2015 IL App (1st) 151679-U
No. 1-15-1679

THIRD DIVISION
November 4, 2015

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

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| *In re* ANTHONY P., a Minor, | ) | Appeal from the Circuit Court |
| | ) | of Cook County. |
| (The People of the State of Illinois, | ) | |
| | ) | |
| Petitioner-Appellee, | ) | No. 14 JD 4422 |
| | ) | |
| v. | ) | |
| | ) | The Honorable |
| Anthony P., | ) | Steven Bernstein, |
| | ) | Judge Presiding. |
| Respondent-Appellant). | ) | |

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JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Mason and Justice Fitzgerald Smith concurred in the judgment.

**ORDER**

¶ 1 *Held:* Circuit court's finding of delinquency with respect to the offense of aggravated battery affirmed where the statements made by the circuit court did not reveal that the court entertained doubt as to the strength of the State's case or the credibility of the State's witness and where the elements of the offense were proven beyond a reasonable doubt; circuit court's order adjudicating respondent delinquent of the offense was battery vacated because it violated the one-act, one-crime rule.

¶ 2 Minor respondent was adjudicated delinquent of the offenses aggravated battery and battery in juvenile proceedings governed by the Juvenile Court Act of 1987 (705 ILCS 405/5-

101 *et seq*. (West 2010)) and was sentenced to 18 months' probation. On appeal, respondent challenges his delinquency adjudication, arguing that the State failed to prove him guilty of aggravated battery beyond a reasonable doubt. He also argues that his battery adjudication was imposed in contravention of the one-act, one-crime rule. For the reasons explained herein, we affirm the circuit court's order adjudicating respondent delinquent of the offense of aggravated battery and vacate the portion of the court's order adjudicating respondent delinquent of battery.

¶ 3 BACKGROUND

¶ 4 Following an incident that occurred on November 14, 2014, near the area of Morton East High School (Morton East), 16-year-old respondent was charged via a delinquency petition with aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4) (West 2012)) and battery (720 ILCS 5/12-3(a) (West 2012)). Specifically, the petition alleged:

> "The minor is delinquent by reason of the following facts:
>
> On or about November 14, 2014, *** [respondent] committed the offense of AGGRAVATED BATTERY, in that the above-named minor, in committing a battery, in violation of Section 12-3 of Act 5 of Chapter 720 of the Illinois Compiled Statutes, knowingly made physical contact of an insulting or provoking nature to Ofc. [J.] Kosenesky and kn[ew] the individual to be harmed to be an officer or employee of the State of Illinois *** engaged in the performing of his or her authorized duties such as officer or employee.
>
> On or about November 14, 2014, *** [respondent] committed the offense of BATTERY, in that the above-named minor knowingly made physical contact of an insulting or provoking nature with Ofc. J. Kosenesky, in that the above named minor struck Ofc. J. Kosenesky on or about the face."

¶ 5 At the adjudication hearing that followed, Cicero Police Officer James Kosenesky was the only witness to testify for the State. He testified that at approximately 3:00 p.m. on November 14, 2014, he was called to the area of 2441 South 57th Court, which was located close to Morton East. Based on the information that he received, there was a fight in the area involving three males and a female. One of the males involved in the altercation was reportedly wearing a Green Bay Packers jersey. When Officer Kosenesky arrived at that location, several people, including respondent, who was wearing a Packers jersey, began to run. Although he ordered respondent to "stop," he "kept running." As a result, Officer Kosenesky began to chase after respondent and was ultimately able to catch up to him in a nearby alley. When he did so, however, respondent began to "fight [him] to try to get away from being arrested." Officer Kosenesky then put respondent against the wall of a garage and conducted a protective pat down for weapons. After doing so, he ordered respondent to put his hands behind his back so that he could handcuff him. At that point, respondent again started to fight with him, "mov[ing] his arms and body around" and struck Officer Kosenesky in his eye. Although he did not remember which eye was struck, Officer Kosenesky did recall suffering "redness to [his] eye and a bump." Given that respondent was moving his arms and body around, Officer Kosenesky did not know whether respondent struck him with his elbow, hand, or shoulder. Officer Konsensky testified that respondent also sustained injuries while he was resisting arrest and acknowledged that medical treatment was ordered for him once he was taken into custody.

¶ 6 On cross-examination, Officer Kosenesky further acknowledged that he did not fill out any reports pertaining to respondent; however, he did speak to Officer Acevez, who authored one of the reports. Officer Kosenesky also conceded that he did not see any fighting occur at the scene before he began chasing after respondent.

¶ 7 After defense counsel's motion for a directed verdict was denied, Alvaro G.[1] testified that on November 14, 2014, he was a student at Morton East and that it had been a "regular day." He was aware, however, that there was going to be a fight taking place between certain students after school let out for the day. Although neither he nor respondent were involved in the fight itself, Alvaro testified that they both went to observe the fight. Alvaro recalled sometime after the fight started, "the police arrived at the scene *** and a bunch of people spread out" and ran from the police. He acknowledged that he and respondent "ran from the police too." Johanna, one of their female friends, also ran with them. Alvaro explained that they were running away from the police because "[Officer Kosenesky] approached [them] with a Taser." According to Alvaro, Officer Kosenesky was pressing the button of the Taser and they could hear the noise of the Taser behind them. As he, respondent and Johanna were running down an alley, Alvaro testified that they were subsequently "surrounded by the cops" and he was immediately put into handcuffs. When he turned his head to look for respondent, Alvaro saw that respondent had stopped running and that Officer Kosenesky was pointing his Taser in respondent's direction. After respondent got to his knees, Alvaro observed Officer Kosenesky run up to respondent and "kick[] him in the forehead." Other police officers then surrounded respondent and he was also handcuffed. Alvaro denied observing respondent punch or strike Officer Kosenesky.

¶ 8 Respondent testified that on November 14, 2014, he was a student at Morton Alternative, which is located a "couple blocks away" from Morton East. He recalled that he was wearing a Green Bay Packer's jersey that day. After his school let out, respondent testified that he began walking past Morton East on his way home when he encountered "a big ball of people" and saw a fight taking place. Respondent then saw Officer Kosenesky arrive in his squad car. When he

[1] Because Alvaro is also a juvenile, we will not refer to him by his full name in our disposition.

exited the vehicle, the officer was "looking directly at [him]," and began jogging toward him. Respondent testified that he "immediately" began running away because he "had a feeling [he] was gonna get arrested." He explained that he had previously "been arrested before for just walking down the street." Two of respondent's friends, Alvaro and Johanna ("JoJo"), also ran with him. As they ran into an alley, another police car arrived on the scene and "almost ran over" respondent so he stopped running. When he turned around, Officer Kosenesky ordered respondent to put his hands up. Respondent complied because the officer was holding a Taser and he did not want to get "tased." He testified that he then "got on [his] knees" because Officer Kosenesky "looked like he was gonna attack" him.

¶ 9 Once respondent was on his knees, Officer Kosenesky grabbed him and pulled his head down to the cement ground. When respondent started moving his head around to try to see what was happening with his friends, the officer either kneed him or kicked him in the back of his head, which caused respondent's forehead to make contact with the cement. He testified that he was already handcuffed and on the ground when Officer Kosenesky struck him. Respondent was then put into a squad car and driven to the police station. After arriving at the police station, paramedics were called to assess respondent's forehead injury. Respondent testified that he took a picture of his injury the following day and posted the picture to Facebook with the caption: "What [the] 5-o did to me."

¶ 10 On cross-examination, respondent acknowledged that when he started running away from Officer Kosenesky, he did not know the officer was armed with a Taser and that he did not actually see the Taser until he stopped running in the alley.

¶ 11 Following respondent's testimony, the defense rested and the parties delivered closing arguments. After hearing the arguments and evaluating the evidence, the circuit court

adjudicated respondent delinquent of aggravated battery and battery. The court explained its ruling in open court as follows:

> "Okay. As always, it's a question of credibility. ***
>
> Parenthetically I notice from the record, which I guess you want introduced as evidence. It's been accepted now that it's been crossed. I noted that the respondent pointed to the other side of his head, when he indicated on testimony where the injury was, left side rather than the right side which is what the photo shows to me.
>
> Officer Kosenesky responded to a call. There was some issue about that. *** I do know that the officer responded to a call. He was given a notification of males and females running from the scene, one of whom was wearing a Green Bay Packers [item]. I think originally he said jacket. Then it was a sweatshirt. Something with Green Bay Packers on [it].
>
> He gets out. He comes to the scene, sees a kid in a Green Bay Packers sweatshirt. I think that the defendant corroborated that because the officer zeroed in on him. Well, I'm guessing it was because he was, in fact, wearing the sweatshirt.
>
> The kid—the [respondent] then realizing the cop was looking at him—and apparently he tells me he's been arrested before for no reason—he decides to turn and run as does his friend—and JoJo, Johann[a], the girl who was with them. She's not here today. The officers catch these kids, the defendant among them.
>
> And then we have a question about what really happened here. I don't believe that the officer was injured seriously because he couldn't recall which eye was hurt, but I do believe that something went on on the street. Do I believe that the officer was upset from having to chase the kid? Absolutely. I believe that. But I don't think that necessarily

negates the fact that the kid resisted arrest. Whether, you know—and by resisting I mean flailed his arms and probably did what the officer said. Not probably. I believe that he did that.

The injury sustained by the [respondent], he said his head hit the concrete. Well, there was an altercation. The question is who started the altercation. Clearly the [respondent] knew because he saw the officer get out of the squad car in full uniform and then took off. It's not against the law to run from a policeman. Even, you know, the case suggested that it's not even indication of guilt but with respect to the profiling, I live in the real world. I know it happens. But I'm also looking at a photograph, apparently a selfie taken by an iPod that says across it, 'What the Five-O did to me.'

Cops have a very difficult job in this society, and I think that we as citizens have to be real careful when we deal with policem[e]n. All right. But I think that the respondent is guilty on both charges. I think that he knew. The officer was in full uniform. He created the situation. I believe he flailed his arms around. Whether he hit the—I'm guessing the officer was struck in the eye. There's not great bodily harm here but there was some contact.

The [respondent's] head injury, I'm guessing it was an incident of arrest. Sometime the kid went down on his knees. Whether the—with the strength of the officer or it's hard to believe he would go down on his knees before.

He's not sure when the officer pulled the Taser because he said first he was running. He turned around. He saw him pull it out. Then he didn't. He and his witness' testimony are very, very close. Too close.

Finding of guilty on both."

¶ 12 At the sentencing hearing that followed, respondent's probation officer advised the circuit court that respondent had dropped out of school, was smoking marijuana daily, and that he did not believe that he would succeed on probation because Cicero police officers were picking on him and other people in the community. After speaking with respondent, the circuit court advised him that he did not really want to go to jail and sentenced him to 18 months' probation. This appeal followed.

¶ 13 ANALYSIS

¶ 14 Sufficiency of the Evidence

¶ 15 On appeal, respondent challenges the sufficiency of the evidence. He argues that the record indicates that the circuit court made findings that were "equivocal" and "literally riddled with doubt." Given that the court "expressed multiple doubts about the State's case and [his] guilt," respondent argues that court's order adjudicating him delinquent of the offense of aggravated battery must be reversed.

¶ 16 The State responds that respondent's challenge to the sufficiency of the evidence is without merit. Although the circuit court prefaced some of its comments by saying "I think" or "I guess," the State contends that the court's comments, when viewed in context, reveal that the circuit court clearly found that the testimony provided by Officer Kosenesky to be credible and the testimony of respondent and his friend, Alvaro, to be incredible and that respondent committed the acts constituting aggravated battery.

¶ 17 Due process requires proof beyond a reasonable doubt to convict a respondent of a criminal offense. *People v. Ross*, 229 Ill. 2d 255, 272 (2008). This standard is applicable to juvenile delinquency proceedings. *In re Q.P.*, 2015 IL 118569, ¶ 24; *In re Jonathan C.B.*, 2011 IL 107750, ¶ 47. In reviewing a challenge to the sufficiency of the evidence, it is not a reviewing

court's role to retry the respondent; rather, we must view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found each of the essential elements of the crime beyond a reasonable doubt. *In re Jonathan C.B.*, 2011 IL 107750, ¶ 47; *People v. Ward*, 215 Ill. 2d 317, 322 (2005); *People v. Hayashi*, 386 Ill. App. 3d 113, 122 (2008). The trier of fact is responsible for evaluating the credibility of the witnesses, drawing reasonable inferences from the evidence, and resolving any inconsistencies in the evidence. *People v. Austin M.*, 2012 IL 111194, ¶ 107; *People v. Bannister*, 378 Ill. App. 3d 19, 39 (2007). A reviewing court should not substitute its judgment for that of the trier of fact (*People v. Sutherland*, 223 Ill. 2d 187, 242 (2006)) and will not reverse a respondent's conviction unless the evidence is so improbable or unsatisfactory that it creates a reasonable doubt as to his guilt (*People v. Carodine*, 374 Ill. App. 3d 16, 24 (2007)).

¶ 18 The offense of aggravated battery is set forth in section 12-3.05 of the Illinois Criminal Code of 2012 and provides, in pertinent part, as follows: "A person commits aggravated battery, when, in committing a battery, *** he or she knows the individual battered to be any of the following: *** (4) a peace officer *** (i) performing his or her official duties" 720 ILCS 5/12-3.05 (a)(3)(i) (West 2012). A person, in turn, commits the offense of battery when he "knowingly, and without legal justification by any means *** makes physical contact of an insulting or provoking nature with an individual." 720 ILCS 5/12-3(a)(2) (West 2012). Accordingly, in order to sustain respondent's delinquency adjudication for the offense of aggravated battery to a peace officer based on the charges set forth in respondent's delinquency petition, the State was required to prove that respondent knowingly made physical contact of an insulting or provoking nature with Officer Kosenesky, whom he knew to be a police officer performing his official duties.

¶ 19 Although the issue of whether there is sufficient evidence to sustain a conviction depends on the unique facts and circumstances of each case, reviewing courts have found that where the circuit court expresses doubt about the State's case and the credibility of the State's witnesses, the State has failed to meet its burden of proving the defendant's guilt beyond a reasonable doubt and a defendant's conviction cannot stand. See, *e.g.*, *In re Vuk R.*, 2013 IL App (1st) 132506 and *People v. Warren*, 40 Ill. App. 3d 1008 (1976). In the instant case, prior to making its delinquency adjudication, the circuit court classified the case as one involving "a question of credibility." Based on the court's statements, it is apparent that the court found Officer Kosenesky's account of the incident to be credible and the accounts offered by respondent and Alvaro to lack credibility. With respect to respondent, the court made a statement reflecting its belief that respondent and Alvaro colluded to align their testimony. Specifically, the court stated "he and his witness' testimony are very, very close, too close." In contrast, the court relied on Officer Kosenesky's testimony to make its findings. Specifically, the court indicated that it believed that Officer Kosenesky, who was in uniform, pursued respondent because he was wearing a Green Bay Packer's jersey, an item of clothing one of the individuals involved in the fight was said to be wearing. The court further expressed its belief that respondent "not probably," but did, in fact, "flail his arms" and resisted Officer Kosenesky's efforts to restrain him once respondent stopped running. This ultimately resulted in respondent making "some [physical] contact" with Officer Kosenesky. The court acknowledged that it did not believe that the contact caused serious injury given that Officer Kosenesky could not remember which eye respondent struck; but the court nonetheless found that contact had been made. Given that the basis for respondent's delinquency petition was that respondent made contact of an insulting or provoking nature, the fact that the court did not find that the contact caused great bodily harm is

of no consequence. Although we acknowledge that a number of the court's statements are prefaced by the phrases "I think" and "I guess," we do not find that the court's phraseology, when read in context, demonstrated that the court entertained reasonable doubt as to respondent's guilt.

¶ 20 In so finding, we are unpersuaded by respondent's reliance on *In re Vuk R.*, 2013 IL App (1st) 132506 and *People v. Warren*, 40 Ill. App. 3d 1008 (1976). In *In re Vuk R.*, the circuit court, after hearing disparate accounts about an altercation that took place at an unsupervised party between the minor respondent and the minor victim, adjudicated the minor respondent delinquent of the offense of aggravated battery without making any findings of fact. *In re Vuk R.*, 2013 IL App (1st) 123506, ¶ 6. At the sentencing hearing that followed, however, the circuit court expressed its frustrations about the case, stating: "You know, the thing [ ] that bothers me about this case *** is that a number of you witnesses got up here. All from better than average backgrounds. *As far as I am concerned on both the government's case and the defense case, every one of those witnesses lied*." *Id.* The court further stated that the victim's injury "certainly did not occur the way any of these witnesses testified to." *Id.* On appeal, the reviewing court reversed the respondent's delinquency adjudication, explaining: "in light of the trial court's stated belief that all of the witnesses, including the State's witnesses lied, we cannot say that the State sustained its burden." *Id.* ¶ 8.

¶ 21 In *Warren*, a defendant was convicted of possession of marijuana even though the circuit court made multiple statements that revealed its doubts as to the strength of the State's case. In pertinent part, the court indicated that it was "disturb[ed]" by the State's case and found its account as to how the marijuana was discovered during the course of the traffic stop to be a "fantastic" story. *Warren*, 40 Ill. App. 3d at 110-111. In reversing the defendant's conviction, the reviewing court concluded that "while it is evident that the trial judge disbelieved defendant's

testimony, it is equally clear from the judge's comments that he found it difficult to believe the police officer's testimony *** Under circumstances where the trial court, after hearing the evidence, indicates continuous doubt as to defendant's guilt, we have no other recourse but to hold that defendant was not proved guilty beyond a reasonable doubt." *Id.* at 111.

¶ 22 Here, the statements respondent points to as indicative of the court's "doubts about the State's case" are in no way parallel to the statements made by the courts in *In re Vuk R.*, and *Warren*. Unlike *In re Vuk R.* and *Warren*, the circuit court in the instant case neither expressed its general dissatisfaction with the State's case nor overtly expressed its doubt as to the credibility of Officer Kosenesky, the State's only witness. Rather, the court made specific factual findings based on the testimony that Officer Kosenesky provided. Namely, the court found that respondent had resisted Officer Kosenesky's efforts to restrain him after fleeing from the scene of a reported fight, and that during the course of his struggles, respondent made contact with Officer Kosenesky's person. Accordingly, given that the circuit court's statements regarding respondent's guilt were neither doubt-filled nor equivocal, they do not provide this court with cause to overturn the respondent's aggravated battery delinquency adjudication.

¶ 23 Respondent, however, argues that "leaving aside the judge's equivocal findings," his aggravated battery delinquency adjudication must be reversed because the State failed to prove the requisite elements of that offense. Specifically, respondent argues that the State failed to prove that he made any contact at all with Officer Kosenesky given the officer's inability to remember which eye was injured. Moreover, even if there was contact, respondent argues that the State failed to show that it was made knowingly. We will address each of these arguments in turn.

¶ 24 As set forth above, to sustain respondent's delinquency adjudication for the offense of aggravated battery to a peace officer in this case, the State was required to prove that respondent knowingly made physical contact with Officer Kosenesky that was of an insulting or provoking nature. 720 ILCS 5/12-3.05(d)(4) (West 2012); 720 ILCS 5/12-3(a)(2) (West 2012). Regarding the element of knowledge,

> "[a] person knows, or acts knowingly or with knowledge of: (a) The nature or attendant circumstances of his or her conduct, described by the statute defining the offense, when he or she is consciously aware that his or her conduct is of that nature or that those circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that the fact exists; (b) The result of his or her conduct, described by the statute defining the offense, when he or she is consciously aware that that result is practically certain to be caused by his conduct. " 720 ILCS 5/4-5 (West 2012).

A person's mental state may be inferred from circumstantial evidence, including the circumstances pursuant to which which the contact occurred. *People v. Steele*, 2014 IL App (1st) 121452, ¶ 23; *People v. Lattimore*, 2011 IL App (1st) 093283, ¶ 44. Similarly, whether the contact is insulting or provoking may be inferred from the context in which the contact occurred. *People v. Wrencher*, 2011 IL App (4th) 080619, ¶ 55. Physical contact that does not injure the victim may be considered insulting or provoking depending on the context. *People v. DeRosario*, 397 Ill. App. 3d 332, 334 (2009).

¶ 25 Here, Officer Kosenesky testified that once he tried to restrain respondent, he began struggling and resisting his efforts to do so. Specifically, he testified that respondent began moving his arms and body around. These movements, in turn, resulted in respondent striking Officer Kosenesky in one of his eyes, resulting in redness and a bump. Although Officer

Kosenesky could not remember which eye was struck, the circuit court was not bothered by his inability to recall the location of his injury and observed that the when respondent had testified about how he had sustained his own injury, he had not pointed to the location of the injury depicted in his selfie, but had pointed to the opposite side of his head. We reiterate that the circuit court is in a better position to evaluate the credibility of witnesses and a reviewing court may not substitute its judgment for that of the trier of fact. *Austin M.*, 2012 IL 111194, ¶ 107; *Sutherland*, 223 Ill. 2d at 242. Based on Officer Kosenesky's testimony, a reasonable trier of fact could have concluded, that although he did not sustain serious injury, he experienced contact of an insulting or provoking nature.

¶ 26 Respondent, however, suggests that even if he purportedly struggled with Officer Kosenesky, he did not do so with the requisite knowledge that contact of an insulting or provoking nature was practically certain to occur. Specifically, he argues that "there is no reason to suppose that the act of moving one's arms and body," while resisting an officer's attempts to restrain him "is one that is substantially certain to result in insulting or provoking contact." This court, however, has rejected similar arguments in the past. Our decision in *People v. Lattimore*, 2011 IL App (1st) 093238 is particularly instructive. In that case, the defendant was stopped by store security after he had been observed shoplifting. When the security guard made efforts to detain him, the defendant struggled against him in an effort to leave the store. Ultimately the guard was injured during the course of the defendant's struggles and the defendant was convicted of aggravated battery. On appeal, the defendant challenged his conviction, arguing that the State failed to prove that he knowingly caused the guard's injuries and classified his actions as a " ' mere attempt to disengage.' " *Id.* ¶ 45. This court, however, rejected the argument, finding that a reasonable trier of fact could have concluded that by repeatedly struggling with the security

guard and attempting to leave the store, "defendant increased the likelihood that someone would be injured so that it became practically certain someone would be injured." *Id.* ¶ 46. Similarly, in this case, viewing the evidence in the light most favorable to the State, a reasonable trier of fact could have concluded that respondent's continued efforts to struggle against Officer Kosenesky and resist the officer's efforts to restrain him made it practically certain that he would cause contact of an insulting or provoking nature to Officer Kosenesky. Accordingly, we reject respondent's challenge to the sufficiency of the evidence and affirm the circuit court's order adjudicating him delinquent of aggravated battery.

¶ 27 One-Act, One-Crime Rule

¶ 28 Respondent next argues, and the State agrees, that the circuit court erred when it found respondent delinquent of battery in addition to aggravated battery. Specifically, the parties maintain that respondent's battery adjudication must be vacated because it was imposed in contravention of the one-act, one-crime rule.

¶ 29 As a threshold matter, we note that respondent acknowledges that he failed to properly preserve this issue for review;[2] however, "the plain error doctrine bypasses normal forfeiture principles and allows a reviewing court to consider unpreserved error when either: (1) the evidence is so close, regardless of the seriousness of the error, or (2) the error is serious, regardless of the closeness or the evidence." *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005). It is well-established that "[f]orfeited one-act, one-crime arguments are properly reviewed under the second prong of the plain-error rule because they implicate the integrity of the judicial

[2] Ordinarily, a criminal defendant must raise a timely objection to the purported error at trial and include the error in a post-trial motion to properly preserve that issue for appellate review; however, because minors are not required to file post-adjudication motions, they must simply raise an objection at the adjudication hearing to avoid forfeiture of the claimed error on appeal. *In re Samantha V.*, 234 Ill. 2d at 368; *In re M.W.*, 232 Ill. 2d 408, 430 (2009). In the instant case, respondent concedes that he did not object to the court's order adjudicating him delinquent of both aggravated battery and battery.

process." *People v. Nunez*, 236 Ill. 2d 488 (2010); see also *People v. Span*, 2011 IL App (1st) 083037, ¶ 81. Therefore, respondent's failure to preserve this argument for appellate review does not preclude our review of this issue on appeal.

¶ 30 Pursuant to the one-act, one-crime doctrine, a defendant may not be convicted of more than one offense that is "carved from the same physical act." *People v. King*, 66 Ill. 2d 551, 566 (1977); see also *People v. Hampton*, 406 Ill. App. 3d 925, 943 (2010). This rule applies to juvenile proceedings. *In re Samantha V.*, 234 Ill. 2d at 375; *People v. J.F.*, 2014 IL App (1st) 123579, ¶ 18. For purposes of one-act, one-crime analysis, an "act" has been defined as "any overt or outward manifestation which will support a direct offense." *King*, 66 Ill. 2d at 566; *People v. Rodriguez*, 169 Ill. 2d 183, 188 (1996). If the defendant committed multiple acts, then multiple convictions are permitted even though there is a relationship between the acts. *People v. Campbell*, 2014 IL App (1st) 112926, ¶ 83. In the event that a defendant is convicted of more than one offense based upon the same single physical act, the remedy is to vacate the convictions for the less serious offense. *People v. Johnson*, 237 Ill. 2d 81, 97 (2010); *Artis*, 232 Ill. 2d at 170 ("This court has 'always held' that under the one-act, one-crime doctrine, sentence should be imposed on the more serious offense and the less serious offense should be vacated"). Whether multiple convictions violate the one-act, one-crime doctrine is a question of law and is thus subject to *de novo* review. *People v. Almond*, 2015 IL 113817, ¶ 47; *Johnson*, 237 Ill. 2d at 97.

¶ 31 In the instant case, respondent's battery adjudication was based on the same physical act as his aggravated battery adjudication. Specifically, the basis for each of the charges was that respondent made physical contact of an insulting or provoking nature with Officer Kosenesky. The only difference between the counts was that the aggravated battery charge included the proposition that respondent knew that Officer Kosenesky was a police officer engaged in his

official duties at the time that the contact occurred. See 720 ILCS 5/12 5/12-3.05(d)(4) (West 2012) (To commit aggravated battery, a respondent must commit the offense of battery and one of the statutory aggravating factors, including the respondent's knowledge of victim's status as a police officer, must also be present). Because there was only one physical act, the circuit court erred when it adjudicated respondent delinquent of both aggravated battery and battery. The proper remedy is to vacate the delinquency finding on the less serious offense. *In re Samantha V.*, 234 Ill. 2d at 379. In the instant case, battery is a class A misdemeanor, (720 ILCS 5/12-3(b) (West 2012)), whereas the aggravated battery offense applicable to respondent is a Class 2 Felony (720 ILCS 5/12-3.05(d)(4), (h) (West 2012)). Because battery is the less serious offense, we vacate respondent's battery adjudication.

¶ 32 CONCLUSION

¶ 33 The judgment of the circuit court is affirmed in part and vacated in part.

¶ 34 Affirmed in part; vacated in part.