and (2) acquitted him of both counts of criminal damage to property. In April 2011, the trial court sentenced defendant as stated.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 Defendant argues that (1) the trial court erred by (a) failing to instruct the jury on a matter of law and (b) allowing the State to introduce into evidence other-crimes evidence

without a limiting instruction, (2) he received ineffective assistance of trial counsel because his counsel failed to object to inadmissible and prejudicial testimony, and (3) the State failed to prove him guilty beyond a reasonable doubt on count I. Because we agree with defendant's first argument, we reverse his conviction and sentence without addressing his remaining claims.

¶ 21 " [T]he general rule is that the trial court has a duty to provide instruction to the jury where it has posed an explicit question or requested clarification on a point of law arising from facts about which there is doubt or confusion.' " *People v. Coots*, 2012 IL App (2d) 100592, ¶ 48, 968 N.E.2d 1151, 1163 (quoting *People v. Childs*, 159 Ill. 2d 217, 228-29, 636 N.E.2d 534, 539 (1994)). The general rule applies even though the jury was properly instructed originally. *Coots*, 2012 IL App (2d) 100592, ¶ 48, 968 N.E.2d at 1163. "Reversible error can occur when the jury asks the trial court to define a key term used in the instructions but the court refuses the request." *Coots*, 2012 IL App (2d) 100592, ¶ 49, 968 N.E.2d at 1163.

¶ 22 In *Coots*, the State charged the defendant with murder, in that she knowingly delivered a substance containing heroin to another and that person died as a result of ingesting some of the heroin. *Coots*, 2012 IL App (2d) 100592, ¶¶ 1-2, 968 N.E.2d at 1153. After the close of evidence at the defendant's trial, the jury began its deliberations and, sometime thereafter, sent a message to the trial court, asking whether it could reasonably interpret the term "delivery" to mean "give." *Coots*, 2012 IL App (2d) 100592, ¶ 47, 968 N.E.2d at 1163. The court decided not to answer the jury's question. *Id.* In reversing the defendant's conviction on appeal, the Second District concluded that "the *** court's refusal to clarify the jury's confusion over the meaning of 'delivery'—obviously the linchpin in this case—created a serious danger that the jury would (and did) convict defendant based on facts that were legally insufficient to

establish delivery under the drug-induced-homicide statute." *Coots*, 2012 IL App (2d) 100592, ¶ 51, 968 N.E.2d at 1164.

¶ 23 In this case, defendant was charged, in pertinent part, with criminal trespass to a residence under section 19-4(a)(2) of the Criminal Code of 1961, which provides, in part, as follows:

"A person commits the offense of criminal trespass to a residence when, without authority, he or she knowingly enters the residence of another and knows or has reason to know that one or more persons is present or he or she knowingly enters the residence of another and remains in the residence after he or she knows or has reason to know that one or more persons is present." 720 ILCS 5/19-4(a)(2) (West 2010).

¶ 24 Prior to beginning its deliberations, the trial court instructed the jury, in part, as follows:

"To sustain the charge of criminal trespass to a residence, the State must prove the following propositions:

First Proposition: That the defendant knowingly entered the residence of Brianna Bottles; and

Second Proposition: That the defendant entered the residence without authority to do so; and

Third Proposition: That when the defendant entered the residence, he knew or had reason to

know that one or more persons was present." (Emphases in original.)

¶ 25 Here, the jury's questions to the trial court evinced its confusion on a question of law—that is, whether Brianna or Bret could have given defendant authority to enter Karen's home, which was one of the elements of the offense of criminal trespass to a residence. At a minimum, the undisputed evidence presented showed that defendant entered Karen's home, knowing that Brianna was present at that time. Thus, the sole issue before the jury was whether defendant was "authorized" to enter Karen's home. In this regard, the State's evidence showed, in part, that (1) Brianna acknowledged that it was possible that Bret invited defendant and Bachman to Karen's residence on August 14, 2010, and (2) Bret stated that he only invited Bachman to Karen's home on the evening in question. In contrast, defendant testified that (1) Bret invited him to Karen's home and (2) Brianna allowed him to enter Karen's home after opening the front door. Thus, the jury could have convicted defendant under the mistaken belief that neither Bret nor Brianna could have legally granted defendant authority to enter Karen's home. See *People v. Brant*, 394 Ill. App. 3d 663, 670, 916 N.E.2d 144, 150 (2009) ("Illinois law treats a person with either an ownership or a possessory interest in the property as a lawful source of authority to enter the premises under section 19-4").

¶ 26 Accordingly, we conclude that the trial court committed reversible error by failing to answer the jury's question on a matter on law. In so concluding, we reverse defendant's conviction. However this conclusion does not end our analysis.

¶ 27 Generally, a decision to remand a cause for a new trial alleviates the need to address other issues; however, the constitutional guarantee prohibiting double jeopardy requires

