

No. 1-13-2054

**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).

---

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County
	)	
v.	)	
	)	13 CR 00341
DEANTHONY STEVENS,	)	
	)	Honorable
Defendant-Appellant,	)	James B. Linn,
	)	Judge Presiding.
	)	

---

Justice Pierce delivered the judgment of the court.  
Presiding Justice Simon and Justice Liu concurred in the judgment.

### ORDER

- ¶ 1 *Held:* Defendant's two unlawful use of a weapon by a felon convictions do not violate the one-act, one-crime rule. Defendant's convictions for aggravated unlawful use of a weapon conviction violate the one-act, one-crime rule and are vacated.
- ¶ 2 Following a bench trial, defendant Deanthony Stevens was convicted of two counts of unlawful use or possession of a weapon by a felon (UUWF) (720 ILCS 5/24-1.1(A) (West 2012)) and nine counts of aggravated unlawful use of a weapon (AUUW) (720 ILCS 5/24-

1.6(a)(1), (a)(2) (West 2012)). He was sentenced to four years' imprisonment. On appeal, defendant argues that we should remand his case to the trial court with instructions to merge the convictions into a single count of UUWF and correct his mittimus so that it is consistent with the trial court's oral pronouncement and the principles of one-act, one-crime rule. In the alternative, defendant argues that we should vacate one of his convictions for UUWF, as his possession of a single loaded firearm cannot serve as the basis for multiple convictions. As a further alternative, defendant urges that we should vacate his AUUW convictions on constitutional grounds. For the following reason, we affirm in part and vacate in part.

¶ 3 BACKGROUND

¶ 4 Officer Pratscher of the Chicago police department testified that he was conducting a routine patrol with his partner on December 12, 2012, at approximately 11 p.m. in an unmarked squad car when he saw defendant standing near a gas station at 3731 West Roosevelt Road holding a handgun at his side. After Officer Pratscher made eye contact with defendant, defendant fled on foot. Officer Pratscher and his partner pursued defendant in their vehicle.

¶ 5 About 5 to 10 seconds later Officer Pratscher saw defendant seated in the rear seat of a vehicle parked at the same location. Officer Pratscher and his partner exited their vehicle and approached. Defendant exited the rear passenger seat and reentered into the front passenger seat. Defendant was placed in custody and Officer Pratscher searched the vehicle. Officer Pratscher recovered a loaded Model PT .22 caliber handgun from the rear passenger floorboard where defendant was sitting when Officer Pratscher first approached the vehicle. The gun was loaded with one live round in the chamber and one live round in the magazine.

¶ 6 Officer Vasquez testified that he was on the scene when defendant was arrested. He had

a conversation with defendant in the processing room of the police station. After he was Mirandized, defendant stated that he was a member of the Latin Disciples since the age of 13. Defendant's statement was not memorialized in writing.

¶ 7 The State offered a certified copy of defendant's prior conviction for possession of a controlled substance with intent to deliver in case No. 12 CR 1982101 and a certified government document showing that defendant did not possess a valid FOID card at the time of the offenses. Both were admitted into evidence without objection.

¶ 8 The trial court found the officers' testimony to be credible and compelling and found defendant guilty of two counts of UUWF and nine counts of AUUW. The court twice stated that the 11 convictions should merge based on the one-act, one-crime rule but did not specify which count the conviction should merge into. Defendant was sentenced to four years' imprisonment. It is from this judgment that defendant now appeals.

¶ 9 ANALYSIS

¶ 10 Defendant first argues that his two convictions for UUWF, one for possession of a firearm and one for possession of the ammunition inside the firearm, should be merged into a single count of UUWF because the one-act, one-crime rule prohibits multiple convictions for more than one offense based on the same physical act.

¶ 11 *People v. Almond*, 2015 IL 113817, ¶¶ 44-50, is dispositive of defendant's claim. In the recent opinion, our supreme court stated that "the legislative intent to permit separate convictions for simultaneous possession of a firearm and ammunition under the UUW by a felon statute could not be clearer." *Id.* "The plain language of the statute prohibits felons from possessing any firearm or firearm ammunition and unambiguously treats each possession as a separate violation

of the statute." In light of *Almond*, we reject defendant's one-act, one-crime argument with respect to his two convictions for UUWF.

¶ 12 Defendant next argues that his nine convictions for AUUW are unconstitutional for multiple reasons. However, we need not consider defendant's constitutional challenges because this case can be decided on nonconstitutional grounds. *People v. Jackson*, 2013 IL 113986, ¶¶ 13-14.

¶ 13 Defendant's nine AUUW convictions are based on the same physical act *i.e.*, possession of a firearm, which is the same physical act supporting defendant's conviction for UUWF (possessing a firearm). Because these AUUW convictions are carved from the same physical act as defendant's UUWF conviction for possession of a firearm, we vacate these convictions under the one-act, one-crime rule. *People v. King*, 66 Ill. 2d 551, 566 (1977).

¶ 14 **CONCLUSION**

¶ 15 Based on the foregoing, we affirm defendant's two convictions for UUWF and vacate defendant's nine AUUW convictions.

¶ 16 Affirmed in part; vacated in part.