2015 IL App (1st) 131755-U

FIRST DIVISION
March 30, 2015

No. 1-13-1755

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. KENYATTA BROWN, Defendant-Appellant.	)))))))))	Appeal from the Circuit Court of Cook County. No. 07 CR 18500 Honorable Angela Munari Petrone, Judge Presiding.

PRESIDING JUSTICE DELORT delivered the judgment of the court.
Justices Cunningham and Connors concurred in the judgment.

ORDER

¶ 1 ***Held:*** We affirm the trial court's decision to deny defendant's motion to dismiss the indictment. We lack jurisdiction to consider defendant's argument that the first-degree murder charges against him violate the compulsory joinder statute and the speedy trial statute.

¶ 2 A grand jury indicted defendant Kenyatta Brown for first-degree murder four years after: (1) the commission of the alleged offense; and (2) he had pled guilty to a charge of aggravated unlawful use of a weapon by a felon. Defendant moved to dismiss the indictment for first-degree murder arguing the charges against him violate his fifth amendment guarantee against double

jeopardy (U.S. Const., amend. V), the Illinois compulsory joinder statute (720 ILCS 5/3-3 (West 2002)), and his right to a speedy trial (725 ILCS 5/103-5(a) (West 2002)). The trial court denied defendant's motion and he filed this interlocutory appeal pursuant to Illinois Supreme Court Rule 604(f) (Ill. S. Ct. R. 604(f) (eff. Feb. 6, 2013)). We affirm.

¶ 3 BACKGROUND

¶ 4 The facts underlying defendant's indictment for first-degree murder are derived from his motion to dismiss, the State's response, and the trial court's ruling on the motion. On May 19, 2003, at about 10 p.m., Chicago police officers D. Carson and T. Daniels were on patrol in an unmarked vehicle near 11809 South LaSalle Street. At that time, the officers observed defendant discharge a firearm once towards three unknown males. One of those males wore no shirt and ran south on LaSalle. The officers saw defendant attempt to un-jam the gun and start tucking it into his waistband upon viewing the officers. Both officers ordered defendant to drop the gun, but instead, he turned north and ran. At about 11854 South LaSalle, Officer Carson observed defendant drop the gun and continue running. Officer Daniels stopped to recover the gun and Officer Carson continued pursuing defendant, apprehending him in an alley shortly thereafter.

¶ 5 Upon stopping defendant, Officer Carson noticed blood on defendant's shirt. Defendant told Officer Carson that he had been shot in the stomach. Paramedics, however, found no gunshot wound. Officers Carson and Daniels searched the area for a shooting victim, but were unable to find anyone.

¶ 6 On May 20, 2003, after 1 a.m., the State approved charges against defendant for unlawful use of a weapon by a felon, possession of a firearm without a firearm owner's identification card, and theft of lost or misplaced property. On the same date at 6:35 a.m., police responded to a telephone call reporting a body lying in the backyard at 11924 South LaSalle. Officers Judith

Jenkins and Gina Czubak found the victim, later identified as Albert Stevenson, lying on his back, wearing only boxer shorts and socks. Stevenson's clothes were found scattered around the scene. The officers found Stevenson's identification in his pants, located a short distance away from his body. Police investigators also arrived at the scene and observed Stevenson was in full rigor mortis, he had a laceration over his left eyebrow, both his body and clothes were wet, and he had gunshot wounds to the upper left chest and lower back.

¶ 7 Chicago police detectives Danny Stover, Steven Brownfield, and gang specialist Richard Peck were assigned to Stevenson's shooting and began an investigation by proceeding to the home of LaVeare Alsberry, Stevenson's grandmother. Alsberry stated that she last saw Stevenson on May 19 at about 2:30 p.m., wearing a blue and yellow jersey. She also told the detectives that around 10 or 11 p.m. on the 19th, a woman informed her that "some boys had jumped on" her grandson and were beating him. Stevenson's mother, Tanya Alsberry, called Peck and told him that she was aware her son had been beaten up the previous night, but she was not aware he was dead. She told the detectives that: (1) her other son Pierre was looking for Stevenson; and (2) she heard that someone named Kenyatta from the same area was shot last night, but she had no information about it.

¶ 8 The detectives then conducted a canvass of the area for any possible witnesses and spoke to several people who heard gunshots and saw two men chasing another man. In their continued investigation, the detectives learned that on May 19, at 10:02 p.m., Beat 512 had been assigned to assist with an arrest at 11843 South LaSalle. A few minutes later, an ambulance was dispatched to the same address for a shooting.

¶ 9 The detectives contacted Officers Carson and Daniels, who recounted the events they observed. Officer Carson told Detective Brownfield that he did not see the faces of the men

defendant shot at, but stated one was a shirtless black male. Officers Carson and Daniels returned to 11843 South LaSalle and learned that an unknown person was chased into the house by numerous black males and were told by the residents to "take it outside." The officers searched the area where witnesses last saw the victim running, but did not find anything. The officers informed the detectives that after they advised defendant of his *Miranda* rights, defendant stated that he "didn't even get a round off" and that he was after Stevenson "because of five hundred dollars." Defendant also stated that "the other guy got a gun" and that "the gun they found was the guy he was chasing." Officers Carson and Daniels returned to the area with the detectives and showed them the route they took to pursue defendant. The detectives also contacted the officer who transported defendant on the night of his arrest. While in the squad car, defendant spontaneously uttered, "I didn't even get a round off," and he "was after [Stevenson] because of five hundred dollars." Defendant also stated that "[t]he other guy had a gun and that the gun they found was the guy he was chasing."

¶ 10 The detectives proceeded to 11843 South LaSalle and spoke to Tracy White, who stated that at about 9:30 to 10 the evening before, four or five black males chased Stevenson into her house. She knew Stevenson, but did not know the men chasing him. She told them to "take it outside." The men dragged Stevenson out of the house and started to beat him up on the sidewalk and down the street. She could not see them, but she heard a gunshot. White called Pierre to tell him that his brother was being beaten outside her house. At about 11 p.m., White saw Tamela Alexander, Stevenson's girlfriend, walk to her car parked on the street. White spoke to Alexander and showed her the location of Stevenson's shirt in the alley. Alexander took the shirt and left.

¶ 11 Alexander informed the detectives that Pierre called to tell her that Stevenson had been beaten and that his clothing was left in the street. She also told the detectives that she had retrieved Stevenson's jersey and t-shirt. She gave the clothing to the detectives, who observed there was blood on the t-shirt and that the jersey was still wet.

¶ 12 On May 22, 2003, the detectives arranged for defendant to be transferred from Cook County Jail to their custody for an interview. Detective Brownfield advised defendant of his *Miranda* rights, which he voluntarily waived. Defendant stated that he knew Stevenson and that they were in rival gangs, but "cool." Defendant stated that when he arrived at LaSalle Street on May 19, Stevenson was being beaten by someone named "Deonte" and a couple of black males he did not know. Defendant tried to separate Deonte and Stevenson, and that Stevenson's jersey was pulled off in the process. Stevenson then slipped out of his shirt and ran across the street south on LaSalle. At that point, Deonte pulled out a gun and shot at Stevenson. Defendant stated that he was so close to Deonte that he almost got shot. Defendant took the gun away from Deonte so that Deonte would not shoot him and ran after Stevenson while still holding the gun. Defendant denied ever shooting at Stevenson and stated that he ran when he saw the police because he did not want to get caught with the gun. He told the arresting officer that Stevenson owed Deonte $500 and explained that Stevenson had taken $2,500 or $3,000 from a girl named "Tonn" on 108th or 109th Street and that $500 of that amount belonged to Deonte.

¶ 13 On the same date, the detectives interviewed Kevetta McPhan, who witnessed the fight and the shooting. McPhan told the detectives that she was sitting on a car when she saw someone she knew as "Prince" walking down LaSalle while talking on his cell phone. McPhan heard Prince say, "You know that n[***er's] over here." About a minute later, a maroon or burgundy car drove down the alley and stopped. Defendant and another black male got out of

the car and Prince handed defendant a gun. McPhan stated that she saw the three men walk towards 11843 South LaSalle. She heard arguing and loud noises. When she looked north, she observed Prince pick up Stevenson and slam him to the ground. McPhan heard defendant tell the others to take Stevenson into the alley and saw Stevenson being dragged. Stevenson slipped out of his shirt and ran. She heard Prince yell, "shoot him, shoot him." McPhan observed Stevenson and another male running. She saw defendant fire one shot at Stevenson. McPhan stated it appeared as if defendant was attempting to fire again, but the gun jammed. The police arrived and ordered defendant to drop the gun, at which point defendant started running. McPhan saw defendant run north on LaSalle and drop the gun and Stevenson's jersey. She observed one officer recover the gun while the other chased defendant. McPhan stated that after an ambulance passed by, she heard Prince on his cell phone with his girlfriend, who was a police dispatcher. Prince told his girlfriend to "type it up." About 20 minutes later, Pierre and Alexander drove up and Prince told them that defendant and Stevenson were fighting.

¶ 14 After the interview with McPhan, the detectives contacted the felony review unit of the Cook County State's Attorney's Office. An assistant State's Attorney (ASA) interviewed both defendant and McPhan. During his conversation with the ASA, defendant denied that Prince Johnson was involved, denied shooting Stevenson, and again stated that Deonte was the shooter. The ASA decided to defer charging defendant for continued investigation, specifically, to locate additional witnesses and confer with the medical examiner.

¶ 15 On May 23, 2003, the ASA spoke to Dr. Choi from the medical examiner's office and learned that Stevenson could have run 180 yards or more with his injuries. Dr. Choi also stated that rigor mortis could set in anywhere from four to six hours after death, depending on the conditions. The State still deferred charging defendant until other eyewitnesses could be located

and the blood found on defendant's clothing could be tested to determine if it was Stephenson's blood.

¶ 16 Also on the same date, Erica Nelson called the police to inform them that she saw Prince Johnson and defendant chasing Stevenson south on LaSalle and across 119th Street. Another witness, Derrick Carter, told police that he was playing basketball on May 19 at 11816 South Perry Avenue when he heard a gunshot from about a block away. Two minutes later, he saw police chasing defendant through a vacant lot.

¶ 17 On May 27, 2003, there was a finding of probable cause to charge defendant with aggravated unlawful use of a weapon (UUW) by a felon (720 ILCS 5/24-1.6(a)(1) (West 2002)).

¶ 18 The next day, detectives interviewed Carolyn White. She stated that Stevenson came to her home at 11843 South LaSalle. As he left, she heard yelling and banging. White stated that she went to the front of her house and saw Montell, Deonte, and defendant beating up Stevenson. She saw Stevenson get up and run and then the three men caught him and started to beat him up again. White stated that she heard a gunshot and ran into her house. When she came back out, she saw the group still fighting across the street and observed Stevenson slip out of his shirt and run across 119th Street. White stated that she saw defendant pull out a gun and fire once at Stevenson. She observed the police chasing defendant and saw him throw the gun to the ground, which the police recovered.

¶ 19 On June 24, 2003, defendant was arraigned on the charge of aggravated UUW by a felon. Detectives interviewed Prince Johnson on August 17 and 18 regarding Stevenson's death, but released him without charges. Defendant pled guilty to aggravated UUW by a felon on August 23, 2003 and was sentenced to three years in prison.

¶ 20 Detectives spoke to Deontay House on September 4, 2003.

¶ 21 On June 12, 2004, a crime lab DNA test report showed that the blood on defendant's jeans and shirt matched Stevenson's blood.

¶ 22 On January 12, 2007, detectives were assigned to follow up the investigation of Stevenson's murder. As part of the investigation, the detectives began attempts to contact the witnesses who had been previously interviewed in 2003.

¶ 23 On February 4, 2007, the detectives learned that defendant was identified as one of two offenders responsible for another murder involving a victim named Frank Lucas. On February 7, an arrest warrant issued for defendant. The detectives received information on April 24, 2007 that defendant was arrested in Sioux Falls, South Dakota.

¶ 24 Detectives, along with an ASA, traveled to Sioux Falls to interview defendant on May 2, 2007. During the interview, the detectives asked defendant about the murders of Lucas and Stevenson, as well as the murder of an individual named Ryan Cooper. Defendant invoked his right to counsel shortly after the interview began. On July 20, 2007, defendant was extradited to Illinois for the Lucas murder.

¶ 25 On July 23, 2007, the State's Attorney's office again designated Stevenson's murder investigation as a "continuing investigation" to interview additional witnesses. The State issued grand jury subpoenas to Tracy White, Carolyn White, Erica Nelson, and Kevetta McPhan.

¶ 26 On July 30, 2007, Tracy White, also known as Joan White, appeared before a Cook County grand jury. In conversations with the detectives and two ASAs, Tracy White stated that on the night of the shooting, she was at her residence and that Stevenson was there visiting her sister. Tracy White saw Stevenson exit and then run back inside the house with four to five males following him. One of the men, who had braids, was holding a handgun. Someone else inside the house told them to "take it outside," and Stevenson was pushed outside, where the

group beat him. During the beating, Stevenson dropped his phone, which Tracy White used to call Pierre.

¶ 27 Nelson testified before the grand jury that on May 19, 2003, she was standing at 119th Street and Perry Avenue when she saw Prince Johnson and defendant chasing Stevenson south on LaSalle. Nelson stated that she had known Johnson and defendant for many years.

¶ 28 McPhan recounted the events that occurred on the night of May 19, 2003. Her statements were consistent with those given during her first interview.

¶ 29 Carolyn White also was re-interviewed and stated that Stevenson visited her residence that day and that after he left, she heard a "ruckus." She went downstairs and observed defendant and other unknown males beating Stevenson. She saw Stevenson run across the street with defendant chasing him. Carolyn White observed defendant raise and point a handgun at Stevenson and fire a shot. She also saw the police chasing defendant.

¶ 30 On August 6, Prince Johnson and defendant were arrested for the murders of Cooper and Stevenson. On August 7, 2007, the State approved first-degree murder charges against defendant and Johnson for the alleged homicide of Stevenson (720 ILCS 5/9-1(a)(1), (2) (West 2002)). A grand jury indicted defendant and Johnson of the first-degree murder of Stevenson on September 7, 2007.

¶ 31 On April 9, 2012, defendant moved to dismiss the indictment, arguing that the State was well aware of the facts alleged in the initial aggravated UUW by a felon charge and that the first-degree murder charge was interconnected and factually intertwined. Defendant asserted that the failure to prosecute the charges of aggravated UUW and first-degree murder "simultaneously violated defendant Brown's rights under the Illinois Compulsory Joinder Statute as well as the Illinois Speedy Trial Act." Codefendant Johnson filed a motion to dismiss his indictment based

upon "unreasonable prosecutorial preindictment delay." The State filed a response and memorandum of law in opposition to defendant's motion. The State argued that compulsory joinder is not mandated in this case because the two offenses at issue are disparate with distinct elements and the State was not certain that defendant had committed the offense of first-degree murder at the time his prosecution began for the charge of aggravated UUW by a felon.

¶ 32 On July 11, 2012, the trial court heard argument on both motions. Neither codefendant joined in the other's motions.

¶ 33 On February 11, 2013, the trial court issued a written ruling denying both defendants' motions. The court found the following with regard to defendant Brown:

> "At the time [defendant] was arrested for unlawful use of weapon, the murder of Albert Stevenson was not known. It is true the body was discovered shortly thereafter, but the State did not know all the facts of the murder and did not have enough evidence to charge [defendant] with murder until much later, after eyewitnesses were located and DNA testing was complete. It was not a malicious or tactical decision to gain advantage over [defendant] to wait for these developments before charging the murder, which was charged within the applicable statute of limitations, but a prudent one. Murder and UUW, though a series of related acts committed in a single incident, were separate, distinct acts which require different elements of proof. Pulling the trigger on a gun and striking another human being, taking his life, is much different than merely possessing a gun or firing a gun at an unknown person who may or may not have been struck. Compulsory joinder does not require the murder and UUW charges to be prosecuted in the same proceeeding."

¶ 34 Defendant moved to reconsider the trial court's ruling on March 13, 2013, arguing that the evidence to be presented at trial was all known to the State by the end of May 2003. Defendant contended that the State gained a tactical advantage by proceeding on the aggravated UUW by a felon charge prior to and separate from the first-degree murder charge. Defendant argued that if he is convicted of first-degree murder, the State would be allowed to request a consecutive sentence, which would prejudice him. Defendant asserted his indictment should be dismissed under double jeopardy and compulsory joinder grounds.

¶ 35 On May 15, 2013, the trial court denied defendant's motion to reconsider. This interlocutory appeal followed.[1]

¶ 36 ANALYSIS

¶ 37 Defendant argues that the charges of aggravated UUW by a felon and first-degree murder were so interconnected and factually intertwined that the failure to prosecute both offenses simultaneously violated his fifth amendment guarantee against double jeopardy (U.S. Const., amend. V), the Illinois compulsory joinder statute (720 ILCS 5/3-3 (West 2002)), and the Illinois speedy trial statute (725 ILCS 5/103-5(a) (West 2002)). We will address each in turn.

¶ 38 Standard of Review

¶ 39 Generally, a trial court's ruling on a motion to dismiss the indictment is reviewed for an abuse of discretion. *People v. Dunnavan*, 381 Ill. App. 3d 514, 517 (2008). However, in cases where no factual determinations are involved and the issue presented is a purely legal one, *de novo* review applies. *Id.* (citing *People v. Brener*, 357 Ill. App. 3d 868, 870 (2005)). Here, the issues present purely legal questions and, therefore, we review the trial court's judgment *de novo*. *Dunnavan*, 381 Ill. App. 3d at 517; see also *People v. Daniels*, 187 Ill. 2d 301, 307 (1999).

[1] Codefendant Johnson did not appeal the denial of his motion to dismiss the indictment.

¶ 40 Double Jeopardy

¶ 41 Defendant first argues that double jeopardy applies here because he pled guilty in 2003 to aggravated UUW by a felon and, four years later, he was charged with first-degree murder based on the identical facts that took place on the night of May 19, 2003. According to defendant, this gap afforded the State another opportunity to supply evidence that it failed to muster in the first proceeding. Defendant asserts the State knew the following facts before he pled guilty to aggravated UUW by a felon on August 23, 2003: (1) McPhan stated that she saw defendant shoot at Stevenson; (2) Tracy White stated that she saw Stevenson being beaten and then heard a gunshot; (3) Stevenson's body was discovered a short distance from where defendant dropped the gun; and (4) Carolyn White stated that she saw defendant draw a gun and fire once at Stevenson. Defendant contends he could not have committed the murder had he not first committed the UUW by a felon offense. He asserts that the State prosecuted him in 2007 with identical facts from the UUW charge, which triggered the constitutional prohibition of multiple punishments for the same offense.

¶ 42 The prohibition against double jeopardy is of both constitutional (U.S. Const., amends. V, XIV; Ill. Const. 1970, art. I, § 10) and statutory dimension (720 ILCS 5/3-4(a)(1) (West 2002)). The prohibition against double jeopardy protects citizens against: (1) a second prosecution for the same offense after acquittal; (2) a second prosecution for the same offense after a conviction; and (3) multiple punishments for the same offense. *People v. Sienkiewicz*, 208 Ill. 2d 1, 4 (2003).

¶ 43 Illinois courts apply the "same-elements test" established in *Blockburger v. United States*, 284 U.S. 299 (1932) to determine whether a constitutional double jeopardy violation has occurred. *People v. Gray*, 214 Ill. 2d 1, 6 (2005); *Sienkiewicz*, 208 Ill. 2d at 5. In *Blockburger*,

the United States Supreme Court held that, "where the *same act or transaction* constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not." (Emphasis added.) *Blockburger*, 284 U.S. at 304. In other words, "[t]he *Blockburger* same-elements test is satisfied if each offense contains at least one element that is not required by the other." *People v. Dinelli*, 217 Ill. 2d 387, 403-04 (2005). "If each crime requires proof of a fact not required by the other, the *Blockburger* test is met, and the double jeopardy prohibition is not infringed, notwithstanding a significant overlap in the proof offered to establish the crimes." *Sienkiewicz*, 208 Ill. 2d at 6 (citing *Brown v. Ohio*, 432 U.S. 161, 166 (1977)). "Thus, under *Blockburger*, the prosecution of a lesser-included offense prevents a subsequent prosecution on the greater offense since, by definition, a lesser-included offense requires no proof beyond what is required for the greater offense." *Sienkiewicz*, 208 Ill. 2d at 6 (citing *Brown*, 432 U.S. at 166-69). Simply put, "if the prosecutions are predicated on different criminal acts, then the prohibition against double jeopardy is not violated." *Sienkiewicz*, 208 Ill. 2d at 6 (citing *Blockburger*, 284 U.S. at 304).

¶ 44 In this case, defendant is not subject to multiple punishments for commission of the same offense because he was charged with two separate offenses, namely, aggravated UUW by a felon, to which he pled guilty, and first-degree murder, for which he is awaiting trial. Double jeopardy does not apply here because the prosecutions for those two offenses are predicated on different criminal acts, each of which independently supported the charges imposed upon defendant.

¶ 45 In *Dinelli*, our supreme court explained that when examining a double jeopardy challenge, the first step requires the determination of whether the two charged offenses are based

on the "same criminal act." *Dinelli*, 217 Ill. 2d at 404. If the prosecutions involve different criminal acts, double jeopardy is not violated. *Id*. The supreme court defined "act" in this context as "any overt or outward manifestation which will support a different offense." *Dinelli*, 217 Ill. 2d at 404; *Sienkiewicz*, 208 Ill. 2d at 8.

¶ 46 A comparison of the jury instructions required to prove first-degree murder and UUW by a felon illustrates the separate elements or "acts" required to sustain a guilty finding for these offenses:

> "To sustain the charge of first degree murder, the State must prove the following propositions:
>
> *First Proposition*: That the defendant performed the acts which caused the death of [the victim]; and
>
> *Second Proposition*: That when the defendant did so,
>
> [1] he intended to kill or do great bodily harm to [the victim];
>
> [or]
>
> [2] he knew that his acts would cause death to [the victim] ***." Illinois Pattern Jury Instructions, Criminal, No. 7.02 (4th ed. 2000).
>
> "To sustain the charge of unlawful possession of a weapon by a felon, the State must prove the following propositions:
>
> *First Proposition*: That the defendant knowingly possessed [(a firearm) (firearm ammunition) (_____)]; and
>
> *Second Proposition*: That the defendant had previously been convicted of the offense of _____." Illinois Pattern Jury Instructions, Criminal, No. 18.08 (4th ed. 2000).

¶ 47 None of the elements required to prove UUW by a felon overlap with the elements needed to prove first degree murder. For example, first-degree murder need not be committed by using a gun. Moreover, the mere possession of a handgun by a felon does not warrant a first-degree murder charge, which requires "acts" including (1) the defendant to perform an act or acts that killed an individual and (2) the defendant's intent to kill or do great bodily harm.

¶ 48 In this case, defendant took possession of a loaded gun (having already been convicted of a felony), which is an overt or outward act supporting the offense of UUW by a felon. After defendant allegedly beat up Stevenson over an undetermined period of time, he pointed the gun and fired it at Stevenson, which purportedly wounded and caused the death of Stevenson. These actions amounted to a different "overt or outward manifestation" that supported the first-degree murder charge. Based on the elements required to prove the two offenses at issue and the facts supporting the charges for those two offenses, we find no double jeopardy violation occurred here.

¶ 49 Compulsory Joinder and Speedy Trial

¶ 50 Defendant next contends the State violated the Illinois compulsory joinder statute and his right to a speedy trial. The State responds that these two issues are not properly before this court as an interlocutory appeal under Rule 604(f), which is limited to a double jeopardy challenge. See Ill. S. Ct. R. 604(f) (eff. Feb. 6, 2013) ("The defendant may appeal to the Appellate Court the denial of a motion to dismiss a criminal proceeding on grounds of former jeopardy."). The State cites *People v. Schram*, 283 Ill. App. 3d 1056 (1996) in support of its argument.

¶ 51 In *Schram*, the reviewing court examined both the defendant's double jeopardy and related compulsory joinder issues because the compulsory joinder question turned on whether the defendant could have been convicted of subsequent charges in a former prosecution. *Schram*,

283 Ill. App. 3d at 1064-65. The court addressed this issue in the context of a double jeopardy challenge because defendant implicated a violation of section 3-4 of the Illinois Criminal Code of 1961 (720 ILCS 5/3-4 (West 1994)), which concerns the effect of a former prosecution. The court noted that in addition to arguing the violation of the compulsory joinder statute as a basis for its double jeopardy contentions, "the defendant also appears to argue the violation of the compulsory joinder statute as a wholly independent ground." *Id*. at 1067. To the extent that the defendant made a compulsory joinder argument on grounds independent of the double jeopardy statute, the court barred review of the argument under Rule 604(f). *Id*.

¶ 52 Unlike the defendant in *Schram*, defendant in this case raised the compulsory joinder and speedy trial issues solely on independent grounds, separate and apart from his double jeopardy claim. Defendant asserts a violation of section 3-3(b) of the Criminal Code of 1961 (720 ILCS 5/3-3(b) (West 2002)), which provides "[i]f several offenses are known to the proper prosecuting officer at the time of commencing the prosecution and are within the jurisdiction of a single court, they must be prosecuted in a single prosecution, except as provided in Subsection (c), if they are based on the same act." We agree with the ruling in *Schram* that defendant's arguments as to compulsory joinder and speedy trial are barred under Rule 604(f) because they do not assert double jeopardy concerns. Ill. S. Ct. R. 604(f) (eff. Feb. 6, 2013); *Schram*, 283 Ill. App. 3d at 1067. We lack jurisdiction to address the merits of defendant's contentions as to compulsory joinder and speedy trial.

¶ 53 CONCLUSION

¶ 54 We affirm the decision of the trial court to deny defendant's motion to dismiss the indictment of first-degree murder. We dismiss the appeal as to defendant's arguments that the

first-degree murder charges violate the Illinois compulsory joinder statute and his right to a speedy trial for lack of jurisdiction.

¶ 55 Affirmed in part and dismissed in part.